

SJR

11

# Alaska State Legislature

SENATOR  
JOHN B. "JACK" COGHILL  
Chairman

Senator Jan Fuiks—Vice Chairman  
Senator Mitch Aboud  
Senator Paul Fischer  
Senator Joe Josephson

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4921



## Senate Committee on Transportation

### M E M O R A N D U M

TO: REPRESENTATIVE CATO  
FROM: SENATOR COGHILL  
DATE: MAY 3, 1985  
RE: CS FOR SJR 11

A large, handwritten signature in black ink, which appears to be "JBC", is written over the "FROM" and "DATE" lines of the memorandum.

Our transportation committee substitute for Senate Joint Resolution 11, urging the repeal of certain portions of the Merchant Marine Act of 1920, is currently in your committee.

As detrimental to Alaskan commerce as some parts of this Act are, I feel their repeal is clearly in the best interest of Alaskans and the nation. It is our duty to let the United States know where we stand on this issue.

I would urge you to schedule CSSJR 11 for a hearing in the House Transportation Committee as soon as possible before the session ends. Thank you.

IDENTIFICATION	BILL NAME "Urging the repeal of the Merchant Marine Act of 1920."	BILL NUMBER SJR 11
	SPONSOR(S)  Coehill	DATE INTRODUCED 2/6/85
		RELATED BILLS PENDING
INITIAL RESEARCH	INITIAL SUMMARY COMPLETED  Yes	LEGAL DIVISION SUMMARY  None
	SPONSOR CONTACTED FOR BACKUP MATERIALS  Yes	DEPT OF LAW SUMMARY  None
	AGENCY RESPONSE	FISCAL NOTE  Yes - Revenue
		OTHER INTERESTED LEGISLATORS NOTIFIED  Yes - Terry Martin
BACKGROUND RESEARCH	SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES	OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, ETC
	RESPONSES FROM INTERESTED PERSONS AND/OR GROUPS  See Minutes 2-27-85 3-8-85	
HEARING PREPARATION	CHAIRMAN BRIEFED	DATE & PLACE SET 2-27-85 / 3-8-85
	STAFF MEMO TO COMMITTEE	TELECONFERENCE  None
	BACKGROUND MATERIAL DISTRIBUTED	PSA/PRESS RELEASE  None
	LIST OF WITNESSES Greg O'Clony - AFL-CIO Terry Martin - AK Legislative Phil Holdsworth	SUGGESTED AMENDMENTS/CS DRAFTED  CS Adopted By Committee 3-8-85

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## Senate Committee on Transportation

MEMORANDUM  
To: Committee members  
From: Committee staff  
Date: Wednesday, February 27, 1985  
Re: Subject of meeting

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Attached are background materials relevant to SJR 11, which urges the repeal of the federal Jones Act, and which is the subject of this afternoon's committee meeting.

Included in the packet along with SJR 11 are:

- The Merchant Marine Act of 1920 (the Jones Act)
- The final report of the Alaska Statehood Commission, issued January, 1983, and recommending repeal of the Jones Act
- The executive summary of a report on the effect of the Jones Act prepared for the Statehood Commission
- The position of the Governor, dated June, 1983, supporting repeal of the Jones Act
- Text of the ATC initiative, which becomes effective on February 28 (tomorrow) and which includes a provision regarding repeal of the Jones Act
- A news clipping from the Seattle P-I, indicating local interest in the Jones Act

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## Senate Committee on Transportation

TO: COMMITTEE MEMBERS  
FROM: COMMITTEE STAFF  
DATE: FEBRUARY 26, 1985  
RE: SJR 11 REPEAL OF THE JONES ACT

### BACKGROUND

The term 'Jones Act' refers to Section 27 of the Merchant Marine Act of 1920, which states;

"No merchandise shall be transported by water, or by land and water,... between points in the U.S.... either directly or via a foreign port or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the U.S. and owned by persons who are citizens of the U.S."

The purpose of the Merchant Marine Act of 1920 is:

"That it is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States..."

### JONES ACT EFFECT ON ALASKA

The Jones Act Cost Penalty.

The Jones Act restricts the "coastwise" waterborne transportation of the United States, including transportation between Alaska and Lower-48 ports and transportation within Alaska, to vessels that are US-built, US-owned, US-registered, and manned by US nationals. Detached from the other states on the extreme Northwest corner of North America, Alaska depends disproportionately on ocean transportation for its economic

links with the rest of the nation. The Jones Act has long been a point of contention between Alaskans and other Americans --- it was one of the grievances that motivated Alaska's struggle against "colonialism" and the desire to become a State; 24 years after Statehood some Alaskans still regard the law as a symbol of their state's second-class membership in the American union.

Whatever transportation-cost penalty the Jones Act carries is imposed disproportionately on the Alaska economy. In general, the relatively small size of Alaska's economy makes it a "price-taker" in national and international markets. That is, both the prices of goods exported from Alaska and those of goods imported into the state tend to be set in larger markets outside its borders. Higher transportation costs are thus added to the cost of Alaska's imports, and subtracted from the market prices of her exports. Thus, the prices of most consumer goods in Anchorage are composed of a price determined in some outside market, plus the transportation cost from that market to Anchorage. This does not include local distribution markups.

Alaska's position as a price-taker means that its economy tends to suffer a double penalty from any adverse transport-cost differential. In general, the state's exports to Lower-48 markets will have lower prices at their point of origin than would otherwise have been the case. The most obvious impact of this kind is on the state government's natural resource royalties and severance taxes, which are keyed to netback prices.

The biggest cost impacts of the Jones Act will be on crude oil, Alaska's chief export commodity. The estimated reduction in the value of Alaska crude resulting from the Jones Act is \$225 million per year.

Alaska North Slope Crude must be shipped pursuant to Jones Act regulations, which provide an exclusive monopoly to U.S. flag ships for all domestic intercity shipborne freight. The transportation of ANS crude accounts for more than half the business conducted by the Jones Act tanker fleet. It is contended that the majority of Jones Act tankers, however, are aging, inefficient, and uncompetitive with foreign flag vessels. The inefficiency stems from; very high labor costs; direct tax subsidies for construction and operating costs; indirect tax subsidies from wellhead-price manipulation by vertically integrated oil-and-tanker companies, allowing greater shipping costs to be offset against reduced wellhead netbacks.

Below is a comparison of transportation differentials between markets:

Valdez to Japan	\$0.50
Persian Gulf to Japan	<u>1.00</u>
	\$0.50
Valdez to Gulf Coast	\$4.00*
Persian Gulf to Gulf Coast	<u>2.00</u>
	\$2.00

\*With Trans Panama Pipeline (\$5.00 without)

As shown from these equations, there is an efficiency loss equaling \$2.50 per barrel. Consumers everywhere lose because economic efficiency has been sacrificed resulting in higher delivered costs to both markets. While Valdez to Gulf Coast is just twice the distance from Valdez to Japan, transportation costs are 10 times as high. The bulk of this expense is directly attributable to Jones Act tanker costs, which do not compete with foreign-owned tankers in the U.S. trades.

#### SUMMARY OF FINDINGS ON THE JONES ACT FOR THE ALASKA STATEHOOD COMMISSION

The Alaska Statehood Commission prepared a report in January of 1982. In this report was the commissions conclusions on the Jones Act. Listed below are some of those conclusions:

The costs of industry subsidies are not evenly distributed nationwide, but are borne by heavy users of Jones Act protected shipping.

Many Alaskans have called the Jones Act a gross form of discrimination against Alaska.

We (AK Statehood Commission) believe that if national security requires a protected merchant fleet, all the nation - not just the states heavily dependent on shipping - should support the cost.

Transportation is Alaska's lifeline, and Alaska's growth needs may be severely restricted by the Jones Act because of its inflexibility and the unwillingness of interests that benefit from the act to allow even small changes.

We find from our preliminary studies of the Jones Act... (that it) discriminates blatantly against Alaskans, helps drive up the cost of living here, and stifles economic development.

## NOT JUST ALASKA

The Jones Act repeal is not just an Alaskan issue. Other states are adversely impacted as well. A recent article in the Seattle Post Intelligencer, (2-22-85) mentions that the Jones Act has failed in many respects:

The U.S. fleet has diminished over several decades from 1,300 to 400 vessels. Commercial shipbuilding in the country has come to a virtual standstill.

These laws "keep Seattle from becoming a premier destination for cruise ships. Foreign-flag ships, unable to transport passengers between U.S. ports, dock instead in Vancouver, B.C., when cruising to and from Alaska." "A cruise ship exemption could inject millions of dollars into the local economy from passenger traffic through Seattle."

## CONCLUSION

The largest adverse effects of the Jones Act for Alaska are likely to be in the future, as transportation costs for crude oil and other minerals can be an important factor determining the economic feasibility of developing specific deposits.

- \* Information for this committee report was taken from:
  - More Perfect Union; A Final Report by the Alaska Statehood Commission. January 24, 1983.
  - The Jones Act And Its Impact On The State Of Alaska; Volume I: Executive Summary and Volume II: Final Report. July, 1982.
  - Alaska's Economy and The Merchant Marine Act of 1920; September, 1982.
  - The Alaska Oil Export Ban; A briefing paper by the Legislative Budget and Audit Committee, April 23, 1983.

Seattle P.I. Fri. Feb. 27

# Jones Act is debated here

By Scott Maier  
P-I Reporter

The economic trade-offs of protectionism for the U.S. maritime fleet have created powerful crosswinds over Puget Sound.

Laws that restrict coastal trade to domestic ships give U.S. shipyards their last hope of reviving the building of commercial ships. Local shipyards envision the Pacific Northwest as becoming the nation's center for cruise ship construction.

