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MEMORANDUM

State of Alaska Department of Transportation & Public Facilities -

TO: John Katz, Special Counsel
State/Federal Relations
444 N Capital, N.W.
Suite 518
Washington, D.C. 20001

FROM: Daniel A. Casey, Commissioner
Department of Transportation
and Public Facilities
and
Richard Lyon, Commissioner
Department of Commerce and
Economic Development

DATE: March 18, 1983

FILE NO: 000H

TELEPHONE NO: 465-3900

SUBJECT: State's Position on HR 1076
Marine Freight Transportation
to Alaska.

Our position, in which the Governor concurs, is opposed to this legislation. We more favorably support Senator Steven's position concerning the third proviso such that some quid pro quo for relinquishing the existing relief through Prince Rupert from the Jones Act is gained in exchange.

On the other hand, we are not comfortable that the relief of the Jones Act that we now have through Prince Rupert should be relinquished solely for the American Presidents Lines' right to stop at Dutch Harbor. We think in the long run the potential for traffic through Prince Rupert may be greater than the American Presidents Line request and the psychological threat to the Port of Seattle is such that we could lever our current posture to better gain.

In the long term best interest to the State the third proviso has important strategic value. For example, our ability to replace the Marine Highway fleet is significantly impacted by the Jones Act. The fleet is now approaching 14 to 15 years of age and we have to begin to recognize a need to plan hullage replacement and in some cases hullage expansions. This undertaking, in light of current financial outlook, will be impossible if restricted to the Jones Act. The alternative savings, and the ability to use foreign builders for these kinds of vessels, is dramatic. In addition, with the development of the westward fishing industries, our relief from the Jones Act with regards to port-to-port processors and transportation networks is again significant in that the viability of that industry's development hinges on the tremendous degree of capital intensity surrounding the cost of hullage. Finally, these cost savings also flow to Alaska consumers.

One important compromise, if offered at the appropriate time, would be to support stipulations that American design safety standards and/or crews still be mandated. We feel there can be significant finesse in how this give and take is handled and it must be in the context of an overall commitment to greater hullage construction flexibility.

In summary, in our opposition to HR 1076, we recognize there are significant interests on both sides of this issue that are of immediate impact. However, for the long term strategic benefit of the State, the intention of the third proviso with regards to the Jones Act is critical until we can leverage that in exchange for more significant opportunities for hullage expansion in the future.

cc: Bill Sheffield, Governor, State of Alaska (with attachment)
Ben Harding, Special Staff Assistant to the Governor (with attachment)

Attachment

Dan Casey - Admini:
JONES ACT

- in long run - repeal.

- polit. - not in best
interest of the past
at this time

if → good program, esp
if repeal 3rd provision

- can't be against
Jones act

- but diminishing need for
repeal at this
time.

↳ Amend Jones

foreign ^{built} vessels all to the specs

- Am registry, crewed by US personnel

- coast specs

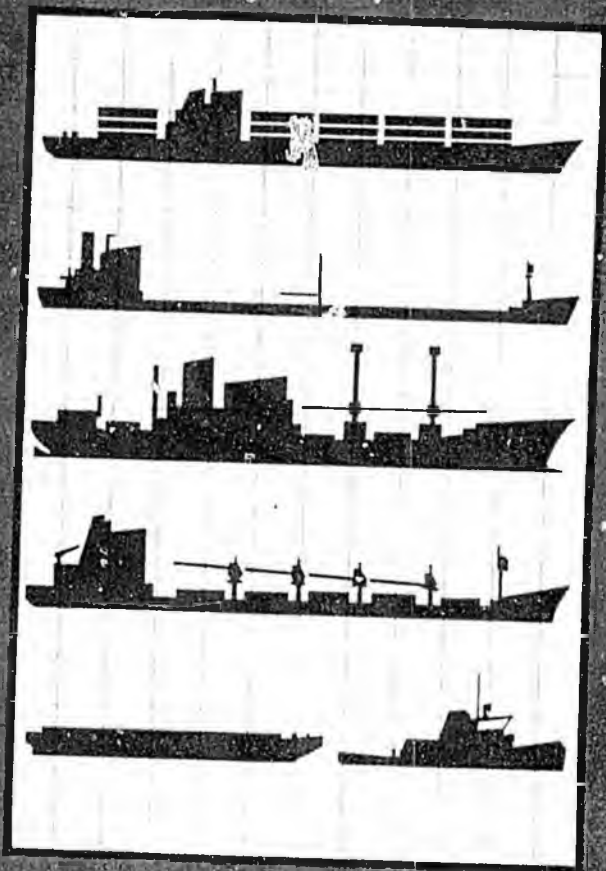
MARITIME

INDUSTRY



A \$800 Million Benefit to the
Alaska Economy

ALASKA



PACIFIC MERCHANT SHIPPING ASSOCIATION

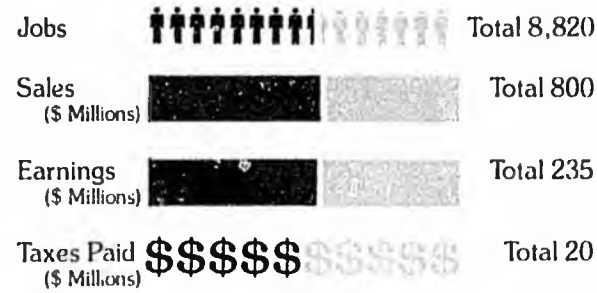
THE MARITIME INDUSTRY AND ALASKA

Maritime trade handled by Alaska means jobs and income for the state. As the volume of cargo grows, so do the benefits.

The Economic Benefits

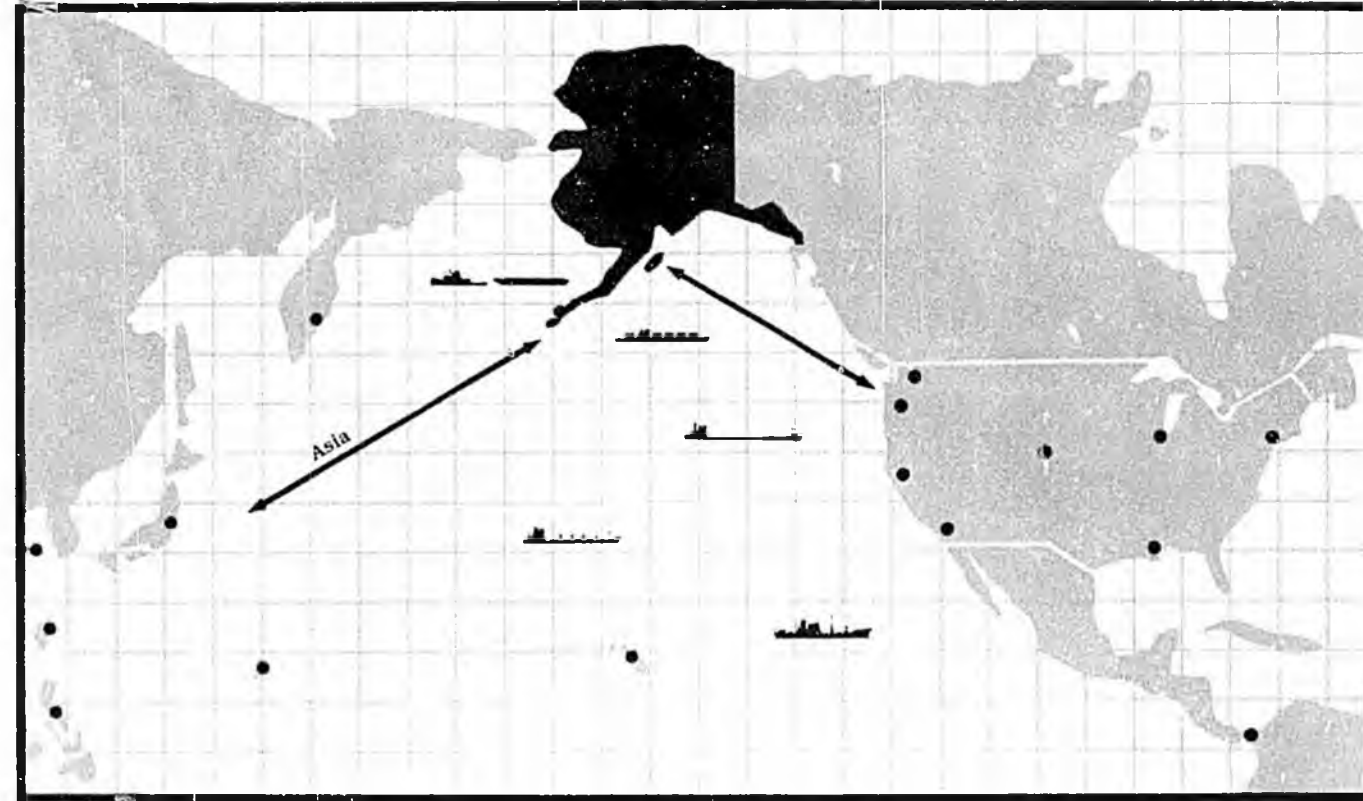
Through its multifaceted activities, and through industry and household purchases, the maritime industry in Alaska generates 1 in every 20 jobs.

