

order to evade the higher duties placed on Communist goods and other restrictions on trade that would benefit our adversaries.

Under present law, marking duties are due on improperly marked merchandise whether or not there is evidence that the importer knew or had reason to know that the merchandise was mismarked. I believe that the policy behind this rule is sound. It should be the responsibility of the importer to assure proper marking, since he is in a position to insist on indemnification from the foreign seller if goods have been misrepresented. If, on the contrary, relief were granted to all importers with respect to mismarked merchandise whenever customs could not show that the importer was aware of the mismarking, this would be tantamount to making customs prove in each case of mismarking that the importer was at fault at considerable cost in time and effort. This would greatly change the impact of the marking law.

Since this would be the result of general legislation relieving importers of marking duties whenever mislabeling has resulted from the actions of others, I am constrained to withhold my approval from H.R. 1616 as a bill according relief which cannot be given to all other honest importers.

JOHN F. KENNEDY.

THE WHITE HOUSE, October 16, 1962.

#### AMENDING THE LAW RELATING TO INDECENT PUBLICATIONS IN THE DISTRICT OF COLUMBIA

I am withholding my approval of H.R. 4670, a bill "to amend the law relating to indecent publications in the District of Columbia."

Although I am in complete accord with the Congress that the people of the District of Columbia should adequately be protected against the dissemination of indecent and obscene publications and articles, there are grave constitutional and other considerations which have been called to my attention which compel me to withhold my approval of the legislation.

Among other things, my attention has been directed to the 1961 Supreme Court decision in *Marcus v. Search Warrant*, reported at page 717 of volume 367 of the U.S. Reports, which seems clearly to make the search and seizure provisions of this bill unconstitutional.

The 88th Congress will convene in less than 3 months and I am convinced it is desirable that the considerations which have been brought to my attention should be brought to its attention. Such a brief delay in the enactment of this legislation seems a small price to pay in order to obtain an enforceable law which will achieve the worthy objectives which prompted the bill before me.

JOHN F. KENNEDY.

THE WHITE HOUSE, October 18, 1962.

#### CATALINA PROPERTIES, INC.

I am withholding my approval from H.R. 12701, an act for the relief of Catalina Properties, Inc.

The bill would direct the Secretary of the Treasury to pay \$29,425.01 to Catalina Properties, Inc., representing the amount which the corporation was unable to collect as rentals from sublessees of the Catalina Hotel, Miami Beach, Fla., for the period February 1 to March 15, 1953. The corporate claimant owned a 99-year leasehold interest in the hotel. During 1953, the Internal Revenue Service served a notice of levy and warrants for distraint on the sublessees of the hotel to pay accrued rentals to the district director. This levy resulted from a lawful attempt to collect income taxes fraudulently evaded by the corporation's principal shareholder, a bookmaker. The sublessees failed to pay these rentals either to the Government or to Catalina Properties, Inc., and the sublessees were evicted from the hotel in November 1953.

Catalina Properties, Inc., contends that the United States should pay to it the rentals which it could not collect from the sublessees on the ground that the levies caused the claimant's failure to collect the rentals. However, during 1953 the sublessees had no independent assets from which the rentals could have been collected from them, and the balance sheet accompanying their income tax returns for 1953 indicated that they were insolvent at that time.

The enactment of this bill would presuppose a duty on the part of the Government to collect from taxpayer's creditors, on whom levies are served, at the risk of the Government being held liable to the taxpayer if such collection is not effected. This is a risk which it is unfair to impose on the Government. Moreover, the primary beneficiary of this bill would be the corporation's principal stockholder whose fraudulent evasion of income taxes caused the levies.

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

JOHN F. KENNEDY.

THE WHITE HOUSE, October 18, 1962.

#### PROVIDING A MORE DEFINITIVE TARIFF CLASSIFICATION DESCRIPTION FOR LIGHTWEIGHT BICYCLES

I am withholding my approval from H.R. 8938, "to provide a more definitive tariff classification description for lightweight bicycles."

The new tariff classification description for lightweight bicycles would include a description of the frame. By this means, it would double the import duties on certain types of bicycles being imported.

Bicycles are provided for in paragraph 371 of the Tariff Act of 1930 and were originally subject to duty at 30 percent ad valorem. A tariff concession on bicycles was first granted to the United Kingdom in a bilateral trade agreement effective January 1, 1939. Under that agreement the framework of the existing tariff classification based upon diameter of the wheel was established. That classification provided for separate categories of duties: bicycles with or without tires having wheels in diameter

over 25 inches; over 19 but not over 25 inches; and not over 19 inches.

That classification and duty treatment were continued following a concession granted by the United States in the General Agreement on Tariffs and Trade effective January 1, 1948, with one exception. The exception provided that the rate of duty on bicycles with or without tires having wheels in diameter over 25 inches and weighing less than 36 pounds complete without accessories and not designed for use with tires having a cross sectional diameter exceeding 1 $\frac{3}{8}$  inches was to be reduced to \$1.25 each but not less than 7 $\frac{1}{2}$  percent nor more than 15 percent ad valorem. All other classifications were dutiable at specific rates but not less than 15 percent nor more than 30 percent ad valorem.

The present duty on lightweight bicycles is the result of a renegotiation which took place in February 1961. This renegotiation, in effect, reestablished an escape clause rate increase which had been invalidated by a previous court decision.

The practical effect of this legislation would be to increase the duty on imported bicycles having a cantilever or curved frame, weighing less than 36 pounds from the present duty of \$1.875 each, but not less than 11 $\frac{1}{4}$  percent nor more than 22 $\frac{1}{2}$  percent ad valorem to a new rate of \$3.75 each, but not less than 22 $\frac{1}{2}$  percent nor more than 30 percent ad valorem. I am informed that approximately one-half of current imports of bicycles that are imported under the lightweight classification are those with cantilever or curved frames, and would be subject to this approximate 100-percent increase in duty.

The enactment of this legislation within a short time after the 1961 negotiations and following the opening of new opportunities for trade expansion under the recently approved Trade Expansion Act would hamper our efforts to improve the position of American industry in foreign markets.

Under the Trade Expansion Act, a wider variety of relief is available to assist American firms suffering from imports. Should the American bicycle industry demonstrate the need for this relief, it should be provided.

JOHN F. KENNEDY.

THE WHITE HOUSE, October 22, 1962.

#### RICHARD C. COLLINS

I am withholding my approval from H.R. 3131, a bill "for the relief of Richard C. Collins." The bill directs the Court of Claims to grant a rehearing to Mr. Collins, of Billerica, Mass., in connection with his contesting the action of the Department of the Treasury in demoting him to a lower grade.

The facts concerning this legislation are as follows. Mr. Collins was employed by the Internal Revenue Service. He was notified, on November 27, 1956, that his work was unsatisfactory and thereafter that he was separated for inefficiency. However, the district director decided, after further review of Mr. Collins' case, that a more compassionate step would be to demote him to