These same protectionist laws, however, keep Seattle from becoming a premier destination for cruise ships. Foreign-flag ships, unable to transport passengers between U.S. ports, dock instead in Vancouver, B.C., when cruising to and from Alaska.

These competing interests were

highlighted yesterday at a Chamber of Commerce forum held on the Jones Act, a 1920 law intended to ensure the United States maintains a viable maritime industry.

Some forum participants, however, noted that the Jones Act has failed in many respects.

The U.S. fleet has diminished over several decades from 1,300 to 400 vessels. Commercial shipbuilding in the country has come to a virtual standstill. The nation uses jets instead of ships to mobilize its troops in warfare.

"We are looking at a dinosaur 65 years old," noted Richard Smith, forum moderator.

Ken Fox, senior vice president of Tacoma Boatbuilding Co., said not to give up yet on domestic ship construction. Fox said his company

plans to invest \$1.5 million for facilities to build an 800-passenger ship on order.

If financing for the cruise ship comes through, construction will keep 60 engineers and 200 craftsmen busy for several years, Fox said. About \$30 million of materials will be bought locally to build the ship.

This boost to the Puget Sound economy would be dashed if an exemption to the Jones Act was provided for cruise ships, Fox said.

But a cruise ship exemption could inject millions of dollars into the local economy from passenger traffic through Seattle, said Barbara Goen, marketing director for the Rembold Corp., which is building a \$53 million cruise ship terminal at Pier 66.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: SJR No. 11  
 Title: Urging the repeal of the Merchant Marine Act of 1920  
 Sponsor: Coghill  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: \_\_\_\_\_  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
300 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	86,000	86,000	86,000	86,000	86,000	86,000

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS: Attach a separate page if necessary

Bill would recommend action that would increase the value of Alaska's crude oil production by reducing transportation costs to lower 48 markets. As a result tax and royalty collections would increase by an estimated \$86 million per year.

Prepared By: Charles Logsdon  
 Division: Petroleum Revenue

Phone: 276-1363  
 Date: March 7, 1985

Approved by Commissioner: [Signature]  
 Agency: Revenue

Date: 3/11/85

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

**THE JONES ACT AND ITS IMPACT  
ON THE STATE OF ALASKA**

**VOLUME I: EXECUTIVE SUMMARY**

Prepared for the

**ALASKA STATEHOOD COMMISSION**

by

**SIMAT, HELLIESEN & EICHNER, INC.**



July 1982

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## BACKGROUND

The purpose of the study is to provide "an expert and objective analysis of the economic effects of the Merchant Marine Act of 1920 (The Jones Act) on the economy of Alaska," considering:

- The costs which the Act adds to the ultimate price of important classes of freight coming to and leaving Alaska;
- The effect of the Act on the cost and standard of living in Alaska;
- The effect the Act has upon further development and expansion of shipping-dependent industries;
- The composition of the U.S.-flag Jones Act fleet;
- The effects higher shipping costs have on state revenues;
- Other important effects the Act may have upon Alaska's economy, resources, and future development.

### The Jones Act

The term "Jones Act" refers to Section 27 of the Merchant Marine Act of 1920, which states:

No merchandise shall be transported by water, or by land and water,....between points in the U.S.....either directly or via a foreign port or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the U.S. and owned by persons who are citizens of the U.S.....

Because Section 27 restricts U.S. domestic waterborne trade to vessels of U.S. construction, U.S. registration, and U.S. ownership, the Jones Act has come to be referred to as the U.S. cabotage law. Cabotage refers to the reservation of a nation's domestic cargo to ships of that nation's fleet. It could be described as a form of protectionism applied to transportation services. In fact, the purpose of the Merchant Marine Act of 1920 is stated clearly in the preamble of the Act:

That it is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States....

### Factors Leading Up to Passage of the Act

To understand why the Merchant Marine Act of 1920 was enacted, it is first necessary to review the U.S. experience in World War I.

At the beginning of World War I in 1914, the British maintained the world's largest merchant fleet with over 8,500 vessels. The remaining protagonists, together with Britain, accounted for over 14,000 vessels or nearly 60 percent of the world fleet and over 65 percent of the world's tonnage.

As the warring nations recalled their merchant fleets to military service or lost them in action on the high seas, the U.S. began to experience a crippling scarcity of vessels for its on-going commerce. Commodities and goods were left literally rotting on the piers. A major shipbuilding program to provide the country with the ships necessary to carry men and materials to Europe for an extended war was undertaken. However, only a few vessels were delivered before the armistice ending World War I was declared in November of 1918.

The experience of World War I indicated to U.S. lawmakers the dangers of relying on foreign-flag fleets. In the summer of 1919, the Senate Commerce Committee chaired by Wesley L. Jones, Republican from the State of Washington (1909 to 1932), began working on a revision of the national maritime laws. Under Jones' direction the Merchant Marine Act of 1920 was passed into law.

### EXCEPTIONS TO THE ACT

A variety of circumstances and conditions have resulted in differing exceptions to the Jones Act for some territories and states. The third and fourth proviso exceptions to Section 27 of the Merchant Marine Act of 1920 are examples of exceptions that apply to Alaska. For practical purposes, the third proviso allows the use of foreign owned, registered, and built ships for carrying cargoes between Alaska and the lower 48 states via Canadian ports so long as rail movement is involved, while the fourth proviso applies to movements on the Yukon River.

There are other exceptions. For instance, trade with the U.S. island possessions of Guam, Tutuila (American Samoa), Wake, Midway and Kingman Reef may be carried on foreign built U.S.-flag vessels.

Of direct interest to Alaska are the conditions that govern trade to the Virgin Islands. For historical reasons, the Virgin Islands are exempt from the Jones Act. As a result, Alaskan crude oil can be shipped out of Alaska on foreign-flag vessels to a refinery in the Virgin Islands. The product can then be shipped foreign-flag to the U.S. mainland. Data compiled by the Maritime Administration indicate that this route accounts for about 5 percent to 15 percent of Alaskan oil shipments.

### THE JONES ACT FLEET

The Jones Act fleet consists of those vessels eligible to engage in the coastwise trade. Generally, that includes any vessels built in the U.S., under

U.S. ownership, registered under the laws of the U.S., and not restricted because of subsidy status. Vessels that have received Construction Differential Subsidy (CDS) or are receiving Operating Differential Subsidy (ODS) from the Maritime Administration cannot serve the cabotage or coastwise trade without special waivers.

Currently, the Jones Act fleet accounts for 60.7 percent of U.S.-flag tonnage. Most of these vessels are tankers; in that category, 86.8 percent of all vessels are eligible for coastwise trading. Data appear in Table 1.

The Alaska trade fleet of six<sup>1/</sup> dry cargo freighters and 88 tankers constitutes 28.8 percent of the Jones Act fleet and 16 percent of the active U.S.-flag privately owned fleet.

Alaska trade freighters constitute only 8.6 percent of the total Jones Act eligible freighters. The containerships are smaller than those generally found in the Jones Act fleet and the Ro/Ro ships are larger. Among tankers, the Alaska trade fleet is made up of 34.4 percent of the total Jones Act fleet, but has 54 percent of the carrying capacity. This is because tankers in Alaska service are larger than the fleet average. Data appear in Table 2.

#### ALASKA WATERBORNE TRADE

Alaska's waterborne commerce is dominated by crude oil shipments from Valdez which accounted for 89.5 percent of Alaska's total port activity in 1979. When crude oil shipments are subtracted from the total, remaining waterborne commerce is 34.5 percent foreign imports and exports, 47.5 percent coastwise receipts and shipments, and 18 percent internal receipts and shipments. Data illustrating the relationship of total foreign, coastwise, and internal movement of the top ten Alaska ports is shown in Figure 1. Excluding crude oil shipments, the activity of the top ten Alaska ports includes approximately 60 percent of the state's total waterborne commerce.

Coastwise dry cargo shipments out of Alaska move primarily to the Pacific Northwest (Seattle and Tacoma). Of the total, 51.2 percent move to the Pacific Northwest, California receives 15.9 percent, and internal shipments within Alaska account for the remaining 32.9 percent.

Tanker movements from Alaska are destined primarily for refineries in California. Panama, the Pacific Northwest, and Hawaii also receive varying amounts of Alaska crude, based on the 1979 data.

Coastwise dry cargo shipments to Alaska originate to a large degree in the Pacific Northwest (77.3 percent). A very high proportion of the cargo moving to and from Alaska's smaller ports is transhipped via the major ports.

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<sup>1/</sup> Includes Sea-Land and TOTE; excludes barge services.