The Benefits to Alaska in 1981



 Direct Maritime Industry
 Induced Economic Impact

The maritime industry itself contributes a substantial part of this total.



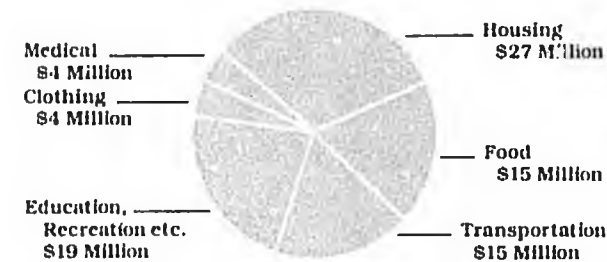
Maritime Industry Jobs and Revenues in 1981

	Jobs	Gross Sales (\$ Million)
Total	1,660	450
Cargo Handling & Services	3,450	380
Shipbuilding & Repair	200	10
Port Development	100	20
U.S. Flag Shipping	250	10
Company Headquarters		
Government Maritime Services	660	30

About 13,620 people in maritime worker households are supported either wholly or in part by the

industry payroll. Spending by maritime industry employees and their families benefits many local businesses:

1981 Personal Expenditures



The remaining \$36 million goes to taxes, insurance, and savings.

Purchases made by maritime industry firms and their employees stimulate other sectors of the Alaska economy. Every dollar received by the maritime industry is worth \$1.78 to the State.



Integral Part of the Economy

In addition to the maritime industry and its suppliers, many Alaska industries benefit from maritime trade. Access to larger markets and to supplies of materials enable increased production and employment. Some examples:

Benefits Attributable to Maritime Trade in 1980

Selected Industries	Sales (\$ Million)	Jobs	% of the Industry
Petroleum	5,700	5,700	98%
Fish & Shellfish	650	3,650	50%
Forest Products	290	2,350	69%

Alaska relies on maritime transportation for much of its trade inside and outside the State. Even non-manufacturing industry, such as mining and contract construction, employing 15,000 people, depends on maritime transportation for its essential materials.

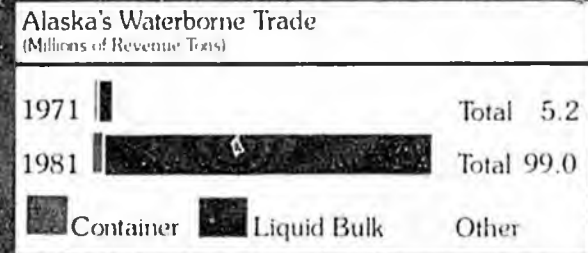
Together, port user industries in Alaska can attribute at least 11,700 jobs and \$6.6 billion of their sales to maritime trade. This represents one in every 15 jobs in the State.

The Ports

Alaska's ports are vital to its development and economic well-being. From its earliest days, Alaska has relied on the maritime industry for obtaining essential raw materials and provisions. Today, the industry is essential for bringing Alaska's vast natural resources to U.S. and foreign markets. Four shipping lines; all U.S. flag operators, provide regularly scheduled liner service to Alaska's major ports.

The Cargo

Alaska's waterborne trade has grown by 1,800% since 1971.



Note: Revenue tons, used in ocean tariff schedules, generally are equal to the greater of weight or measurement tons.

In 1981, Alaska ports handled foreign trade valued at \$1.3 billion. The great majority of Alaska's trade is with other U.S. ports. Shipments include fish products and lumber as well as bulk petroleum; receipts include construction materials and modules, other inputs to Alaskan industry, and consumer goods.

U.S. flag vessels carried 56% of Alaska's commercial liner trade exports in 1981. Domestic trade is carried solely by U.S. flag vessels.

Industry Impact at a Glance

ALASKA

Maritime Industry Contribution to State Economy	
1981	\$800 Million Sales Transactions
1982	\$845 Million Sales Transactions
1983	\$900 Million Sales Transactions

In addition, port user industries had sales of at least \$6.6 billion in 1980.

Maritime Industry Contribution to State Employment	
1981	Jobs: 9,000 Earnings: \$234 Million
1982	Jobs: 9,000 Earnings: \$249 Million
1983	Jobs: 9,000 Earnings: \$268 Million

Port user industries contributed an additional 11,700 jobs in 1980.

Maritime Trade Through Washington Ports	
1981	99 Million Revenue Tons
1982	100 Million Revenue Tons
1983	100 Million Revenue Tons

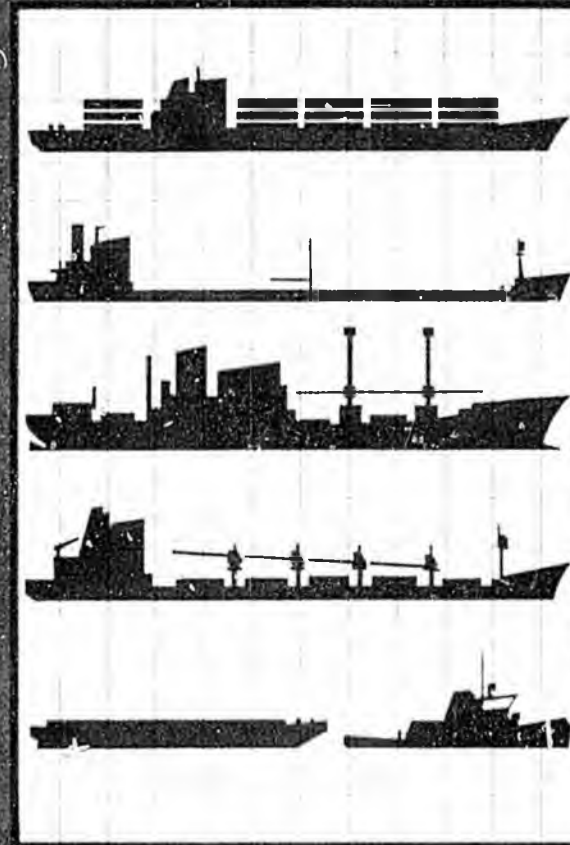
Note: 1981 actual figures; 1982, 1983 forecast figures as of June 1982.

The maritime industry of Alaska with all its related and supporting activities, represents a vital part of Alaska's economy. It provides 9,000 jobs, contributes \$800 million to state gross sales, and pays \$20 million in state and local taxes. Maritime trade enables the development of the State's resources, provides its population with essential commodities, and contributes to the economic health of Alaska.

MARITIME INDUSTRY

A \$800 Million Benefit to the Alaska Economy

ALASKA



PACIFIC MERCHANT SHIPPING ASSOCIATION

The Pacific Merchant Shipping Association (PMSA) is the only regional maritime association based on the West Coast. Its primary function is to monitor the local, state and federal issues which impact the maritime industry on the West Coast. Its members include operators and owners of U.S. and foreign flag vessels which trade in the Pacific Basin.

