PUBLIC HEALTH SERVICE, FOREIGN QUARANTINE DIVISION, H. R. 6253

H. R. 6253. I am withholding my approval of H. R. 6253, a bill to amend Public Law 410, 78th Congress, with regard to compensation for overtime, Sunday, and holiday work of employees of the United States Public Health Service, Foreign Quarantine Division.

This bill would amend the Public Health Service Act in two major respects. First, it would establish special rates of overtime, Sunday, and holiday pay for certain quarantine inspection personnel of the Public Health Service comparable to those received by customs inspectors of the Treasury Department and immigrant inspectors of the Department of Justice under special premium pay statutes enacted many years ago. Second, with certain important exceptions, it would require that when night-overtime, Sunday, or holiday inspections are performed at the request of the owner, agent, master, or other shipping company representatives, the requesting party shall reimburse the United States for the extra cost represented by overtime compensation.

It is important to note that no charges would be payable by the carrier for services performed in connection with the inspection of persons arriving by (1) international highways, ferries, bridges, or tunnels, (2) regularly scheduled aircraft or trains, or (3) regularly scheduled Great Lakes vessels or vessels operated between Canadian ports and Puget Sound, or for services in connection with the inspection of the conveyances or vessels in which such persons arrive.

Under existing law, the inspection services are rendered without charge, regardless of the hour at which they are rendered. However, the Surgeon General, under his statutory authority to fix the hours during which quarantine service shall be performed at each quarantine station has—at most places other than airports—fixed the regular hours of quarantine service from 6 a. m. to 6 p. m., 7 days a week (Sundays and holidays included). When a vessel arrives within that time, quarantine service is rendered, and rendered free, even if it extends beyond that time. If the vessel arrives after 6 p. m., service will be rendered only if the vessel is in distress, or there is illness aboard, or there are other emergency conditions; otherwise the vessel is required to anchor at quarantine until the following morning and must await its turn for inspection. The delay incident to this waiting period is expensive to the owner of the vessel—it may run as much as $5,000 per day—and thus the owners are willing, indeed anxious, to pay whatever premium rates for out-of-hours inspection are authorized by law.

Although the bill would require certain reimbursements as indicated above, it would also require all employees performing these inspectional or quarantine services to be paid at the rate of one-half a day's pay for each two hours of overtime (or fraction thereof of at least one hour) between 5 p. m. and 8 a. m., with a limit of two-and-one-half days' pay for the full period from 5 p. m. to 8 a. m. For any Sunday or holiday duty, however brief or fleeting, the employee would be entitled to two "additional" days' pay. If the day falls within the employee's regular tour of duty, this would, apparently, entitle him to three days' pay. This means that the Government must pay the premium rates in all cases regardless of whether reimbursement is later made. The Federal Employees' Pay Act of 1945, as amended, under which these employees are now paid, provides for twice the regular rate of pay only for holiday work (and correspondingly less for less than a day's work), no extra pay for Sunday work (unless performed in excess of 40 hours a week), and overtime pay at the rate of time and one-half for employees whose annual salaries are less than $2,980. Employees at higher salaries are entitled to overtime pay on the basis of a rate schedule which decreases as the basic salary increases until their overtime rates of pay are less than the rates payable for straight time.

The special rates of pay proposed for these employees have been justified on the ground that these rates, and to a large extent the other provisions of the bill, are patterned after similar legislation which has long been in effect for customs and immigration inspectors (19 U. S. C. 267, 1451; 5 U. S. C. 342c), and that, like such inspectors, the irregular, sporadic, and unpredictable nature of their overtime, Sunday, and holiday services is different in character from that to which most other Federal employees are subject and is more burdensome.

These contentions require close examination. The claims of the shipowners for out-of-hours service have merit. The claims of the inspectional employees for equal treatment with other inspectional groups have much merit, but equality of treatment for all inspectional employees is not brought about by this bill. Furthermore, the special pay features of the bill depart from principles of overtime and premium pay set forth in the so-called fringe benefits bill recently enacted by the Congress. This factor and the reimbursement requirement combine to make it impossible for me to give my approval to this bill.

I recognize that the existence of the highly preferential rates of customs and immigration premium pay statutes creates severe administrative problems for the Public Health Service, since quarantine inspectors work in close proximity with these other inspectional services. However, the premium rates for the customs and immigrant inspectors are so far out of line with prevailing industrial and governmental practice that I do not believe extending their use to other groups of Federal employees would be good management. Legislation relating to groups of inspectional employees should seek to improve the overall pattern of premium compensation rather than to attempt to patch the existing uncoordinated pay structure.