**TABLE 1**  
**PROPORTION OF JONES ACT VESSELS**  
**TO TOTAL U.S.-FLAG VESSELS**

	Number of Vessels			DWT (000)		
	<u>Jones Act</u>	<u>Total</u>	<u>%</u>	<u>Jones Act</u>	<u>Total</u>	<u>%</u>
A. DRY CARGO	70	280	25.0	1,119.0	5,123.7	21.8
B. TANKERS	<u>256</u>	<u>295</u>	<u>86.8</u>	<u>11,950.3</u>	<u>16,409.2</u>	<u>72.8</u>
C. TOTAL	<u>326</u>	<u>575</u>	<u>56.7</u>	<u>13,069.3</u>	<u>21,532.9</u>	<u>60.7</u>

**TABLE 2**  
**U.S.-FLAG PRIVATELY-OWNED, SELF-PROPELLED VESSELS**  
**OF 1,000 GROSS TONS OR MORE**  
**January 1, 1982**

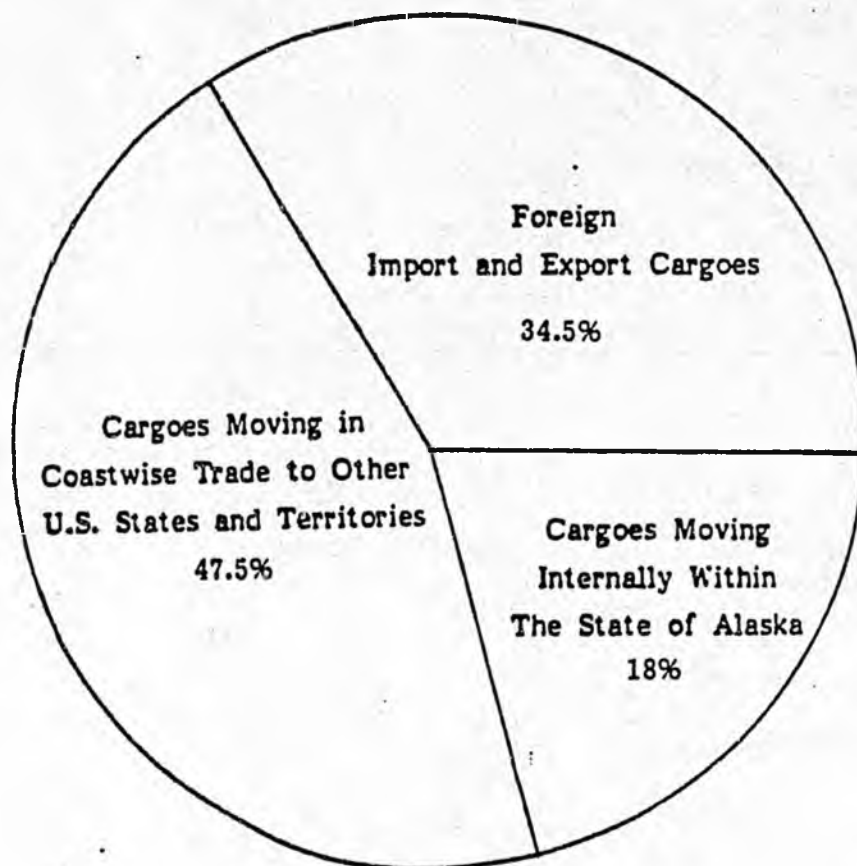
	<u>Serving</u> <u>Alaska</u>	<u>Total</u> <u>Jones Act</u>	<u>%</u> <u>Serving</u> <u>Alaska</u>	<u>Serving</u> <u>Alaska</u>	<u>Total</u> <u>Jones Act</u>	<u>%</u> <u>Serving</u> <u>Alaska</u>
A. FREIGHTERS	6	70	8.6	64.7	1,119.0	5.8
B. TANKERS	<u>88</u>	<u>256</u>	<u>34.4</u>	<u>6,513.8</u>	<u>11,950.3</u>	<u>54.5</u>
C. TOTAL JONES ACT FLEET	<u>94</u>	<u>326</u>	<u>28.8</u>	<u>6,578.5</u>	<u>13,069.3</u>	<u>50.3</u>

1/ Privately-owned, self-propelled vessels of 1,000 gross tons or more -  
January 1, 1982

Source: U.S. Maritime Administration

FIGURE 1

CARGO ACTIVITY OF CORPS OF ENGINEERS TOP 10 ALASKA PORTS  
(EXCLUDING CRUDE OIL AT VALDEZ)  
BASED ON TONS OF CARGO SHIPPED AND RECEIVED  
1979



Tanker cargo being received in Alaska, consisting of petroleum products for consumption in the state, flows almost exclusively from California; a high percentage is redistributed from larger to smaller Alaska ports.

Anchorage is the primary receiving port for consumer products, building materials, and food. Whittier also serves the Anchorage market with the same categories of cargo. Most of the high volume cargoes (commodities registering annual volumes of 10,000 tons or more) moving into Alaskan ports other than Anchorage and Whittier, consist of petroleum products.

## ALASKAN SHIPPING COSTS

### The Impact of Costs on Rates

The cost of shipping in the Alaska trade, and the cost premium caused by the Jones Act, were estimated by comparing the cost of present vessel services with the probable cost of those services were they operated with foreign-flag ships. Although it is true that the observed impact on customers is conveyed through shipping rates, not underlying shipping costs, and that competition and value of service, or "what the traffic will bear," establish freight rates for each commodity in the short run, costs set the limits for freight rates in the long term. In other words, although cost and rate may not be the same or even similar for any given commodity at any given time, in the long run (and/or over a mixture of commodities carried in the same service), rates are, in fact, cost determined. Hence, the cost-based method is a valid approach for determining the relative impact of differing governmental policies which affect the long term character of a shipping market.

### Shipping Costs

Ocean shipping costs can generally be divided into the following categories:

- Capital
- Manning and Subsistence
- Fuel
- Maintenance and Repair (M&R)
- Supplies and Equipment
- Insurance
- Cargo Handling
- Other Port Costs
- Agency, brokerage, and Commission
- Waterway Tolls and Pilot Fees
- Corporate Overhead

There are exceptions, however. For example, tanker movements seldom involve meaningful cargo handling costs, because this function is provided by shipboard pumps, the cost of which is already part of other cost categories. Other types of shipping have other costs—e.g., container ownership in the case of container systems.

### U.S.-flag Cost Disadvantages

Among the categories listed, not all are areas in which there are cost differences between U.S.- and foreign-flag vessels. The major areas in which U.S.-flag vessels are at a disadvantage are:

- Crew wages — Generally, U.S. manning costs are higher, due in part to higher rates of compensation and in many cases, higher manning levels.
- Insurance — Insurance is usually higher because of higher U.S. vessel repair costs and typically higher levels of medical care, workmen's compensation, etc.
- Vessel acquisition — Vessel acquisition costs are higher because of higher U.S. construction costs. In addition, delivery schedules in the U.S. are said to be much slower, introducing a cost of delay. The requirement for U.S. subsidized operators to purchase U.S.-built vessels has been temporarily waived, allowing U.S.-flag carriers to buy vessels overseas at cheaper prices. This does not apply in the domestic trades, however.
- Vessel Maintenance and Repair — Vessel M&R is higher due to the necessity for making repairs in the U.S.
- Overhead — Overhead is sometimes higher due to higher general levels of salary for U.S. headquarters office staffs, to the extra staff required for government compliance activity, and the fact that foreign lines use agents in the U.S.
- Fuel Costs — In most cases U.S. fuel costs are higher because steam turbine vessels are employed which have higher fuel consumption rates than foreign-flag vessels that traditionally use slow speed diesel engines.

### U.S.- vs. Foreign-flag Shipping Comparisons

The SH&E Required Freight Rate model was used to calculate costs of U.S. and hypothetical foreign-flag vessels in a representative sample of Alaskan service, focusing on cost differences in the categories set out above. Summary results from four runs appear in Tables 3-6, as follows:

Table 3	-	Container vessel: Seattle-Anchorage
Table 4	-	Roll on/Roll off vessel; Tacoma-Anchorage
Table 5	-	Crude Oil Tanker; Valdez-Los Angeles
Table 6	-	Petroleum Products Tanker; California to various Alaskan ports.

TABLE 3

**SUMMARY OF U.S.- AND FOREIGN-FLAG COSTS  
FOR CONTAINERSHIP OPERATIONS  
ANCHORAGE/SEATTLE**

**U.S.-FLAG**

<u>EXPENSE CATEGORY</u>	<u>COST PER VOYAGE</u>	<u>COST PER TEU</u>
<b>MANNING AND SUBSISTENCE</b>	70,837.14	75.95
<b>FUEL</b>	83,448.54	68.22
<b>M-R</b>	10,285.71	11.06
<b>SUPPLIES AND EQUIPMENT</b>	1,182.86	1.27
<b>INSURANCE</b>	8,485.71	9.12
<b>CAPITAL COSTS</b>	30,857.14	33.18
<b>STEVEDORING COSTS</b>	87,750.00	94.35
<b>TERMINAL COSTS</b>	241,800.00	250.00
<b>PORT COSTS</b>	60,000.00	64.52
<b>WATERWAY TOLLS AND PILOT FEES</b>	0.00	0.00
<b>CONTAINER COSTS</b>	76,371.43	82.12
<b>POSITIONING COSTS</b>	143,000.00	153.76
<b>FEEDER TRANSPORTATION COSTS</b>	0.00	0.00
<b>AGENCY, BROKERAGE, AND COMMISSION</b>	18,600.00	20.00
<b>CORPORATE OVERHEAD</b>	<u>169,356.13</u>	<u>182.10</u>
<b>TOTAL</b>	<b>981,774.66</b>	<b>1,055.67</b>

**FOREIGN-FLAG**

<u>EXPENSE CATEGORY</u>	<u>COST PER VOYAGE</u>	<u>COST PER TEU</u>
<b>MANNING AND SUBSISTENCE</b>	42,040.00	44.13
<b>FUEL</b>	45,215.56	48.62
<b>M-R</b>	9,000.00	9.68
<b>SUPPLIES AND EQUIPMENT</b>	1,182.86	1.27
<b>INSURANCE</b>	4,937.14	5.31
<b>CAPITAL COSTS</b>	15,428.57	16.59
<b>STEVEDORING COSTS</b>	87,750.00	94.35
<b>TERMINAL COSTS</b>	241,800.00	250.00
<b>PORT COSTS</b>	60,000.00	64.32
<b>WATERWAY TOLLS AND PILOT FEES</b>	0.00	0.00
<b>CONTAINER COSTS</b>	76,371.43	82.12
<b>POSITIONING COSTS</b>	143,000.00	153.76
<b>FEEDER TRANSPORTATION COSTS</b>	0.00	0.00
<b>AGENCY, BROKERAGE, AND COMMISSION</b>	18,600.00	20.00
<b>CORPORATE OVERHEAD</b>	<u>106,332.78</u>	<u>114.34</u>
<b>TOTAL</b>	<b>850,858.24</b>	<b>914.69</b>