PMSA has been representing a major segment of the West Coast maritime industry since it was founded as the Pacific American Steamship Association in 1919. It was chartered as PMSA in 1974 to initiate, sponsor, promote, and carry out plans, policies, and activities which will tend to further the prosperity and development of owners and operators of vessels engaged in the transportation by water of cargo or passengers from and/or to the Pacific area of the United States and to engage in all lawful activities and operations usually and normally engaged in by a business league.

American President Lines, Ltd • C.G.M./Incotrans • Crowley Maritime Corporation • Hapag-Lloyd, AG • Johnson Seastar, (N.A.) • Kawasaki Kisen Kaisha, Ltd • Los Angeles Steamship Association • Lykes Bros. Steamship Co., Inc. • Maersk Line • Matsun Navigation Co., Inc. • Neptune Orient Lines, Ltd • Polynesia Line, Ltd • Sea-Land Service, Inc. • Showa Shipping Co., Ltd • Star Shipping A/S • United States Lines, Inc. • Yamashita-Shinnihon Steamship Co., Ltd

PMSA

For further information, please contact
Pacific Merchant Shipping Association,
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(635 Sacramento St., Suite 300, S.F., CA 94111)
Telephone (415) 986-7900

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Oakland, California

THE JONES ACT

An amendment to the Merchant Marine Act was sponsored in 1920 by Senator Wesley L. Jones of Washington, Chairman of the Senate Commerce Committee. This amendment prohibited the use of any but American-built, American-owned vessels in the carriage of cargo between points in the United States. Such carriage was to include the coastwise, intercoastal and territorial trades. Forfeiture of cargo and a fine of \$200 per passenger were fixed as the penalties for violation. This provision-Section 27 of the Merchant Marine Act of 1920-together with cabotage laws covering fishing, passenger and cargo transport are today commonly referred to as the "Jones Act." Response from abroad to Senator Jones' amendment was highly critical. British insurance interests publicly debated whether they would continue to insure American vessels, in view of this restrictive policy. The U.S. State Department claimed that the Jones Act would necessitate the revision of 24 commercial treaties with other trading nations. Foreign interests proclaimed the Act a radical departure from traditional U.S. maritime policy.

In reply to foreign criticism of the amendment, Senator Jones said:

"We are entering no brotherly love Sunday School in seeking our part of the world carrying trade. Fair means and foul will be used to defeat us. Fierce assaults will be made upon us from every angle. No meek turning of the cheek will win. We must fight back and fight hard to maintain ourselves, and every honorable means must be used to advance. Other nations will make concessions to attain certain advantages. We have it in our power to secure concessions that we should have."

"No merchandise shall be transported by water or by land and water on penalty of forfeiture thereof between points in the United States, including districts, territories and the possessions thereof embraced within the coastwise laws, either directly or via a foreign port, in any other vessel than an vessel built in and documented under the laws of the United States . . . Sec. 27, 46 U.S.C.883

Cabotage is defined as the trade or transport in coastal waters or between two points within a country. Many other nations, besides the United States, have laws restricting cabotage to vessels sailing under their national flag. Among countries protecting this trade are Australia, Brazi, Canada, Finland, France, West Germany, Greece, Spain and the U.S.S.R. This list includes three of the top four maritime nations in the world. The reasons for protecting this trade are many and varied. The most salient arguments, however, for cabotage restrictions are those of increased economic welfare to the country and heightened national security.

The principal reasons for passage of the Jones Act in 1920, namely, heightened national security and economic welfare, are still valid today.

The U.S. merchant marine has been referred to as the nation's "fourth arm of defense." So crucial is our merchant

marine for national security that Congress charged the Maritime Administration with maintaining a merchant fleet capable of serving as a naval and military auxiliary in times of war or national emergencies. The Jones Act assures us that we will have a healthy domestic fleet capable to serve in national defense capacities.

The economic considerations underlying the Act were to assure employment of American citizens in shipbuilding and vessel manning, and to protect the ratepayer by prohibiting low-cost foreign competition from entering U.S. domestic trade routes, thereby driving out U.S.-flag carriers, and then increasing rates to unreasonable levels.

Today, the Jones Act Deep Draft Fleet numbers 251 ships. This is almost 50 percent of the entire U.S.-flag oceangoing fleet. Of these, 213 are tankers. This accounts for over 80 percent of the total U.S.-flag tanker fleet. As a nation whose security and welfare depend greatly on the unrestricted movement of petroleum, it would be devastating to allow our fleet to be destroyed by foreign competition.

Also, participating in the Jones Act trade are a number of U.S.-flag bulk and container ships which provide a range of services. These ships provide efficient and dependable service to non-contiguous areas and territories of the United States (Alaska, Hawaii, Puerto Rico, and Guam).

Over 4,500 towboats and tugboats on the inland and coastal waterways system move a significant portion of all U.S. bulk

The Department of Defense includes the nation's merchant marine as a key component of its logistical planning, yet Admiral Thomas H. Moorer, former Chairman of the Joint Chiefs of Staff, and other defense experts testified before the last Congress that the United States does not have adequate military sealift capability to support its troops overseas in the event of a war. Over 90 percent of all supplies necessary to support any sustained military operation overseas must be carried by ship. At a time when the nation is working to bolster its defense capabilities, it would be disastrous to further weaken our already struggling merchant marine.

The Jones Act has helped support our nation's shipbuilding mobilization base. The Jones Act fleet has been a major generator of the demand for U.S.-build ships. Since 1950 the domestic shipping industry has purchased 62 percent of the nation's shipbuilding tonnage.

The U.S. economy has greatly benefited from the Jones Act. In 1975 more than 185,000 American workers owed their livelihoods to the domestic waterborne transportation industry protected by the Jones Act. This large number included seamen, employees of shipyards, and employees in allied industries which support domestic ocean shipbuilding efforts.

The use of U.S.-flag vessels in domestic shipping keeps billions of dollars in wages, taxes and shipping revenues at home. Were the Jones Act not in existence, our country would experience a large increase in its balance of payments deficit.

goods, including foodstuffs and energy products. It is the most energy efficient transportation network in the country. Without the Jones Act nothing would prevent foreign operators from moving in and engaging in rate-cutting wars with American carriers; once the American fleet was eliminated, they could raise rates and reduce service as desired.

The Jones Act plays an important role in our national security. The availability of our domestic fleet during time of war or national emergency is a critical necessity for the United States. Also critical is the availability of a ready reserve of manpower to operate these vessels. The merchant marine has been an active participant in our national defense throughout our history. Examples include:

