

REFUNDING OF CERTAIN COUNTERVAILING CUSTOMS
DUTIES COLLECTED UPON LOGS IMPORTED FROM
BRITISH COLUMBIA—VETO MESSAGE

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

RETURNING

WITHOUT APPROVAL THE BILL (S. 1623) ENTITLED "AN ACT FOR
THE REFUNDING OF CERTAIN COUNTERVAILING CUSTOMS
DUTIES COLLECTED UPON LOGS IMPORTED FROM BRITISH
COLUMBIA"

JANUARY 16 (calendar day, FEB. 4), 1936.—Read; referred to the Committee
on Finance and ordered to be printed

To the Senate:

I return herewith, without my approval, S. 1626, entitled "An act for the refunding of certain countervailing customs duties collected upon logs imported from British Columbia."

The bill provides for the refund of certain customs duties assessed or collected on importations of logs of a kind classified under paragraph 401 of the Tariff Act of 1922 on claims to be presented to the Commissioner of Customs within 6 months from the date the bill is enacted for consideration and determination without regard to any statute requiring protest, appeal, and the like, on the ground that the duties were erroneously, or illegally assessed or collected upon the erroneous interpretation of law passed upon and condemned by the United States Customs Court, first division, in decisions rendered in the cases of George S. Bush & Co., Inc., and others against United States and Siemons Lumber Co. against United States, on March 12, 1931.

After the passage of the Tariff Act of 1922, the Treasury Department found that the Province of British Columbia was imposing a "timber" tax on logs classifiable under the foregoing which constituted a restriction on exportation within the meaning of the proviso to said paragraph 401. Accordingly, collectors of customs were instructed to

assess duty under paragraph 401 upon all logs of the varieties specified therein that were subject to the British Columbia tax. This procedure was in strict accordance with the requirements of said paragraph 401.

Although the tax levied in British Columbia was held by the British court of last resort, the Privy Council, to have been void ab initio, and as a result the United States Customs Court in the cases of *George S. Bush & Co., Inc., et al., v. United States*, and the *Siemons Lumber Co., Inc., v. United States*, which involved protests filed during the pendency of the litigation in the British courts, held that the assessment of the United States import duties here under consideration was without authority of law, the British Columbia tax was just as effective in restricting the exportation of logs during its effective period as if it had been a valid law. It was this restriction that said paragraph 401 was designed to prevent. The refund of duties will not correct this situation.

In accordance with statutory authority, many of the consumption entry papers giving particular details of importations prior to 1928 have been destroyed. This situation would render the equitable administration of the bill, if approved, very difficult.

With reference to the more recent importations, the various importers had an opportunity and right under the customs laws to protest the assessment of duties on their importations, as was done in the Bush and Siemons cases above referred to. I do not feel that there is justification in giving these importers an advantage over the many others whose applications for refund in similar circumstances necessarily have been denied.

It is reasonable to assume that in most, if not all, cases, the duty was passed on by the importer to the ultimate consumer. There appears to be no reason for making a refund to the importer without requiring him to show that he himself absorbed the duty.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
February 4, 1936.

S. 1626

SEVENTY-FOURTH CONGRESS OF THE UNITED STATES OF AMERICA; AT THE SECOND SESSION, BEGUN AND HELD AT THE CITY OF WASHINGTON ON FRIDAY, THE THIRD DAY OF JANUARY, ONE THOUSAND NINE HUNDRED AND THIRTY-SIX.

AN ACT For the refunding of certain countervailing customs duties collected upon logs imported from British Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That claims for the refunding of any customs duties erroneously or illegally assessed or collected upon fir, spruce, cedar, or western hemlock, under the provisions of paragraph 401 of the Tariff Act of 1922, approved September 21, 1922 (42 Stat. L. 858, 889), because of the existence of the so-called "timber tax" embodied in subdivision 2 of section 58 of the land and forest act of the Province of British Columbia may be presented to the Commissioner of Customs not later than six months after the passage of this Act; and the Commissioner of Customs is hereby authorized and directed to receive, consider, and determine in accordance with law but without regard to any statute requiring protest, appeal, and the like such claims as may have been presented, heretofore by way of protest to the collectors of customs and not allowed, and such claims as may hereafter be presented within the period above named, where and when and only when it be found and determined that such duties were collected upon the erroneous interpretation of law passed upon and condemned by the United States Customs Court, first division, in decisions rendered in the cases of George S. Bush and Company, Incorporated, and others

against United States and Siemons Lumber Company against United States, on March 12, 1931, and reported at page 590 in Fifty-ninth Treasury Decisions: *Provided*, That no interest shall be allowed on any of these claims.

SEC. 2. That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to such claimants as have presented or shall hereafter so present their claims, any amount allowed in the determination of any claims so defined and which shall have been presented in accordance with this Act.

JOSEPH W. BYRNS,
Speaker of the House of Representatives.

JNO. N. GARNER,
Vice President of the United States and President of the Senate.

[Endorsement on back of bill:]

I certify that this act originated in the Senate.

ED. A. HALSEY, *Secretary.*