TABLE 4

SUMMARY OF U.S.- AND FOREIGN-FLAG COSTS  
FOR RO/RO SHIP OPERATIONS  
ANCHORAGE/SEATTLE

U.S.-FLAG

<u>EXPENSE CATEGORY</u>	<u>COST PER VOYAGE</u>	<u>COST PER TEU</u>
MANNING AND SUBSISTENCE	54,940.00	49.50
FUEL	80,303.27	72.35
M-R	5,000.00	4.50
SUPPLIES AND EQUIPMENT	900.00	0.81
INSURANCE	11,600.00	10.45
CAPITAL COSTS	72,000.00	64.86
STEVEDORING COSTS	76,500.00	68.92
TERMINAL COSTS	288,600.00	260.00
PORT COSTS	44,000.00	39.64
WATERWAY TOLLS AND PILOT FEES	0.00	0.00
CONTAINER COSTS	36,382.50	32.78
POSITIONING COSTS	176,000.00	158.56
FEEDER TRANSPORTATION COSTS	0.00	0.00
AGENCY, BROKERAGE, AND COMMISSION	24,200.00	21.80
CORPORATE OVERHEAD	<u>153,604.55</u>	<u>138.38</u>
TOTAL	1,024,030.32	922.55

FOREIGN-FLAG

<u>EXPENSE CATEGORY</u>	<u>COST PER VOYAGE</u>	<u>COST PER TEU</u>
MANNING AND SUBSISTENCE	31,920.00	28.76
FUEL	57,906.61	52.17
M-R	4,000.00	3.60
SUPPLIES AND EQUIPMENT	900.00	0.81
INSURANCE	6,240.00	5.62
CAPITAL COSTS	36,000.00	32.43
STEVEDORING COSTS	76,500.00	68.92
TERMINAL COSTS	288,600.00	260.00
PORT COSTS	44,000.00	39.64
WATERWAY TOLLS AND PILOT FEES	0.00	0.00
CONTAINER COSTS	36,382.50	32.78
POSITIONING COSTS	176,000.00	158.56
FEEDER TRANSPORTATION COSTS	0.00	0.00
AGENCY, BROKERAGE, AND COMMISSION	24,200.00	21.80
CORPORATE OVERHEAD	<u>106,724.88</u>	<u>96.15</u>
TOTAL	889,373.98	801.24

**TABLE 5**  
**SUMMARY OF U.S.- AND FOREIGN-FLAG COSTS**  
**FOR VLCC OPERATIONS**  
**VALDEZ/LOS ANGELES**

**U.S.-FLAG**

<u>EXPENSE CATEGORY</u>	<u>COST PER VOYAGE</u>	<u>COST PER TON</u>
CAPITAL COSTS	224,588.74	1.87
MANNING AND SUBSISTENCE	86,990.71	0.72
FUEL	227,090.91	1.89
M+R	11,229.44	0.09
SUPPLIES AND EQUIPMENT	3,743.15	0.03
INSURANCE	23,956.13	0.20
CARGO HANDLING	0.00	0.00
OTHER PORT COSTS	140,000.00	1.17
AGENCY, BROKERAGE, AND COMMISSION	0.00	0.00
WATERWAY TOLLS AND PILOT FEES	0.00	0.00
CORPORATE OVERHEAD	0.00	0.00
<b>TOTAL</b>	<b>717,599.06</b>	<b>5.98</b>

**FOREIGN-FLAG**

<u>EXPENSE CATEGORY</u>	<u>COST PER VOYAGE</u>	<u>COST PER TON</u>
CAPITAL COSTS	112,294.37	0.94
MANNING AND SUBSISTENCE	46,714.46	0.39
FUEL	227,090.91	1.89
M+R	7,486.29	0.06
SUPPLIES AND EQUIPMENT	3,743.15	0.03
INSURANCE	13,924.50	0.12
CARGO HANDLING	0.00	0.00
OTHER PORT COSTS	140,000.00	1.17
AGENCY, BROKERAGE, AND COMMISSION	0.00	0.00
WATERWAY TOLLS AND PILOT FEES	0.00	0.00
CORPORATE OVERHEAD	0.00	0.00
<b>TOTAL</b>	<b>551,253.68</b>	<b>4.59</b>

TABLE 6  
SUMMARY OF U.S.- AND FOREIGN-FLAG COSTS  
FOR PRODUCT TANKER OPERATIONS  
LOS ANGELES/ANCHORAGE

U.S.-FLAG

<u>EXPENSE CATEGORY</u>	<u>COST PER VOYAGE</u>	<u>COST PER TON</u>
CAPITAL COSTS	102,285.71	2.92
MANNING AND SUBSISTENCE	131,266.67	3.75
FUEL	154,833.33	4.42
M/R	4,546.03	0.13
SUPPLIES AND EQUIPMENT	11,365.08	0.32
INSURANCE	22,730.16	0.65
CARGO HANDLING	0.00	0.00
OTHER PORT COSTS	21,600.00	0.62
AGENCY, BROKERAGE, AND COMMISSION	0.00	0.00
WATERWAY TOLLS AND PILOT FEES	0.00	0.00
CORPORATE OVERHEAD	0.00	0.00
<b>TOTAL</b>	<b>448,626.98</b>	<b>12.82</b>

FOREIGN-FLAG

<u>EXPENSE CATEGORY</u>	<u>COST PER VOYAGE</u>	<u>COST PER TON</u>
CAPITAL COSTS	51,142.86	1.46
MANNING AND SUBSISTENCE	66,826.67	1.91
FUEL	98,250.00	2.81
M/R	3,977.78	0.11
SUPPLIES AND EQUIPMENT	11,365.08	0.32
INSURANCE	13,979.05	0.40
CARGO HANDLING	0.00	0.00
OTHER PORT COSTS	12,000.00	0.34
AGENCY, BROKERAGE, AND COMMISSION	0.00	0.00
WATERWAY TOLLS AND PILOT FEES	0.00	0.00
CORPORATE OVERHEAD	0.00	0.00
<b>TOTAL</b>	<b>257,541.43</b>	<b>7.36</b>

These summary runs indicate that the relative impact of the Jones Act on Alaskan commerce varies with specific circumstances. For example, in liner trades<sup>1/</sup> (represented by container and Ro/Ro vessels) a significant part of the total cost relates to containers, cargo handling, and other cargo-related functions. These are not affected by the Jones Act. Hence, the relative cost difference between U.S.- and foreign-flag vessel service is less than, say, the tanker trades, where Jones Act-affected cost categories make up a much larger share of the total cost.

## THE IMPACT OF SHIPPING COSTS DUE TO THE JONES ACT

### Open Questions About the Jones Act

There are a number of unanswered questions relating to changing or eliminating the Jones Act. They include:

- Is it preferable to remove all provisions of the Act or a selected subset?
- What is the likely response by foreign shipping interests to a relaxation of the coastwise laws? On what terms would foreign owners and operators be interested in providing service?
- What immigration problems, if any, would result from employing foreign seamen in the Alaska coastwise trade?
- If foreign-flag operations can be introduced at great savings, what has impeded foreign-flag vessels from being used more extensively to carry coastwise cargoes via Canadian ports?
- What will be the U.S. labor reaction to the introduction of foreign ships and foreign crews and what secondary effect might this have on Alaska?

### The Impact of The Act on Liner Services

The total U.S.-flag premium cost for liner services in the Alaskan trade (i.e., services which transport package cargo such as consumer goods, automobiles, machinery, etc.) is about \$41 million per year, as follows:

	<u>Container</u>	<u>Ro/Ro</u>	<u>Tug Barges</u>
Cost per trip - U.S.-flag	\$981,774	\$1,024,030	\$195,217
Cost per trip - foreign-flag	850,638	889,373	158,023
Net	\$131,116	\$134,657	\$37,188
Voyages per year	X 155	X 100	X 200
	\$20,322,980	\$13,463,700	\$7,437,600
	<b>GRAND TOTAL</b>		<b>\$41,226,280</b>

<sup>1/</sup> "Liner trades" refers to all ocean freighter services which handle packaged and piece goods, in contrast to "bulk trades" which handle petroleum, grain, ore, and other bulk commodities.

The cost penalty applies to commodities as a group. How it may be distributed to any specific commodity or group of commodities is uncertain; if any one item is judged to pay less premium, then something else must automatically be said to pay more, and the net result to the people of Alaska is essentially the same.

With regard to the relative impact of the Act on inbound versus outbound commodities, the analysis indicates it is northbound liner commodities which are most likely absorbing the cost premium, meaning the direct (or initial) impact of the Jones Act is falling more heavily on Alaskan receivers and consumers rather than on Alaskan businesses shipping their products southbound.

#### The Impact of the Act on the Crude Oil Trades

With regard to crude oil, the RFR analyses indicated the differential between U.S.- and foreign-flag tanker operations in the Valdez to Los Angeles service is \$1.39 per long ton. For shipments from Valdez, transshipped at the Panama Canal and sent onward to the U.S. Gulf Coast, the differential would be \$5.67.

Assuming an average annual U.S.-flag shipment rate of 80 million tons per year, with two-thirds moving to California and one-third to the Gulf Coast via Panama, the annual cost penalty ultimately being borne by Alaska through the netback mechanism is \$225 million. Clearly, the Jones Act's major impact on Alaska is in the sphere of crude oil shipments.