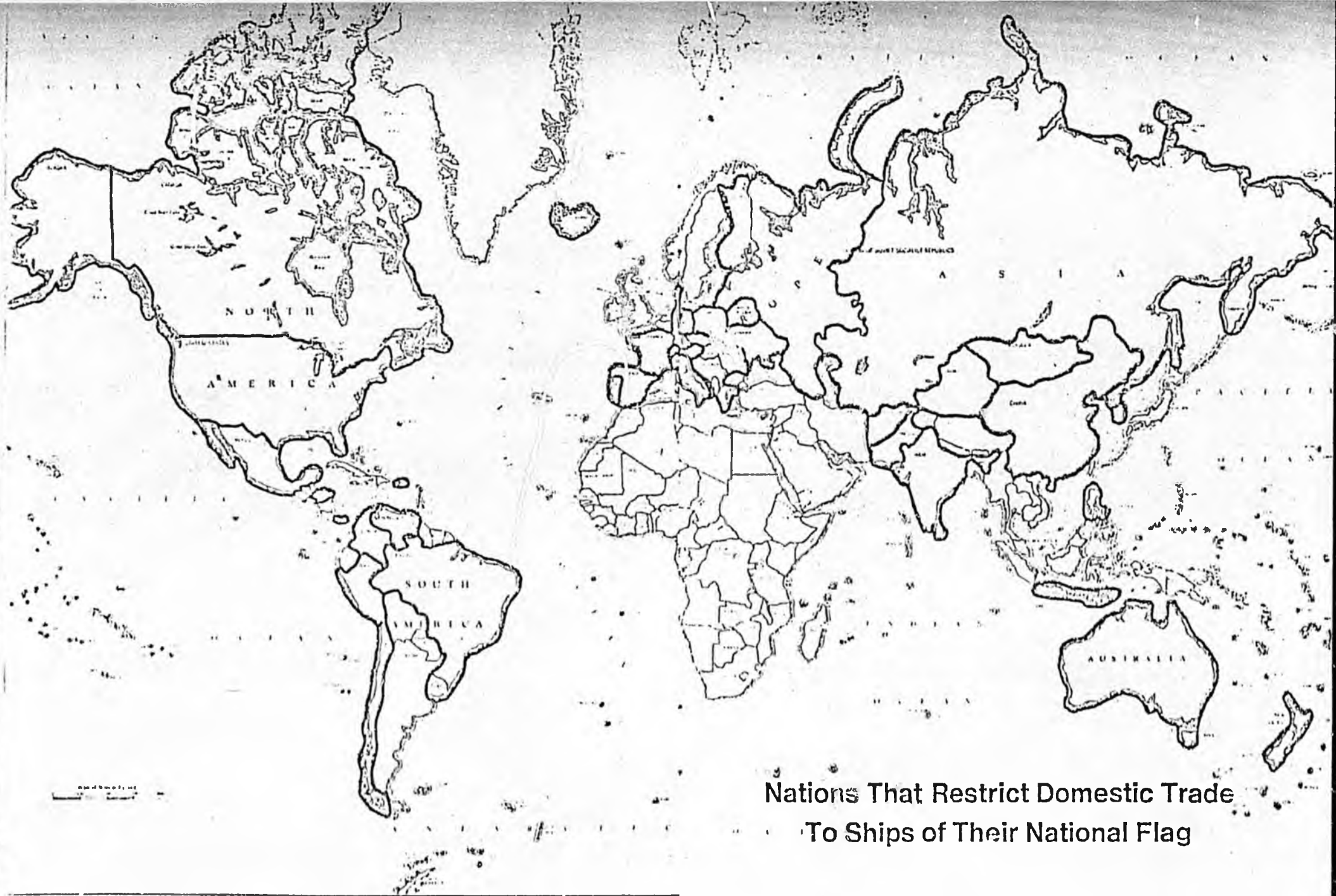
* When Pearl Harbor propelled the United States into the war in the Pacific and subsequently in Europe, the government immediately turned to the domestic fleet for its first-line response to the demand for overseas shipping.

* Vice Admiral Edward L. Cochrane testifying before the House Merchant Marine and Fisheries Committee in 1952 stated that a lesson had been learned from the Korean affair: "...the American merchant marine has been able so far to accomplish everything it was called upon to do." Without the protection of the Jones Act, the fleet would not have been nearly so effective.

* As the Vietnam conflict escalated, the U.S. merchant marine carried more than 300,000 men and 98 percent of the

Finally, the domestic waterborne fleet has maintained an enviable record of reliable service to its customers. It goes without saying that the absence of the Jones Act could jeopardize the availability of adequate, reliable service to all areas of domestic waterborne commerce.

The future of the Jones Act depends on the fortitude of the Congress in its support of the U.S. Merchant Marine and its contribution to national security. We, as a nation, derive tremendous benefit from a strong merchant fleet and the Jones Act provided the base for that fleet. Any effort to subvert the intent of the Jones Act must be weighed against these benefits. It quickly becomes evident that the United States cannot afford to allow its cabotage to be overrun with foreign vessels. It is, therefore, imperative that the Jones Act remain in full force.



Nations That Restrict Domestic Trade
To Ships of Their National Flag

(50)

MARITIME INDUSTRY

AN \$800 MILLION BENEFIT TO THE
ALASKA ECONOMY

ALASKA

PACIFIC MERCHANT SHIPPING ASSOCIATION

THE PORTS

Alaska's ports are vital to its development and economic well-being. From its earliest days, Alaska has relied on the maritime industry for obtaining essential raw materials and provisions. Today, the industry is essential for bringing Alaska's vast natural resources to U.S. and foreign markets. Four shipping lines, all U.S. flag operators, provide regularly scheduled liner service to Alaska's major ports.

THE CARGO

Alaska's waterborne trade has grown by 1,800 percent since 1971.

ALASKA'S WATERBORNE TRADE (Millions of Revenue Tons)				
	Container	Liquid Bulk	Other	Total
1971	0.3	2.1	2.8	5.2
1981	2.2	93.8	3.0	99.0

Note: Revenue tons, used in ocean tariff schedules, generally are equal to the greater of weight or measurement tons.

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The Economic Benefits

Through its multifaceted activities, and through industry and household purchases, the maritime industry in Alaska generates 1 in every 20 jobs.

THE BENEFITS TO ALASKA IN 1981			
	Direct Maritime Industry	Induced Economic Impact	Total
Jobs	4,660	4,160	8,820
Earnings (\$M)	120	115	235
Sales (\$M)	450	350	800
Taxes Paid (\$M)	10	10	20

The maritime industry itself contributes a substantial part of this total.

MARITIME INDUSTRY JOBS AND REVENUES IN 1981		
	Jobs	Gross Sales (\$ Million)
TOTAL	4,660	450
Cargo Handling & Services	3,450	380
Shipbuilding & Repair	200	10
Port Development	100	20
U.S. Flag Shipping Company Headquarters	250	10
Government Maritime Services	660	30

About 13,620 people in maritime worker households are supported either wholly or in part by the industry payroll. Spending by maritime industry employees and their families benefits many local businesses:

1981 EXPENDITURES

Food	\$15 Million	18%
Transportation	\$15 Million	18%
Housing	\$27 Million	22%
Medical	\$4 Million	5%
Clothing	\$4 Million	5%
Education, Recreation etc.	\$19 Million	22%

The remaining \$36 million goes to taxes, insurance, and savings.

Purchases made by maritime industry firms and their employees stimulate other sectors of the Alaska economy. Every dollar received by the maritime industry is worth \$1.78 to the State.

Integral Part of the Economy

In addition to the maritime industry and its suppliers, many Alaska industries benefit from maritime trade. Access to larger markets and to supplies of materials enable increased production and employment. Some examples:

BENEFITS ATTRIBUTABLE TO MARITIME TRADE IN 1980			
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INDUSTRY IMPACT AT A GLANCE

ALASKA

MARITIME INDUSTRY CONTRIBUTION TO STATE ECONOMY	
1981	\$800 Million Sales Transactions
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1983	\$900 Million Sales Transactions

In addition, port user industries had sales of at least \$6.6 billion in 1980.

MARITIME INDUSTRY CONTRIBUTION TO STATE EMPLOYMENT		
	Jobs	Earnings
1981	9,000	\$234 Million
1982	9,000	\$249 Million
1983	9,000	\$268 Million

Port user industries contributed an additional 11,700 jobs in 1980.)

MARITIME TRADE THROUGH ALASKA PORTS	
1981	99 Million Revenue Tons
1982	100 Million Revenue Tons
1983	100 Million Revenue Tons

Note: 1981 actual figures; 1982, 1983 forecast figures as of June 1982.

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PMSA

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P. O. Box 7861, San Francisco, California 94120
(635 Sacramento Street 94111)
Telephone (415) 986-7900

U.S. FLAG MERCHANT MARINE COMPANIES IN THE ALASKA TRADE

Totem Ocean Trailer Express, Inc. (T.O.T.E.)

Sea-Land Service Inc.

Crowley Maritime (several companies)

Foss Alaska Line (other companies)

Marine Leasing Inc.