In the recently enacted liberalizations of existing law governing overtime and holiday pay there are several special features; for example, provisions for call-back time, standby pay in lieu of overtime, and the like, which will make considerably more equitable the premium pay available to these inspectional employees. Overtime compensation at the full rate of time and one-half will be based on regular pay up to an amount equal to the entrance salary of grade GS–9 instead of the present $2,980 limit of the Federal Employees' Pay Act. The large majority of these employees are classified in that grade.

In circumstances such as these, I cannot give my approval to H. R. 6253 even though the problems which the bill seeks to solve are real and pressing. I intend to have these problems further explored as they relate to both domestic and international carriers. I shall also direct further study of effective means to rationalize and coordinate overtime and premium pay for all inspectional service in relation to that for other Federal employees. Upon completion of these studies, I hope to be able to make recommendations to the Congress for necessary legislation.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 27, 1954.*

ANNA K. M'QUILKIN, H. R. 3516

H. R. 3516. I have withheld my approval from H. R. 3516, for the relief of Anna K. McQuilkin.

The bill provides for a direct payment award of $6,125 to Mrs. McQuilkin, who claims that her brother, a World War I veteran who died in the service in 1918, applied for and was issued yearly renewable term insurance in the sum of $10,000 and that she is entitled to the proceeds thereof as the sole beneficiary.

The Veterans' Administration and predecessor agencies have disputed her claim over a number of years, contending that their records and those of the Military Department fail to disclose that the brother made application for insurance. In 1922 the Veterans' Bureau, after careful consideration of the evidence presented in support of the claim, rejected it. Upon this denial, an award of automatic insurance of $25 a month was made to the deceased veteran's father, based on the determination that there had been no application for insurance. A total sum of $3,875 had been paid to the father at the time of his death in 1930. The $6,125 proposed for payment by H. R. 3516 represents the difference between the amount paid to the father and the sum of the insurance for which application was allegedly made.

During the period 1920 to 1932 Mrs. McQuilkin engaged the services of a number of attorneys to prosecute her claim. New counsel in July 1932 instituted suit against the Government in the United States District Court for the Northern District of Illinois and secured a judgment in the amount of $12,592.50. The lower court decision, however, was reversed on appeal to the circuit court of appeals on the ground that the statutory period of limitations for filing such a suit had expired.

The Judiciary Committees appear to have accepted the lower court decision against the Government as now conclusive of the merits of Mrs. McQuilkin's claim. This would not seem, however, to be the case in view of the procedural turn of the circuit court of appeals ruling which precluded review of the substantive question of whether there was substantial evidence to support the findings of the district court.

I also agree with the Veterans' Administration that the case does not pre-

sent any equitable consideration which warrants the direct gratuity award proposed. Unfortunately the procedural reversal by the circuit court of appeals has left the parties in the unsatisfactory position which existed prior to the district court suit. The evidence in this case is complex and controversial. I believe, therefore, that in fairness to Mrs. McQuilkin she is entitled to a day in court for decision of her claim on its merits, and I would be willing to approve a jurisdictional enactment waiving the bar of any statute of limitations.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 31, 1954.*

S. H. PRATHER ET AL., H. R. 9357

H. R. 9357. I have withheld my approval from the bill (H. R. 9357) for the relief of S. H. Prather, Mrs. Florence Prather Penman, S. H. Prather, Jr.

The bill proposed to pay the sums of $5,000 to S. H. Prather, $2,000 to Mrs. Florence Prather Penman, and $1,000 to S. H. Prather, Jr., for personal injuries and property damages sustained at Quitman, Ga., as the result of a collision of their family automobile with a car driven by one Howard Hart, an alleged bootlegger. The committee report on this bill (H. Rept. No. 2208) indicates that the collision occurred on August 6, 1935, when Hart was being pursued by an investigator of the Alcohol Tax Unit, Bureau of Internal Revenue, Treasury Department, and by a State officer. The report of the Treasury Department embodied in the House report states that the officers, while traveling at approximatetly 70 miles per hour, had pursued the car for a distance of about 2 miles, but had slowed down when Hart turned into a dirt side street of the town of Quitman, picked up speed to 75 miles an hour, and collided with the Prather car, which was proceeding at a lawful rate of 20 to 25 miles per hour. Hart's car contained approximately 43 gallons of illicit whisky at the time.

The officers in this instance were acting in the performance of their official duties in attempting to apprehend persons who were violating the law in their presence. The report of the special investigator of the Alcohol Tax Unit states that Mr. Prather conceded when interviewed that the officers were doing their duty and were without blame, "but that he felt someone should compensate him for the damages suffered," since the violators who had caused the wreck had no financial responsibility.