### MAJOR CONCLUSIONS

#### The Jones Act and Alaska's Liner Service

- Commerce of the State of Alaska moving in liner services, mostly consumer goods and business supplies, is absorbing an aggregate annual cost of approximately \$41 million because of the restrictions imposed by the Merchant Marine Act of 1920.
- Due to the inherent directional imbalance of Alaska cargoes, the incidence of higher costs and rates is having the greatest impact on northbound cargoes.
- In the high-volume Anchorage-Pacific Northwest trade, the state may have a potential for reducing rates by stimulating backhaul cargoes. The extra cost of transportation for such cargoes would be low.
- In modern containerized-type operations, the bulk of the costs are not flag related. Consequently, the scope for cost and rate reductions as a result of introduction of foreign-flag services is not as great proportionately as in other sectors of the merchant marine.

### The Jones Act and Alaska's Crude Oil Transportation Service

- Alaska's net return from its oil sales is being reduced due to the additional costs imposed by the Jones Act, which, based on current conditions, are approximately \$225 million per year.

### Current Use of Exemptions from the Act

- The State of Alaska has some relief available from the Merchant Marine Act of 1920. This relief is currently not being exploited. Non-use of this loophole does indicate that the cost savings ultimately available from use of foreign-flag vessels may not be as great as has sometimes been supposed.

### Changes in U.S. Maritime Policy

- In view of the Administration's apparent position to uphold the Jones Act, efforts to have it rescinded in toto will be difficult in the immediate future.
- Given the recent lifting of prohibitions on overseas-built vessels for U.S. subsidized trades, the State of Alaska may wish to consider an effort to obtain a waiver of the requirement to use vessels built in the U.S. and place less emphasis on changing the remainder of the Jones Act.
- The State of Alaska should develop a coordinated, thoroughly-considered Jones Act strategy that seeks reasonable and politically attainable concessions in areas where the cost impacts are most meaningful. This approach has the potential for success, and can be instrumental in reducing the impact of the Jones Act on the State's economy.

Identical letters hand delivered to Senator Stevens and Senator Murkowski on February 22, 1985.

February 21, 1985

The Honorable Don Young  
U.S. House of Representatives  
2331 Rayburn House Office Bldg.  
Washington, D.C. 20515

Dear Congressman Young:

As you know, on November 6, 1984 Alaska voters approved a ballot measure (Initiative No. 83-02) which directed me to "seek repeal of federal statutes (the Jones Act) which require the use of United States vessels to ship goods between United States ports." I am writing to ask for your assistance in seeking this result.

The application of the Jones Act to Alaska has both increased the costs of all domestic freight shipped to and from Alaska and prevented the utilization of the most efficient available transportation options. By imposing higher transportation costs on domestic commerce, the Jones Act also discourages the development of new petroleum and mineral deposits in Alaska.

According to the Alaska Statehood Commission, the federal government loses from \$100-400 million dollars per year in oil revenues as a result of the higher transportation charges the Jones Act imposes on the movement of Alaska crude oil. The revenue loss occurs because transportation charges are deducted from the value of Alaska oil prior to the calculation of taxes. By reducing this value, the higher transportation charges also impede the development of marginal oil fields on Alaska's high cost North Slope.

Another serious problem with the application of the Jones Act to Alaska arises from the fact that it results in the strict separation of domestic and foreign waterborne commerce. Alaska could be economically served by vessels travelling from the U.S. Pacific Coast to the Orient. Western Alaska communities, with their severe employment



The Honorable Don Young

-2-

February 21, 1985

problems, would particularly benefit from the ability to combine their domestic trade with this foreign service. However, the vessels currently providing international service are prohibited from stopping in Alaska by the Jones Act. Promising fishing ventures have been hampered by these restrictions.

Studies of the cost of the Jones Act to Alaska consumers have determined that approximately \$40 million dollars a year are added to the building materials, business supplies, and consumer goods shipped to Alaska. Given the existing high costs of living and working in Alaska, this additional burden is especially difficult for Alaskans to endure.

We understand the importance of the United States' cabotage laws and the necessity for a strong domestic merchant marine industry. However, Alaska is unfairly shouldering this goal by supporting about one-third of the entire Jones Act fleet, with the attendant effects of reduced resource development and higher costs. Nor has the Jones Act proved effective in stemming the decline of the U.S. merchant marine industry, which by relying on protectionism has lost business to other transportation modes and more efficient foreign ships and operators.

We realize that in the past Congress has shown no inclination to repeal the Jones Act. While recognizing the current situation, we would like to work closely with you in pursuing the objectives of the initiative. Toward this end, I will be in Washington, D.C. in late February and would like to discuss possible strategies with you at that time.

Thank you for your consideration of this important matter.

Sincerely,

Bill Sheffield  
Governor

The Honorable Don Young

-3-

February 21, 1985

bcc: Attorney General Norman Gorsuch, Dept. of Law  
Commissioner Loren Lounsbury, DCED  
Commissioner Richard Knapp, DOTPF

**MERCHANT MARINE MISCELLANEOUS—PART 1**

RECEIVED

SEP 22 1983

**HEARINGS**

BEFORE THE CITY OF SEWARD  
SUBCOMMITTEE ON MERCHANT MARINE CLERK  
OF THE

COMMITTEE ON  
MERCHANT MARINE AND FISHERIES  
HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

MARAD AUTHORIZATION, FISCAL YEAR 1984, AND  
OVERSIGHT (H.R. 2114)  
MARCH 2, 1983

LIBERTY SHIP "JOHN W. BROWN" TRANSFER (H.R. 1556)  
MARCH 11, 1983—NEW YORK, N.Y.

REPEAL OF THE THIRD PROVISIO (H.R. 1076)  
MARCH 18, 1983

Serial No. 98-7

Printed for the use of the  
Committee on Merchant Marine and Fisheries



strong American merchant marine fleet, and tugboat capacity, barge capacity, and the cargo ships themselves. It is the only way we can develop the State of Alaska with the dependable source of transportation that we need.

That is the reason I am a cosponsor of the bill. I want to congratulate you. This is a regional problem, a regional challenge, and hopefully through these hearings we will be able to solve that challenge and protect the great State of Alaska and the great State of Washington.

Thank you, Mr. Chairman.

Mr. BONKER. Thank you.

Mr. Bateman, do you have any opening comments?

Mr. BATEMAN. Thank you, Mr. Chairman.

I don't have a statement, I don't feel compelled to make one now. I congratulate those of you on your statements in support of a strong merchant marine and to enhance that.

Mr. BONKER. Thank you.

I would like to place in the record the comments from the ICC, a statement by Mr. Thomas Garside, a letter and accompanying fact sheets from Simon Palmer, Marine Charter Co., and the general manager for Navigation, Inc., and a memorandum from Totem Ocean Trailer Express, Inc.

[The ICC comments, Garside statement, Palmer letter, and Totem memorandum follow:]

PREPARED STATEMENT OF THE INTERSTATE COMMERCE COMMISSION ON H.R. 1076

Mr. Chairman and members of the subcommittee: Thank you for the opportunity to comment on H.R. 1076, a bill "To strengthen the domestic water borne commerce of the United States." This bill would amend Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) by deleting the third proviso thereof.

In general, Section 27 requires that no merchandise may be transported by water, or by land and water between points in the United States, either directly or via a foreign port, in any vessel other than in a vessel built in the United States and owned by U.S. citizens. However, under the third proviso, Section 27 does not apply to merchandise transported between points in the continental U.S., including Alaska, over through routes recognized by the ICC, for which rate tariffs have been filed with the Commission, when such routes are in part over Canadian rail lines and their own or other connecting water facilities.

Thus, under existing law, if a rail carrier has a through route from a U.S. point over Canadian rail lines to a Canadian port and then to a U.S. point, and a tariff on file with the ICC for that route, a non-U.S. owned vessel could be used for the water segment.

During recent years, little use has been made of the third proviso. Formerly, the provision was used in connection with rail-car barges, a service no longer extensively utilized. In a cursory check of tariffs on file with the Commission,<sup>1</sup> the only third proviso filing located related to a movement from Texas to Alaska via Hill & Hill Truck Lines, Inc., Canadian Pacific, and Northern Transportation Co., Ltd., a Canadian water carrier. A copy of that filing is attached for information.

Under the implementing rules promulgated by the Department of the Treasury, the ocean transportation portion of the service may not be performed by a foreign flag or otherwise non-coastwise-qualified vessel under the third proviso of 46 U.S.C. § 883, absent an appropriate ICC tariff.

Deletion of the third proviso, it would appear, could have beneficial and detrimental effects. On the one hand, its deletion would presumably assure U.S. jobs and revenues for U.S. owned water carriers. On the other hand, its retention and utilization could conceivably increase competition and ultimately result in better service and/or lower prices to the shipping public. The latter approach would appear to be con-

<sup>1</sup> It should be noted that our tariffs are not maintained in a manner which segregated third proviso filings.

sistent with the policy thrust of the major reform legislation affecting the jurisdiction of the Commission. However, we recognize that special considerations may be involved with regard to U.S. flag service. Accordingly, we believe that this is a policy decision which should be determined by the Congress, and thus take no position on the merits of H.R. 1076.

# Marine Chartering Co., Inc.

February 28, 1983

We believe the attached shows:

- Present coastal shipping capacity is only just adequate for Alaska's trade.

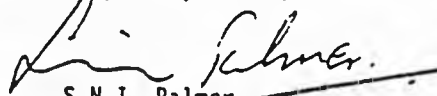
- The forecast doubling of Alaska's trade requires 3 million tons additional annual shipping capacity by 1990.

- Alaska Navigation's proposed service will meet some of this demand without depriving present operators of tonnage or causing any loss of jobs.

This letter and attachments has been sent to local, trade, State and Federal leaders whose support is earnestly requested. With a steady increase in trade volumes, Alaska Navigation's modest plans can harm no one but will only benefit Alaska, its trade and people who depend so much on efficient, competitively priced transportation.

As Managers of Alaska Navigation, Inc, we shall promptly respond to questions or requests for further information on the proposed service.