Southeast Alaska Barge Lines

Northland Services

Coastal Alaska Barge Lines

Western Pioneer

Artic Gulf

Jacobsen Brothers

Knappton Marine Corp. (several companies)

Pacific Western Lines

Western Towboat

Boyer Halverson

Samson Tug & Barge Company

Dahl Transportation

Page Two

Alaska Marine Highway System

North Star III

Pacific Alaska Lines

HISTORY OF U.S. CABOTAGE LAWS

In 1789 the First Congress passed a Tariff Act providing for a 10 percent reduction in customs duties on goods imported into the U.S. on American vessels. Two years later Congress enacted a law requiring that all American flag vessels be built by U.S. citizens in an American yard and be commanded by a citizen of the United States.

During the two centuries since that act was passed, the laws reserving coastwise trade to American-built, American-owned, American-manned ships has been sustained, clarified and extended.

In 1793 Congress passed a law prohibiting foreign-flag fishing vessels from landing any part of their catch or any fish products in U.S. ports. Nearly a century later-in 1874-an act specifically prohibiting the use of foreign-built fishing vessels in domestic fishing strengthened the policy of reserving the fisheries to U.S. nationals-a policy which is still in force, excepted only by specific treaties and conventions.

While laws passed in 1808 and 1817 excluded foreign vessels from the domestic trades, the nineteenth century maritime policies of the United States evolved largely from reciprocal treatment by the European maritime powers. Among maritime nations, the common method of assisting domestic shipping industries was to reserve coastal shipping to ships of the national flag.

This policy was abandoned by Great Britain with repeals of the Navigation Acts in 1850 and 1854. Consequently, British ships were admitted into U.S. ports on the same terms as American ships were

admitted into British trade.

Oceangoing passenger and cargo trades burgeoned with the development of steam power, screw propulsion and the use of iron and steel during the Industrial Revolution. Mechanical power brought with it the decline of America's magnificent fleet of clipper ships. The growth of steam-powered foreign fleets brought both increased infringements on U.S. passenger service and major safety hazards which caused heavy losses on the seas. Congress moved to shelter the passenger trade as well as provide strict safety standards.

The Bureau of Navigation was created in 1884, charged with the responsibility to administer and enforce provisions for the safety of life and property on U.S. vessels.

Two years later Congress enacted a law that provided heavy penalties for foreign vessels caught transporting passengers between ports in the United States when those passengers had been taken aboard at other U.S. ports. The Act of 1886 also gave the President explicit powers to suspend commercial privileges to vessels of countries that denied the same privileges to American ships.

Cabotage regulations were tightened in 1898. All vessels engaged in coastwise trading had to be constructed in U.S. shipyards to American standards. And their owners, including any officers of corporations with ownership, had to be citizens of the United States

In 1912 Congressional insulation of the domestic fleet was

buttressed with the prohibition of the registry of foreign-built vessels under the American flag unless they were exclusively engaged in foreign commerce.

In the years following the outbreak of war in Europe in 1914, powerful business, banking and professional interests represented by the National Marine League called for "a campaign of education of the non-maritime public...to bring the average voter to a realization of his own personal interest in American control of the ocean transportation of American products."

The New York Times admonished the shipping industry to seize the "ripe plum" while they might-in reference to the war-created opportunity to regain supremacy on the seas. American ships and sailors had been the standard of the world in the nineteenth century. By 1916, nationalism was running high and the nation longed to reestablish itself as a major ocean shipping power.

Such was the mood that prompted the passage of the Shipping Bill of 1916. One stipulation of that act was that controlling interest in a ship-owning corporation and 75 percent of its stocks be owned by citizens of the United States. The stock ownership provision was designed to circumvent the possibility of the sale of the corporation stock to foreign interests. Ships owned or effectively controlled by foreign nationals, The Times warned, could present serious dangers in the event of U.S. involvement in the war. Such owners would seek to hinder the passage of regulatory legislation desirable for the United States' fleet but which would disadvantage foreign


operators, the newspaper held.

The Act of 1916 also created the Shipping Board-forerunner of the Maritime Administration-and gave it regulatory powers over the merchant fleet. Because of the shortage of available shipping, the Board was authorized under the Ship Purchase Act of 1916 to allow foreign-built vessels to engage in the coastwise trade-provided they were purchased from the Shipping Board by citizens of the U.S. and registered under the American flag for the express purpose of serving domestic trade. The Shipping Board could not operate ships itself unless it was unable to sell, lease or charter them to private corporations.

Private and public interests alike worked to prepare the U.S. flag fleets for a share of the rich opportunities available to neutralist shipping. And they worked doubly hard to assure that the profits would flow directly into American pockets.

Spurred by the emergency shipbuilding program toward the end of the war, the U.S. merchant fleet nearly quintupled in size between 1913 and 1922-gross tonnage jumped from 3 million to 14.7 million. Government orders to private yards authorized by the Ship Purchase Act caused a boom in the shipbuilding industry, vastly increasing the tonnage available to American shippers.

After World War I, there was a slowdown in shipbuilding, coupled with escalating rate wars. The maritime nations strove to bring maximum advantage from the enormous dislocations of commercial life that had been brought about by the conflict.



Recommendations

1 Alaska should become an activist state. It should take a lead among states to define the boundaries of state powers in our union.

In our two years of work, we have studied federal-state conflicts both past and present. We noted the powers at stake. We considered who won each argument, and why. Distilling these principles, we applied them to the state of Alaska.

Our conclusion is that action must force each issue.

If resource states feel threatened by propaganda from the Northeast-Midwest Institute, the solution is to generate our own research and distribute it in the same circles of press and Congress. If other resource states are slow to get underway on this, then Alaska should put up seed money to get a research agency started.

If we need an agreement with another state or a Canadian province, we should proceed to get it. We need not seek Congress's approval. Our research shows that the Supreme Court rarely invalidates such agreements for lack of congressional consent. In fact, seeking congressional approval often produces delay and unwanted conditions tied to this consent.

Some federal grants require a reorganization of state practices as a condition of receiving money. If we do not like to be thus dictated to, we should refuse the grant and take our protest to those who write the conditions.

In government, power flows to those who use it.

Across the nation, state officials moan about federal intrusion. Yet they have shunned using the built-in control the Constitution offers: the states' power to propose and ratify amendments

independent of Congress. The framers saw amendments suggested by the states sitting in convention as vital to equilibrium between states and the national government. But the states have never held such a convention.⁹ All proposals have seeped through Congress, which consistently favors federal sprawl at the expense of the states.

The greatest hindrance to a convention for proposing amendments is the lack of procedural rules. If the states want results, they should first assemble a constitutional convention solely to set rules for future conventions.

If Alaska or another state feels a federal action violates the constitutional balance of powers, it should promptly sue. As important as the suit is getting support from all states and municipalities affected by the action. The best way to organize this support is through a legal action fund.

Our point is simple: the federal government responds poorly to suggestions from the sidelines. To preserve their powers states must use their powers and accept the risks that such action brings.

2 Repeal of the Jones Act will serve Alaska's and the nation's interest, and Alaska should seek repeal. In the short term, the state should dedicate itself to obtaining an amendment to the Jones Act which would allow the use of foreign-built ships in the Jones Act trade.¹⁰

Alaskans have long felt that the federal law called the Jones Act, also known as the Merchant

⁹It is important to add that states can--with their resolutions calling for a convention--push a reluctant Congress into action. The U.S. Senate long opposed direct election of senators, but after two-thirds of the state legislatures called for a convention to propose this amendment, Congress did pass a similar proposal which was ratified as the 17th Amendment in 1913. If 34 states call for a convention to propose rules for Article V conventions, Congress will probably propose the rules in legislation to prevent such a first convention being held.

¹⁰Commissioner Davic strongly disagrees with the commission's conclusions and recommendations concerning the Jones Act. Commissioner Davic submitted additional materials supporting his position which are part of the official record of the commission.

Marine Act of 1920, works to the state's disadvantage. Our research on the economic effects of the Jones Act on Alaska confirms this intuition. We also found that the Jones Act--intended to protect and nurture a merchant marine for the nation's benefit in war and peace--is in fact destroying it.

This is one of the ironies of the Jones Act...our merchant fleet has dropped by half since World War II while the world tonnage has gone up sixfold.