The misfortune suffered by this family as a result of the automobile accident, for which they were in no manner responsible, is most lamentable. While it is true the accident might not have happened if the law-enforcement officers had not been pursuing the bootleggers, there is nothing in the file to indicate the law-enforcement officers were acting negligently or were doing anything other than their duty. Unfortunately, the culprits legally and morally responsible for the injuries cannot be made to respond in damages. Enactment of the bill would constitute a gratuity and would create a dangerous precedent which might set in motion a chain of endless requests for the payment of damages by the Government arising out of accidents in which law-enforcement officers may have been remotely involved.

Accordingly, I am constrained to withhold my approval from the bill.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 31, 1954.*

METROPOLITAN WASHINGTON AREA TRANSPORTATION, H. R. 2236

H. R. 2236. I have withheld my approval from H. R. 2236, entitled "An act to provide for a Commission to regulate the public transportation of passengers by motor vehicle and street railroad within the metropolitan area of Washington, D. C., and for the establishment of a Metropolitan Washington Commission."

Title I of this enactment would establish a Washington Metropolitan Area Transit Commission to regulate public transportation by bus, streetcar, and taxicab in the District of Columbia and the counties of Montgomery and Prince Georges in the State of Maryland. The bill would grant to the proposed new Commission, in strengthened form, most of the powers now separately exercised in this regard by the Interstate Commerce Commission and the Public Utilities Commissions of the State of Maryland and the District of Columbia.

Title II of the bill would create a temporary Metropolitan Washington Commission to study, investigate, and make recommendations with regard to certain aspects of the Washington metropolitan area transportation problem.

The regulation of public transportation in the greater Washington area must contend with the growth of an integral economic community spreading far beyond the boundaries of the District of Columbia to include Montgomery and Prince Georges Counties in Maryland and Arlington and Fairfax Counties and the cities of Alexandria and Falls Church in Virginia. Within this community, the daily travel of persons back and forth across State lines has reached dimensions with which present facilities cannot cope. Under these circumstances, it is understandable that the present division of responsibility for regulation among four different agencies no longer meets the needs of the area. This division of responsibility has contributed, as it could not help but do, to the development of an inadequate system of public transportation. The situation plainly requires unification of regulatory authorities over public transportation throughout the metropolitan area.

The present enactment, however, falls substantially short of this objective. Its failure to include the Virginia segment of the metropolitan area within the jurisdiction of the proposed Commission is a fundamental deficiency. Through this omission of an integral and important part of the greater economic community, a system of fragmented and divided regulatory authority is continued. What is worse, the Federal Government is placed in the position of treating the carriers and persons within one segment of the area on a different and discriminatory basis from those in the remainder of the area. In the absence of any substantial grounds for this differentiation, the measure is unacceptable even as a temporary expedient.

This bill is also unsatisfactory because it extends, without sufficient safeguards, the authority of the Federal Government to matters that have, hitherto, been considered as primarily the concern of the District of Columbia and of the States. The problem is difficult because the urgency of need and the extent of Federal interest in the Nation's Capital both argue for unification of regulatory authorities under Federal auspices, at least for the time being. However, in any such arrangement means must be found to give adequate recognition to the rights and responsibilities of the District and of the States involved. Specifically, provision should be made to enable the States of Maryland and Virginia and the District of Columbia eventually to make arrangements for the exercise of this function under joint responsibility. In this regard, it would appear desirable to explore the feasibility of utilizing an interstate compact or other cooperative arrangements in which the Federal Government would participate and the Federal interest would be fully protected. In addition, every effort should be made to minimize the impact of any new Commission upon the internal affairs of the District of Columbia.

With respect to title II of the enactment, I agree that further study of metropolitan transportation problems is desirable. The primary mission assigned to the Commission is related directly to highway, bridge, and traffic problems. In emphasizing this role rather than consideration of mass transit problems, the bill unnecessarily complicates relationships with the National Capital Planning Commission and the National Capital Regional Planning Council. I believe that further consideration by the Congress will result in a more orderly allocation of responsibilities between the Commission and these existing planning agencies. Title II also establishes undesirable limitations governing the appointment and qualification of members of the Commission.

I hope that the 84th Congress will promptly enact a measure to unify regulatory authorities over public transportation and provide for a further transit study with adequate coverage and recognition of State and District responsibilities. Since title I of this bill would not have become fully effective until July 1, 1955, there need be no significant loss of time in obtaining its objectives. Similarly, time did not permit the Congress to provide funds for title II before adjournment. Therefore, since an appropriation cannot be made until after the Congress convenes in January, little time, if any, need be lost in the studies which a revised title II would encompass.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 3, 1954.*

MRS. ROSALINE SPAGNOLA, H. R. 2881

H. R. 2881. I have withheld my approval from H. R. 2881, a bill for the relief of Mrs. Rosaline Spagnola.

This enrolled enactment would pay to Mrs. Rosaline Spagnola the sum of $675.50 as additional compensation on account of the accidental death of her