Very Truly Yours,



S.N.I. Palmer  
General Managers for  
Alaska Navigation, Inc.

*for info*

## S U M M A R Y

### ALASKA NAVIGATION, INC. - PROPOSED SERVICE -

#### TRADE (Total Alaska)

Excluding bulk petroleum, grains, lumber, chemicals, etc.

#### Official Statistics:

1974	1.55 million tons annually	
1982	3.08 million tons annually	
1990	6.45 million tons annually	+ 109%

#### Therefore:

- A.N.I. will carry maximum 5.6% of present trade.

- Ships/barges now full will remain full.

- All present labour will remain fully employed.

- A shortage of capacity of 3 million tons annually by 1990 if more ships are not put into the trade.

#### SEWARD

A.N.I. service will promote port development.

Full time employment for about 23 men plus ancillary services (17% unemployment in the city).

#### ALASKA RAILROAD

\$10 - 12 million additional gross revenue.

No capital expenditure required.

Will use existing rolling stock and manpower.

## CONCLUSION

3.08 million tons 1982 to 6.45 million tons 1990 is officially forecast:

- Present shipping capacity will be insufficient.
- All operators/work forces now involved will remain fully employed.
- Alaska will need maximum shipping options.
- A.N.I. service should be actively supported by all who are concerned for Alaska's future.

## ALASKA NAVIGATION, INC. - PROPOSED SERVICE

\*\*\*\*\*

## PREAMBLE

The following summary of present and forecast trade with Alaska from Canada and the contiguous United States, current shipping operators' service/capacity and Alaska Navigation's planned service, etc., etc. is presented to rectify some of the gross exaggerations and misinterpretations of the above operation put about by the incumbent carriers and other self interest groups.

Examination of our competitors' comments shows minimal reference to fact and no appreciation of the advantages to the people of Alaska (who ultimately pay the bill) of Alaska Navigation's proposed service.

## INTRODUCTION

Alaska Navigation, Inc. (A.N.I.) with its registered, main office at Room 204, 1813 East First Avenue, Anchorage, Alaska 99501 was incorporated privately on September 3, 1982 expressly to operate shipping services into/out of the State of Alaska.

The incorporation was the result of many months' research which showed a present severe lack of peak season shipping capacity, a year-round general lack of ship (as opposed to barge) space and a critical lack of shipping capacity in future should trade continue to increase as projected.

In short there is an urgent demand for another ship operator.

The following are the facts of the situation

1.0. Ine Trade

1.1. Volume

Statistics and forecasts of the U.S. Maritime Commission, U.S. Army Corps of Engineers and Williams - Kuebelbeck and Associates (attached Addendum A) show the following:

In short tons the annual trade with Alaska as

	(a) <u>Total</u>	(b) <u>Containerizable</u>
1974	23.47 m.	1.55 m.
1978	56.42 m.	1.98 m.
1982	90.00 m.	3.08 m.
1990 (forecast)	112.00 m.	6.45 m.

(a) The Total includes (b) plus logs, woodchips, pulp, minerals, chemicals, crude petroleum, etc.

(b) includes farm products, refrigerated goods, groceries, building products, machinery, transport equipment, commodities N.E.C.

NOTE: An actual doubling of annual tonnage in the containerizable category was experienced 1974 - 1982 and is projected to increase 1982 - 1990 by 109% or from 3.08 to 6.45 million tons.

This is a most significant statistic which proves that:

- Present shipping capacity will be insufficient in future.
- Present carriers will remain full therefore
- No decline in cargo volumes means no loss of jobs due to A.N.I. service.

The fact is that a doubling of cargo volumes in the next eight years cannot be accommodated by present carriers who will consequently sail with full ships and total employment will thus be assured for those handling this tonnage at present.

1.2. Anchorage/Whittier Shipments only in 1982

Sealand/Tote by ship	1,155,220.7 S/Tons (47.8%)
Anchorage barge traffic	524,998.0 S/Tons (21.7%)
Whittier railcar barge traffic	736,380.0 S/Tons (30.5%)
	<u>2,416,598.7 S/Tons</u>

(Note - These are approximate figures)

Two related important facts should be noted

(a) The proliferation of barge operations (52% of cargo) confirms the inadequacy of fast-transit ship capacity. Admittedly some low value cargo happily moves via slow railcar - barge services, but nowhere else in the world is ship capacity so inadequate as to compel general cargo shippers to transport valuable merchandise by barge 1,200 plus miles in such frequently adverse weather conditions.

(b) A.N.I.'s projected maximum weekly tonnage movement is about 3,300 short tons or a mere 5.6% of total tonnage currently moving and only 2.7% of the projected total in 1990.

1.3. Trade Summary

Minding there are some distortions due to seasonal cargo and shipping capacity fluctuations, it is self-evident that over the next eight years shipping services to Alaska will offer increasingly inadequate capacity for the projected volume of trade. By 1990 current shipping capacity will fall short of the trade demand by about 3 million short tons. This should be of concern to those working for the best interests of Alaska. Though Alaska Navigation's 172,000 tons annual movement is a minimal contribution to the projected demand for space, the service should nonetheless be encouraged for the sake of Alaska's trade.

## 2.0. Alaska Navigation's Service

Primarily because there are no suitable, economic U.S. built flag, etc. ships available, the company decided to operate, at least initially, with time-chartered foreign ships, thus necessitating use of the third proviso of the Jones Act (46 U.S.C. paragraph 883) as indeed does the Canadian National Railroad's Aquatrain service out of Prince Rupert.

### 2.1. Tariff

A.N.I. requested the Alaska Railroad to provide transportation within Alaska and from/to the port of discharge. A.R.R. decided to publish the necessary tariff (as they currently do for Alaska Hydrotrain and Aquatrain) which was subsequently withdrawn under instructions from (then) Secretary of Transportation Drew Lewis. The I.C.C. had accepted the tariff for Special Authority permitting its early validity.

A.N.I. plans to participate in further filings acceptable to the I.C.C.

A.N.I. is also aware of Bill S. 3000 introduced by Senator Slade Gorton of the State of Washington shortly after the incorporation of Alaska Navigation. This bill is indeed directed specifically against A.N.I.'s service as it proposes "grandfathering" all services in existence prior to September 1, 1982.

In view of the evident current and critical future requirement for additional shipping capacity on the Alaskan trade, it is to be hoped that those concerned with Alaska's future will ensure that Alaska's shipping options remain open and that the trade is not diverted totally into the hands of the major incumbent operators.

Once a tariff becomes effective A.N.I. will resume negotiations for the ships which it regrettably had to return to the Owners when the A.R.R. tariff was withdrawn.

Addendum B evidences the conclusion of these negotiations and thereby disproves allegations that A.N.I. sought to mislead I.C.C. by its request for Special Tariff Authority. Fortunately in the currently depressed shipping market suitable ships are available.

## 2.2. The Alaska Railroad

A.N.I. will utilize A.R.R. transportation services into/out of Seward. The A.R.R. provides both tariff and transportation services to Alaska Hydrotrain and Aquatrain at Whittier, Alaska at present.

A.N.I. projects gross revenues to A.R.R. from its Seward service of \$10 - 12 m. annually with no capital expenditure being necessary.

(Opponents of A.N.I.'s service have argued that this additional revenue (much of it net as existing rolling stock only will be utilized) will in some way make A.R.R. a more expensive acquisition by the State of Alaska under the proposed transfer from Federal ownership!)

### 2.3. Seward

Currently the city has a 17% unemployment rate.

A.N.I. service will provide approximately 36,000 man/hours work annually for 23 men or full-time employment at 1,565 man/hours per man/year.

In view of the job protection afforded longshoremen and related services in Anchorage, Seattle, etc., by the officially projected increase in trade over the next eight years, the additional employment in Seward should be regarded as a plus for Alaska.

### 2.4. Shipper Support

A.N.I. is a small, privately owned company and it therefore would not have progressed thus far without fair assurance of shipper support.

A.N.I. holds the names of 40 such shippers who have agreed to be identified with the A.N.I. service and have stated their requirement for additional shipping capacity. For obvious reasons these names should remain confidential.

A.N.I. is in the process of obtaining further named support for the proposed service.

### 2.5. Labour

The question of the use of Union Labour is most sensitive and A.N.I. thus states categorically that all longshoremen, railway workers, seamen, truckers, etc., connected with its service will be members of internationally recognized, affiliated Unions.

### 3.0. Summary

Current U.S. law allows A.N.I. to operate a foreign flag ship Fraser Surrey, B.C. to Seward lifting U.S. cargo to/from the lower 48 States (with delivery to/from Fraser Surrey, B.C. by rail) once a through tariff has been accepted by the I.C.C.

Such a tariff should be accepted by the I.C.C. and A.N.I.'s through service actively supported by all involved in the trade and the future of Alaska because:

a. The use of barges by traders demonstrates a present shortage of suitable shipping capacity particularly in peak months.

b. By 1990 if nothing is done, this shipping capacity shortage will be about 3 million tons annually.

c. No operator or work force currently involved in the trade will lose business because trade volumes will double over the next eight years.

d. A.N.I. has shipper support.

e. Alaska relies totally on shipping to provide its economic lifeline. Administrators, legislators and lobbyists should be promoting ways of increasing Alaska's shipping options and not seeking to restrict them. Alaskan business needs more and competitive shipping services.