The Jones Act requires that vessels carrying goods between U.S. ports be built in the U.S.; registered in the U.S.; and owned and manned by U.S. nationals. Jones Act vessels enjoy protection from free-market competition by foreign ships, which have much lower construction and manning costs.¹¹

As typical of protected markets, higher freight rates result in the U.S. coastwise trade. In the contiguous states, where ships face lively competition from land transport, the coastwise liner trade in most cargoes has priced itself out of business. Rail and truck lines move the goods more cheaply.

This is one of the ironies of the Jones Act. It seeks to build a sheltered environment for U.S. vessels to create domestic prosperity and wartime security. Yet our merchant fleet has dropped by half since World War II while the world tonnage has gone up sixfold.¹²

Because they have no legal alternative to the Jones Act fleet, Alaska and Hawaii and the contiguous territories (except the Virgin Islands, which is exempt from the act) pay the higher freight rates which it imposes. These freight rates amount to a subsidy--the lifeline of the remaining Jones Act fleet.

If the nation feels it benefits from the Jones Act, it should distribute its costs evenly across the nation. As matters are, the Alaska trade now supports nearly one-third of the entire Jones Act fleet.

The Jones Act burdens Alaska in several ways. Its strongest effect is to reduce state oil revenue. The act also raises the cost of all domestic freight coming to Alaska. And it discourages the development of new oilfields and mineral deposits in Alaska.

The Jones Act decreases state oil revenues because the extra shipping costs it imposes decrease the "wellhead" price of Alaska oil. Each extra dollar of shipping costs decreases the wellhead price by a like amount.

Wellhead price is the price upon which Alaska levies royalties and taxes.¹³

Our research shows that the Jones Act, by requiring the use of high-priced American tankers, reduces the wellhead value of Alaska oil by at least \$225 million yearly, and perhaps as much as \$630 million yearly. Because Alaska would get about 28 cents of each dollar increase in wellhead value (in taxes and royalties), *this means Alaska is foregoing between \$63 and \$176 million dollars yearly in state revenue.*

In addition to its effect on oil income to the state, the Jones Act adds approximately \$41 million yearly to the cost of goods coming to Alaska in the liner trades, mostly consumer goods, building materials and business supplies.

The Jones Act chills the development of oil fields and mineral deposits which would be on the "margin" between profitable and unprofitable. An example is the huge Ugnu/Kuparuk oil-tar deposit west of Prudhoe Bay. If developed, it will have very high production costs. An extra dollar of shipping cost per barrel of oil can knell financial death for such a field.

This is perhaps the worst effect of the Jones Act--that down the years, the act will continue to sour the development of Alaska.

Strong lobbies back the Jones Act. We fear that total repeal of the act is unlikely to occur in the near term, though the entire nation would benefit from repeal. More domestic cargoes would move by water than now do (Tussing, p. 40). The federal government would reap \$135 to \$378 million more each year in revenue from Alaska oil, since it gets about 60 cents of each dollar increase in wellhead value.¹⁴

The state's long range goal must be to get the act repealed. One amendment to the Jones Act holds immediate promise. It would allow into the Jones Act trade *foreign-built ships* that meet American safety standards. It would keep in force the requirements of U.S. manning, U.S. registry, and U.S. ownership. The requirement of U.S. construction--by far the most expensive feature of the Jones Act--would be dropped. This would ease the burden on Hawaii, Alaska and other noncontiguous parts of the U.S. and would help expand the size of the U.S. merchant fleet.

¹¹See the Alaska Statehood Commission publication, *The Jones Act and its Impact on the State of Alaska*, by Simat, Helliesen and Eichner, Inc., 1982.

¹²See the Alaska Statehood Commission publication, *Alaska's Economy and the Merchant Marine Act of 1920*, by Arlon R. Tussing and Associates, Inc., 1982.

¹³Wellhead price equals the price a refinery pays for a barrel of oil *minus* the cost of moving that oil from well to refinery. The price the refinery pays is roughly the "world price" for that grade of oil as determined by world market conditions and actions of the Organization of Petroleum Exporting Countries

¹⁴Based on an annual increase in wellhead price of \$225 to \$630 million (Tussing, 1982, p. 2).

Our research shows that this change would bring a net increase in U.S. shipping jobs. New jobs in the resurrected contiguous-states coastwise trade would more than offset the jobs lost in U.S. shipyards now building merchant vessels.

We would hear the objection that some U.S. shipbuilding capacity would not be available should another protracted, non-nuclear conflict like World Wars I or II occur. Congress should weigh the alleged national defense benefits against the present-day costs of the act. The Jones Act breeds high prices and inefficiency. It is slowly destroying our U.S. merchant marine. The act must be amended; it ought to be repealed.

3 Alaska and our congressional delegation should vigorously oppose extension of that portion of the Export Administration Act of 1979 which effectively bans the export of Alaska North Slope oil.

Federal law prevents the export of Alaska North Slope oil and keeps it from a natural market:

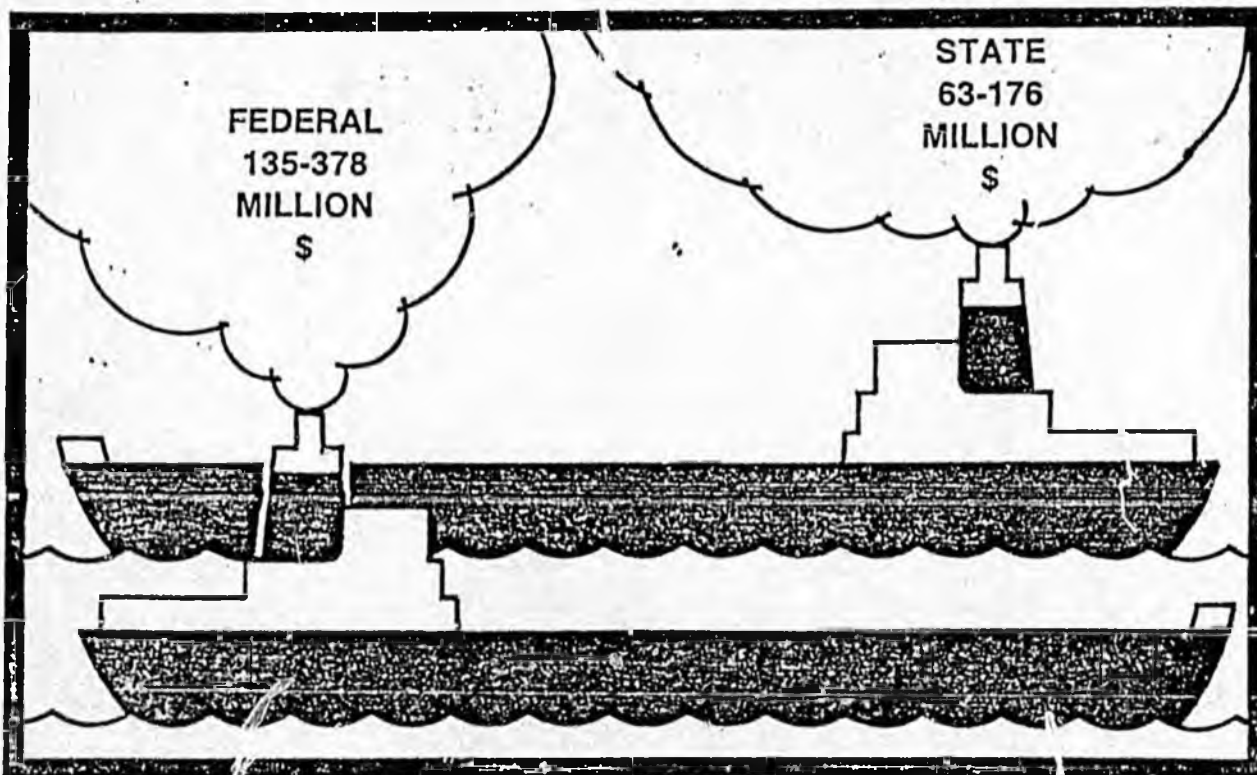
Japan and the Orient. It forces this oil into expensive American tankers and depresses the price of Alaska oil in other ways as well. Lifting the export ban might ultimately increase Alaska's oil revenue by \$500 to \$800 million annually.¹⁹

Two federal laws encumber the export of North Slope oil. One is the Trans-Alaska Pipeline Authorization Act of 1973. It places difficult, but not insurmountable, obstacles to the export of any oil which has flowed down a pipeline sitting on leased federal land. (This law covers the Alaska pipeline and some pipelines in other states as well.)

The second law is a section of the Export Administration Act of 1979. It aims only at Alaska North Slope oil. It sets conditions so numerous and so harsh that, in effect, it lays a total ban on the export of this oil.

The Export Administration Act of 1979 expires on Sept. 30, 1983. State officials and the Alaska congressional delegation should devote themselves to blocking extension of that part of the act relating to North Slope oil. If Congress renews it, a national opportunity to export our oil will not come again for years. North Slope production may be declining by then.

The export prohibition, by default, requires



The effect of the Jones Act on wellhead price depresses federal and state oil revenues, in the dollar ranges shown.

OIL REVENUES LOST FROM JONES ACT RESTRICTIONS

¹⁹See pp. 25-28 of the Alaska Statehood Commission publication *Alaska's Economy and the Merchant Marine Act of 1920*, by Arlon R. Tussing and Associates, Inc., 1982.

In defense of the Jones Act

A response to "Jones Act authorizes stealing" by Rick Luttmann, Aug. 5.

We are not talking about job creation when we support the closure of the Third Proviso. We do not say it would take less people if the closure fails. It would only take less American people.

When the Interstate Commerce Commission stopped controlling rates on through-rail shipments (Hydro-Train to Alaska Railroad, for example) the people in Fairbanks thought they might get cheaper rates. This did not happen.

The shippers who had pipe, drilling mud, and other high-tonnage shipments to Prudhoe Bay got the "cheap freight." The everyday consumers' rates went up, because someone has to pay the tab.

We have fierce competition now between TOTE and Sea-Land in the "hot freight" shipping as well as competition among numerous barge lines on shipment to Alaska.

Leaving the Third Proviso open isn't going to save Alaska consumers \$100 a year, or even \$1 a year (if anyone believes it will give me a call; I have a bridge I'd like to sell).

But I suppose Mr. Luttmann and I are destined to disagree. He probably drives a Toyota and I don't believe in that baloney, either.

8/22/63 AG Ben Rule



Resource Development Council

for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501
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April 6, 1983

Senator Jay Kerttula
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Kerttula:

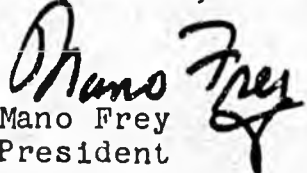
Each year the the Resource Development Council for Alaska reviews legislation introduced during the session and makes public comment on those which we believe will have impact on the development of Alaska's economic future. We wish to express our support for the basic principles expressed in Senate Joint Resolution No. 13 introduced by the Rules Committee at the request of the Alaska Statehood Commission.

There is no question that repeal of the Jones Act could significantly enhance the maritime industry in Alaska and the nation. We recognize, however, that many private investors have expended significant energy and financial resources to comply with the provisions of the Jones Act. We therefore urge you to consider incorporating provisions into the resolution which would provide reasonable protection for private investments already made to comply with the provisions of the Jones Act.

We look forward to receiving your comments on the concerns we have expressed.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.


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DRAFT

POLICY STATEMENT NO. 14

TRANSPORTATION

Resource development of any kind is dependent upon the existence of a cost-effective transportation system for the movement of materials, equipment and supplies, people and products.

The United States faces a serious trade deficit. Alaska holds numerous developable world-scale mineral resource deposits, as well as fishing, timber and agricultural potentials. In order for Alaska's resources and products to become competitive in the world markets, its under-developed transportation system and facilities must be brought to modern capacity and efficiency.

Exports can be developed, if and when suitable transportation systems and infrastructure are in place, and if and when the development of such potentials is encouraged and induced by the state through its taxing and spending policies.

In many cases the resources available for development in Alaska are situated far from ocean, river, road, rail and air service facilities and thus require new approaches from a development standpoint. Historically, federal funding has substantially aided in the establishment of major transportation facilities and networks and should continue to do so in Alaska. Such programs have supported growth and encouraged development.

The Resource Development Council urges that state revenues be used to diversify the economy, creating a broader economic base through provision of transportation infrastructure and capital improvements for support of multi-modal transportation systems.

Coordinated public and private investments in research and planning for the selection of integrated approaches to derive cost-effective transportation schemes are imperative. Such investments in research and development will enhance, encourage and induce private sector growth, benefit Alaska's present and future populations, and the nation as a whole.

With these points in mind, the Council urges the Alaska Legislature and administration to:

continued...

RAIL

Underwrite expansion of Alaska's railroad systems into world scale-resource areas with connecting links to the facilities of other modes of transport.

(See separate Policy Statement on the Alaska Railroad [#15])

DRAFT

II. MARINE HIGHWAY

Place the Alaska Marine Highway System under an autonomous authority or delegate operation of the system to private enterprise.

Analyze and implement means for improving management, reducing operational costs, and more efficiently transporting increased tourist traffic and cargo.

Develop ferry system port facilities which are compatible with and complimentary to other modes of effective transportation.

III. OCEAN

Focus executive and legislative attention on resolution of cost impacts on Alaskan commerce and the possible discrimination against Alaska in coastwise trade by the Nicholson Act, the Jones Act and Merchant Marine Act.

IV. AIR

Encourage development of fueling and staging points in Alaska to provide rapid transportation of passengers, goods and products between Alaska and domestic and international points. Encourage the development of improved airfields for large aircraft service to reduce the requirements for large storage capacity at outlying locales.

Participate and aid in development of navigational facilities throughout the state and provide continuing adequate maintenance of existing facilities so as to promote maximum utilization of the state's favorable geographic location and aviation network.

V. ROAD

Upgrade the state highway system and extend it as need be to permit access to resource areas.

Obtain rights of way through federal lands for road extensions. Fund and mandate an even-handed and uniform highway maintenance program. (Improved maintenance and repair of the existing system is critical. Deterioration of the highway system causes economic injury including damage to goods and equipment, and significant losses in the area of productivity in the motor transportation arena. A clear mandate with adequate funding is of prime importance to avoid the necessity for rebuilding established roadbeds.)

continued...

VI REGULATORY POLICY

The Alaska Transportation Commission should be given adequate funding to exercise its jurisdiction over regulation of rates, entry into the motor carrier arena and enforcement of regulations.

VI. MULTI-MODAL

Foster and encourage innovative modes of transportation including utilization of lighter-than-air craft, air-cushion vehicles, tunnels, pipelines, cableways and monorails, and develop an adequate modern multi-modal transportation network when and wherever feasible.

Promote a waterborne system of rail-highway roll-on, roll-off barges to serve rural Alaskan communities. In this enterprise, encourage a demonstration project aided by state support of barge access grids at points where such operations are economically appropriate.

VII. TRADE

Encourage the establishment of free trade zones and export trading companies located in Alaska. (Alaska is in a unique position to take advantage of the reduction in artificial export trading barriers being addressed by Congress.)

VIII. DEPARTMENT OF TRANSPORTATION

Improve liaison between DOTPF and agencies under the Departments of Commerce and Natural Resources and encourage long-range interdepartmental planning to accommodate the orderly, environmentally sound expansion and management of the state's multi-modal transportation network for optimum resource development.

PORTS AND HARBORS

Encourage development and improvement of Alaskan ports and harbors, emphasizing those projects which will create efficient transportation links for major resource developments.

Adopted

~~DRAFT~~

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

POUCH V, JUNEAU 99811

(907) 465-4954



April 5, 1983
3:00pm

Butrovich Room
Capitol Bldg.

Members Present

Senator Vic Fischer, Chair
Senator Tim Kelly
Senator Arlis Sturgulewski
Senator Pat Rodey

SB 27--Toll free telephone calls

Held over pending House State Affairs Committee action on new proposal.