ALASKA FOREIGN AND DOMESTIC WATERBORNE COMMERCE

Short Tons

1974 TO 1980

STATE OF ALASKA

INBOUND AND OUTBOUND - HIGH FORECAST

COMMODITY GROUP	ACTUAL					FORECAST				
	1974	1975	1976	1977	1978	1982	1983	1990	1993	
SAWMILL PRODUCTS	11,738	13,498	18,021	9,279	15,996	17,388	28,882	422,934	427,297	431
ALFALFATED FOODS	27,194	31,972	37,929	31,138	51,444	69,662	79,673	91,161	100,382	12
FABRIC SCRAP	222,171	158,968	266,144	39,816	81,327	914,978	923,271	941,048	965,816	94
INDUSTRIAL	337,132	488,886	483,232	461,063	551,043	686,884	679,268	767,322	897,637	1,008
LIQUID AND SOLID	4,756,086	2,958,883	3,353,732	2,633,777	2,929,283	3,184,188	6,273,169	7,277,487	9,143,190	18,421
LIQUID CHIPS	385,343	389,138	464,788	674,241	681,134	1,888,288	1,318,887	1,318,131	1,911,023	2,127
FUMIGANT PRODUCTS	886,389	688,381	364,417	688,878	688,971	792,302	873,838	948,116	1,846,934	1,123
PLA	258,448	264,837	267,329	338,128	284,374	433,038	491,102	612,931	769,234	761
MINERALS	1,417,460	1,815,398	784,188	737,781	618,913	837,128	1,812,328	1,387,338	1,864,431	2,481
MINERAL PRODUCTS	288,597	299,264	261,728	243,355	188,926	272,733	339,834	444,431	557,733	63
MISC LIQUID PRODUCTS	8,548	18,192	7,117	12,948	13,324	18,878	17,844	1,218,323	634,706	18
DRY CHEMICAL	182,557	176,446	124,317	163,869	841,353	916,681	1,818,468	1,266,619	1,472,817	1,648
CLAY AND SORE	59,589	78,730	57,883	37,184	34,812	73,313	78,313	1,181,373	10,373,232	10,643
LIQUID CHEMICALS	274,438	286,337	266,374	276,263	594,685	687,888	764,288	981,638	1,889,343	1,111
CRUDE PETROLEUM	7,261,771	7,416,329	7,443,297	13,388,274	41,488,385	69,474,887	69,839,874	78,247,861	143,062,973	164,127
PETROLEUM PRODUCTS	3,833,239	6,833,343	6,264,771	4,861,888	6,221,643	7,832,868	7,683,747	19,243,263	21,263,668	23,223
METAL PRODUCTS	161,383	359,838	222,982	164,837	168,183	238,887	273,394	318,738	378,337	42
INSTRUMENTS	154,313	193,416	198,633	188,788	153,753	218,343	249,121	282,128	324,121	36
TRANSPORT EQUIPMENT	72,483	81,689	57,431	81,816	73,136	94,228	118,838	124,283	148,313	16
WASTE AND OTHER	7,481	11,348	7,688	28,463	41,158	51,333	56,124	62,122	78,737	7
COMMODITIES N.E.C.	788,133	613,749	828,682	833,748	983,242	1,898,872	1,258,323	2,353,384	2,326,811	2,283
<b>TOTAL COMMODITIES</b>	<b>23,468,381</b>	<b>22,434,826</b>	<b>23,863,672</b>	<b>28,881,918</b>	<b>56,471,923</b>	<b>98,889,287</b>	<b>93,465,489</b>	<b>112,888,928</b>	<b>201,612,884</b>	<b>226,883</b>

U.S. MARITIME COMMISSION; U.S. ARMY CORPS OF ENGINEERS; WILLIAMS-KUEBELBECK AND ASSOCIATES, INC.

APPENDIX A

Time: 07:11 02/11/93 PST  
Connect Time: 152 seconds

APPENDIX B

RECI 021M/1.00144 Line: 1  
1008 EST  
MWM CRTG SFO  
NACHART B422557 FEB 11 1983  
ATTN MR SIMON PALMER  
HAVE SENT FLUG TO OWNERS  
QUOTE  
RE ALASKA NAVIGATION  
THE THANK OWNERS FOR THE EXTENSION ON BOARD APPROVAL AND ICC TARIFF  
APPROVAL. HOWEVER, CHRS ARE REQUIRED TO FILE ANOTHER TARIFF  
WITH ICC WHICH WILL BE DONE BY MIDDLE OF NEXT WEEK.  
APPROVAL BY ICC IS NOT EXPECTED BEFORE MARCH 15TH. PLS AC / IF  
OWNERS WILLING TO STAND BEHIND CHARTERS UNTIL THAT DATE  
BASIS "SUBJECT OPEN" ON TERMS SO FAR NEGOTIATED. IF/WHEN  
CHARTERS CAN LIFT BOTH SUBJECTS BY MARCH 15TH, THEY LIE  
TO COME THE SERVICE SOONEST THEREAFTER.  
PLS ADVISE WHAT LAYDAYS/CANCELLING OWNERS CAN GIVE.  
REGARDS  
END QUOTE  
REGARDS  
NACC NYK/T GROSS  
NACHART B422557  
MWM CRTG SFO  
NACHART B422557

STATEMENTS OF HON. DONALD CRIPPS, MAYOR, CITY OF SEWARD, ALASKA; SIMON N. PALMER, VICE-PRESIDENT AND GENERAL MANAGER, ALASKA NAVIGATION, INC.; AND IRVIN P. COOK, JR., VICE-PRESIDENT, ALASKA INDUSTRIAL TRAFFIC SERVICE, INC.

STATEMENT OF DONALD CRIPPS

Mr. CRIPPS. Thank you, sir.

Mr. BONKER. Now that we know all about the city of Seward, you may proceed, sir.

Mr. CRIPPS. Mr. Chairman, Mr. Young, my presence at this hearing is not to portray myself as an expert in matters relating to the Merchant Marine Act of 1920. Rather I appear before you as the mayor of a small Alaska coastal community which has an underutilized port capable of handling world-class vessels and which currently—today—has 23-percent unemployment. We are a community of 1,828 souls situated at the head of a fjord—Resurrection Bay. This is a deep, year-round icefree body of water which, prior to the 1964 earthquake, served the bulk of the shipping needs of the State of Alaska. The earthquake devastated the port by severely damaging or completely wiping out the port structures in place at that time. We are now attempting to recover from this tragedy by carefully pursuing a construction program which will result in our having the capability to handle bulk cargo on a par with any facility. It will be several years until this effort will be completed. Meanwhile, we are attempting to market our port as it is now constituted. The southern terminus of the Alaska Railroad is in Seward, so that bulk and containerized cargo can move through the Port of Seward efficiently and with attendant economies.

A shipping firm has come to Seward with the request that they be permitted to move containerized cargo through our port destined for points throughout Alaska. Currently the Port of Anchorage and, to some extent, the Port of Whittier move the majority of products coming into the State. The addition of another carrier, we believe, would provide some competition to the carriers now serving Alaska's needs, and we view this as a healthy move. More importantly from our parochial perspective, it would provide some number of year-around jobs for Seward and would materially assist in reducing our current 23-percent unemployment. In the ongoing affairs of a metropolitan area, the creation or elimination of a dozen jobs would make precious little impact on the economy of the area. In a community of 1,800 people, a dozen jobs is very significant. This can mean that a dozen families can sustain themselves without reliance upon governmental assistance. It is to this end that we address our comments to you.

An application for tariffs made by Alaska Navigation is critical to the efforts just outlined. If the Jones Act is modified to exclude foreign-bottom vessels from engaging in coastwise trade between Canada and Alaska, the hopes we have for an improved local economy will fall far short of realization. The third provision of the Jones Act which allows a foreign-bottom ship to travel from a foreign port to an American port has been in existence for a long time. The concept of operations for the company now proposing to come into Seward would include Canadian freight as well as other

cargo which would be consolidated at various vaning stations located in the Midwest and Northwestern States and shipped through a Canadian port. Present forecasted growth in Alaska shipping estimates a threefold growth factor by 1990. Much containerized cargo is now being moved into Alaska by barges. With the vagaries of the weather in the Gulf of Alaska, this is a tenuous mode of shipping. Power vessels are much to be desired over barges in conditions of heavy seas. The company proposing to come into Seward would operate power vessels.

I have included in the testimony two resolutions passed by the State legislature. I include them in an effort to portray the sense of the legislature in viewing this matter. I will not read them here. They are in the record of the statement.

As I stated at the beginning of my comments, I do not attempt to present myself as an expert in marine navigation or international trade. Rather I come to you as one who is attempting to do the very best I can to improve the status of the community which I serve. There is historic precedence for permitting foreign vessels to engage in coastwise trade between Canada and the ports in Alaska. We ask that this be continued.

Thank you, sir.

Mr. BONKER. Thank you, Mr. Mayor.

[The resolutions mentioned follows:]

STATE OF ALASKA RESOLUTIONS

The State Legislature in House Resolution No. 4 dated 2 February, 1983 stated: Whereas the Jones Act (Merchant Marine Act of 1920) was intended to protect our nation's merchant marine fleet; and

Whereas the Jones Act requires that vessels engaged in coastal trade between United States ports be built in the United States, be owned by United States citizens, and be operated by United States citizens; and

Whereas those requirements protect United States businesses engaged in coastal trade from unfair competition by foreign ships; and

Whereas the Alaska Statehood Commission, in its final report of January 1983, recommends that Alaska seek an amendment to the Jones Act which would allow foreign built vessels to be used in coastal trade between United States ports; and further recommends seeking ultimate repeal of the Jones Act in its entirety; and

Whereas the immediate and future economic, environmental and political impact of those recommendations should be weighed carefully before they are acted on; He it

*Resolved*, That the Alaska House of Representatives respectfully requests the Governor to direct the Department of Labor to work with the House Labor and Commerce Committee and the House Judiciary Committee to prepare a critique of the Alaska Statehood Commission's Final Report regarding the Jones Act."