SB 115--Individual rights of police officers

Senator Rodey (prime sponsor) explained the provisions of the bill. He said that police officers support the bill but that police chiefs oppose it.

Chief Joe Ciraulo, Juneau Police Department (also representing other police chiefs in S.E. Alaska) spoke against the bill. He felt that having a representative of an officer present at each stage of a disciplinary hearing was unnecessary. He also opposed having to get a search warrant to search an officer's locker.

Senator Rodey said that management policies which address some of these problems can change over time. This bill offers uniform rights for all officers.

Senator Sturgulewski asked if this bill would change present policies regarding disciplinary investigations. Chief Ciraulo answered "yes".

Senator Kelly asked if this bill would apply to only local police departments. Senator Rodey responded that the bill would apply to all peace officers in the state.

Senator Fischer stated that this bill requires a written complaint pursuant to a disciplinary action and asked if that is current practice in the Juneau Police Department. Chief Ciraulo said that he thought so.

John Strutko, an Anchorage police officer, spoke in favor of the bill. He felt that it was a good management tool and that officers should not have to give up their civil rights when they put on a badge.

Senator Kelly asked if there was anything in this bill which is not already covered in the negotiated contract with the Anchorage Police Department. Mr. Strutko stated that the provisions prohibiting involuntary polygraph tests were not in the contract.

Richard Ross, Kenai Police Chief, spoke against the bill. He felt it would be a statutory interference with his municipal personnel system. He felt this system works well. He saw some merit to the polygraph provisions.

Senator Fischer asked if police officers have full fifth amendment rights under the present system. Mr. Ross answered "yes". Senator Fischer then asked if officers would lose their jobs for refusing to answer questions relating to a disciplinary investigation. Mr. Ross said "no".

Ed Martin, Kodiak Chief of Police, spoke against the bill. He said that most of the procedures in this bill are now covered in current state and federal statutory and constitutional law as well as most personnel systems.

Holli Ploog, Attorney for the Anchorage Police Officers Association, spoke for the bill. She stated that current laws limiting polygraph tests exempt police officers. She favors the use of a polygraph exam as a hiring tool but opposes its use as an investigatory tool during employment. She said that locker searches without permission were probably unconstitutional. She said that the Fairbanks Police Officers Association also supports this bill as do many officers in other departments.

Brian Porter, Anchorage Police Chief, spoke against the bill. He said that the bill is a special interest of the Anchorage Police Officers Association but is not supported by other police organizations. He felt that it was inappropriate to use a criminal law standard of proof in a personnel disciplinary matter.

Senator Rodey commented that various blue ribbon commissions have recommended approaches similar to this bill.

Rick Potter, an Anchorage police officer, spoke for the bill. He said that thirteen states have similar legislation. He opposes compulsory use of polygraphs.

Louis Bencardino, Seward Chief of Police, spoke against the bill. He said the bill would cause unneeded expenditures in overtime and other costs.

Senator Kelly commented that he is in favor of police rights but that he does not favor putting provisions into state law that are already incorporated into labor contracts.

Jean Krause, President of N.E.A. Alaska, spoke for the bill. N.E.A. believes that all employees should have full due process rights.

It was the consensus of the committee to hold the bill over.

SB 153--Punishment for obstructing a private citizen who assists a peace officer

Senator Rodey (prime sponsor) explained the bill.

Senator Kelly moved and asked unanimous consent that the bill pass from committee with individual recommendations. There was no objection.

SB 218--Disclosure of information

Senator Kelly asked that the bill be held over.

SB 227--Alaska Council on Science and Technology

Senator Fischer said that this bill is the product of the extensive hearing the committee held on the sunset of the council and that it addressed all the concerns identified at that hearing.

Senator Rodey moved and asked unanimous consent to pass the bill from committee with individual recommendations. There was no objection.

SJR 13--Urging repeal of the Jones Act

Greg O'Cleary, Maritime Trades, testified against the resolution. He said the Jones Act is a bill of rights for American Seamen. Repeal would affect 2000 workers.

Senator Fischer stated that the Administration has problems with the timing of this measure. There are political problems with related federal issues.

Greg Olsen, FOSS Alaska Lines, said that repeal would only decrease freight rates for a short time and reduce the overall quality of service.

The resolution was held over.

Meeting adjourned at 5:00 pm.

by
David Dye
Committee Aide

test the issue by signing the contract

SHEFFIELD WANTS AMENDMENT OF JONES ACT: Saying repeal is unrealistic, Alaska Gov. Bill Sheffield says he will seek amendment to the Jones Act, which restricts the use of foreign built ships in the transit of cargo between domestic U.S. ports.

ALASKA ECONOMIC DEPT
JULY 7, 1983
NO. 12/83

NEWS RELEASE

ST
Jones Act

Committee on Merchant Marine and Fisheries

U.S. House of Representatives

Room 1334 Longworth House Office Bldg. • Washington, D.C. 20515 • (202) 225-4047

FOR IMMEDIATE RELEASE
Tuesday, June 14, 1983

Contact: Sue Waldron
202-225-4047

MARINE SANCTUARIES & "THIRD PROVISOR" BILLS OK'D BY HOUSE

Washington, D.C. -- The House of Representatives today passed legislation which will continue the preservation and restoration of marine areas with significant recreational, ecological, and esthetic values. This bill, H.R. 2062, reauthorizes Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 for three years at funding levels of \$2.264 million in FY84, \$2.5 million in FY85, and \$2.75 million in FY86.

Approved by a vote of 379-33, H.R. 2062 reduces conflict over the designation of marine sanctuaries by making explicit Congressional intent for the purposes and policies of the program, and mandating a 45-day Congressional review period before final action may be taken on a proposed sanctuary. The bill also provides that the appropriate Regional Fishery Management Council shall have the opportunity to draft regulations governing fishing within sanctuaries.

"The purpose of the sanctuaries program is to provide protection for nationally significant areas of the marine environment. Six sites have thus far been named marine sanctuaries, the first of which was the wreckage of the USS MONITOR off the coast of my State of North Carolina. Designation as a marine sanctuary has served to protect this national treasure and must be extended to other resources of historical or biological importance," said Walter B. Jones, Chairman of the House Merchant Marine and Fisheries Committee and the Floor Manager of the bill.

In other action, the House passed, 373-44, H.R. 1076, a bill to eliminate the so-called "Third Proviso" of the Merchant Marine Act of 1920 (the Jones Act).

-more-

The Jones Act requires that vessels engaged in trade between points within the United States be built in and documented under the laws of the United States. The Third Proviso exempts merchandise transported over Interstate Commerce Commission through-routes for which tariffs have been filed if the routes are in part over Canadian rail lines and their own or connecting water facilities.

Although this proviso was originally intended to improve transportation by allowing continued operation of the Canadian railroad car ferries on the Great Lakes, little use has been made of it during the past 25 years, and no one operates under it at present.

"The current concern arises from two recent efforts to take advantage of the Third Proviso to install coastwise service from the lower 48 states to Alaska. If the Third Proviso exemption were utilized, cargo now being shipped from U.S. northwest ports on U.S.-flag vessels to Alaska, could instead be moved by ground transportation to a Canadian port and from there to Alaska on foreign-flag vessels. This, of course, would harm Jones Act operators who have invested millions of dollars in the Alaska trade -- as well as have the potential of a loss in U.S. maritime capability at a time when we can scarcely afford a further diminution in our maritime resources," said Chairman Jones, the bill's Floor Manager.

In speaking in support of the bill, its sponsor Don Bonker (D-WA) a Member of the Merchant Marine and Fisheries Committee, said that the diversion of cargo from Pacific Northwest ports "would result in the loss of American seagoing and portside jobs, including terminal operators, longshoremen, and industries that provide supply receiving, warehousing, consolidation facilities and motor and rail transportation services. These services account for 20,000 jobs in Western Washington -- jobs which are directly or indirectly related to the transportation of cargo to Alaska."