The State Senate in Senate Joint Resolution No. 13 dated 26 January, 1983 stated: Whereas the Merchant Marine Act of 1920, commonly known as the Jones Act, requires that vessels carrying goods between United States ports be built and registered in the United States and owned and crewed by United States nationals; and

Whereas the Act gives vessels protection from free market competition by foreign ships that have much lower construction and crew costs; and

Whereas as is typical of protected markets, higher freight rates follow in the United States coastwise trade; and

Whereas the Act was originally passed to build a sheltered environment for United States vessels to create domestic prosperity and wartime security, yet the United States merchant fleet has dropped by half since World War II while the tonnage has gone up sixfold; and

Whereas Alaska, Hawaii, and the noncontiguous territories of the United States pay higher freight rates imposed by the Act; and

Whereas the Alaska trade now supports nearly one-third of the entire Jones Act fleet; and

Whereas the effect of the Act is to reduce Alaska's state oil revenue, to raise the cost of all domestic freight coming to Alaska, and to discourage the development of new oil fields and mineral deposits in Alaska; and

Whereas the direct cost to Alaska's treasury due to the Act is \$63-\$176 million yearly and the direct cost to the federal treasury is \$135-\$378 million yearly; Be it

*Resolved by the Alaska State Legislature,* That the United States Congress is urged in the national interest to repeal the Merchant Marine Act of 1920; and be it further

*Resolved,* That until the Act is repealed, the United States Congress is urged to allow foreign-built ships into the Jones Act trade if they meet American safety standards, are registered in the United States, and are owned and crewed by United States nationals.

Mr. BONKER. Mr. Palmer.

#### STATEMENT OF SIMON N. PALMER

Mr. PALMER. Mr. Chairman, I am Simon Palmer, vice-president and general manager of Alaska Navigation. I have prepared testimony and I would like to have it entered into the record.

I have, which I shall comment on later, some telexes and messages from Alaskan shippers supporting the service that we propose and, therefore, opposing the bill which is under debate here.

In recent months my company has been planning a shipping service to Alaska which would operate under the law known as the Third Proviso of the Jones Act. Simply stated this is an exemption under the act which allows foreign-flag ships to carry cargo between U.S. points provided a tariff is filed with the ICC and provided a significant portion of the route covered by that tariff is over Canadian rail lines. Today that exemption effectively applies to Alaska alone, and therefore any debate on the subject should focus primarily on what is best for the State of Alaska.

It is relevant to this hearing to point out that Alaska Navigation was incorporated in Alaska on September 3, 1982, following some 6 months of investigation into the market demand for such a service, the optimum method of cargo transportation, competitors' services, size and activities and so on. We are a small, privately owned company and would not have proceeded even with our incorporation had we not been very certain of the demand for our operation in Alaska. Naturally our research became known to our competitors and on September 30, 1982, 27 days after our incorporation, bill S. 3000 was introduced in the Senate by Senator Gorton proposing elimination of the Third Proviso for 3 years but grandfathering operations in existence on September 1, 1982. That bill was never debated but has now been followed by the chairman's, Congressman Bonker's, bill which also proposes elimination of the Third Proviso exemption. Both Senator Gorton and Congressman Bonker represent the State of Washington, as we all know, the operational home of our competitor shipping services to Alaska.

As a businessman I naturally wish the Third Proviso exemption and my company's planned service under that law to be maintained. However, I also wish it to be maintained for the sake of Alaska, and that is the consideration which I feel must predominate when determining the fate of the Third Proviso. Whilst it would be discriminatory and immoral to pass into law a bill allowing others to operate under the Third Proviso, whilst preventing

my company from so doing, the effective limitation of Alaskan shipping services to those currently in existence would have a more serious and far-reaching effect on Alaska, its trade, industries, and consumers.

I respectfully urge that the law known as the Third Proviso of the Jones Act be left alone and not otherwise suspended, abolished, or tampered with. As I shall illustrate, Alaska is a unique State requiring maximum transportation options and opportunities, and the selfish interests and pressures behind proposals to eliminate the Third Proviso should therefore be secondary to what is determined as best for the people of Alaska.

The first point I would like to make is a brief background on Alaska's trade which is a significant element here.

It is a statistical fact that shipments in and out of Alaska totaled 1.5 million tons in 1974, 1.88 million in 1976, 1.98 million in 1978, and 3.3 million in 1982. Trade doubled in the 8 years 1974-1982. These figures do not include bulk cargo.

An admittedly high forecast calls for a further doubling of trade to 6.45 million tons annually by 1990 or in the next 8 years. In a recent newspaper report this figure was reportedly considered by one shipping company on the trade to be too high by more than half. However, even 40 percent of the forecast increase (if the official forecasts are wrong and that shipping company is correct) would be 1.26 million tons annually or the equivalent of an additional 8 ships a week each carrying 200 containers. My company proposed lifting the equivalent of one such ship a week.

The Third Proviso opportunity for additional shipping services into Alaska should not be denied that State, because present shipping operations are currently inadequate and, given even the low forecast cargo increase figures, they will evidently become increasingly unsatisfactory in the future.

No. 1, in support of this argument, Mr. Chairman, let me say that 1.46 million tons of domestic general cargo was handled through the Port of Anchorage in 1982. Of this, 79 percent was moved by ship by Sea-Land and TOTE, leaving over 20 percent to be moved by barge. Additionally, two other barge operators provide approximately weekly sailings into Whittier.

Now barge services are ideal for project cargo moving into undeveloped ports, but in this instance they can only be the result of inadequate shipping capacity.

No Alaskan importer would risk the weather damage and delays of barge shipment if he could move his merchandise by ship.

If the Third Proviso is eliminated, the only way of shipping the increased volume of traffic in future will be by barge and, according to the Alaskans I have spoken to, further barge service is not what they want.

No. 2. Whilst the ships of Sea-Land and TOTE are not full to capacity every voyage because of seasonal trade fluctuations, it is a fact, borne out by the experiences of most traders, that cargo is regularly shortshipped or turned away by those carriers during the April to October period of the year. I have letters and messages from 40 or more companies complaining about shipping space shortages and stating their need for additional shipping services.

I did not attach them to my testimony, but just to tell you quickly, Mr. Chairman, Mr. Nerland for Nerland Home Furnishings, one of Alaska's leading shippers, writes, "As substantial shippers of freight to Alaska, we wish to be on record as in favor of continuing the Jones Act exemption, which allows competitive water carrier service to Alaska."

A second telex I have, from David Kilbourn of Northland Hubb, this is a related company, Mr. Chairman, to one of the largest grocery retail outlets in Alaska, he says, "Northland Hubb as a related shipper of products to Alaska has a major interest in seeing the Alaska shipping trade stay as competitive as possible."

One of the major roadblocks to the long-term development of our State has been the high cost of surface transportation. For this reason we strongly support the application of the Alaska Navigation and are against repeal of the Third Proviso of the Jones Act.

I have here the names of 40 further shippers who say: "We, the undersigned, understand that Alaska Navigation is in jeopardy due to political pressures from the Seattle, Wash., area.

"We desperately need additional service to Alaska because of space shortages that we have encountered in the past. We are in full support of Alaska Navigation providing a new service to Alaska."

Mr. BONKER. Are you submitting those letters for the record, Mr. Palmer?

Mr. PALMER. Yes, sir.

Mr. BONKER. I would ask unanimous consent that the letters and other supporting documents submitted by Mr. Palmer be included in the official record.

[The information follows:]

FROM MR. Simon N. Palmer  
Vice President and General Manager  
Alaska Navigation, Inc.  
1813 East First Avenue (#204)  
Anchorage, Alaska 99501

- (1) Telegram from Anchorage, Alaska dated January 28, 1983
- (2) Telegram from David C. Kilbourn, General Manager, Northland Hubb, Inc.
- (3) Telegram from Charles A. Barr, Alaska Agencies, Inc.



# Telegram

WFA224(013R)(1-220695A028)PD 01/28/93 2135

1993 JAN 28 AM 2:12

ICS IPWNGJC VSK

01381 01-28 0130A EST

ICS IPWFEZ

1-221874A027 21/28/93

ICS IPWAFUA AHG

25055 A ANCHORAGE ALASKA 378 01-27 0515P AST

RMS F. X. MOESI ROOM 1074

HYATT REGENCY HOTEL

VASPOC

WE, THE UNDERSIGNED, UNDERSTAND THAT ALASKA NAVIGATION, INC.,

IS IN JEOPARDY DUE TO POLITICAL PRESSURES FROM SEATTLE,

WASHINGTON AREA. WE DESPERATELY NEED ADDITIONAL SERVICE TO

ALASKA BECAUSE OF SPACE SHORTAGES, THAT WE HAVE ENCOUNTERED

IN THE PAST. WE ARE IN FULL SUPPORT OF ALASKA NAVIGATION, INC.,

PROVIDING A NEW SERVICE TO ALASKA.

WU 1201 5706548



# Telegram

SINCERELY,

MEL WILSON, MANAGER

PLAY N SAVE CORP

UNIVERSITY CENTER

ANCHORAGE AK

LEE MCDANIEL

HCI STEEL PRODUCTS

MASILLA AK

BRUCE GRESH, MANAGER

BERKMEYERS

ANCHORAGE AK

CAROL PAVEY, OWNER

VALUE LIQUOR

ANCHORAGE AK

JAMES AWBY, OWNER

ALASKA FLOWBALL

ANCHORAGE AK

FRONTIER PAPER

GREG WILSON, OWNER

ANCHORAGE AK

22-262 1254

WU 1201 5706548



# Telegram

STAN MILLER, MANAGER

ATCO STRUCTURES

ANCHORAGE AK

DAVE KOLESKY, OWNER

EOB HUTCHINS, OWNER

ROBERTS PRODUCE

ANCHORAGE AK

KARL HENACK, WISE OPS MGR

BUILDING PRODUCTS SUPPLY

ANCHORAGE AK

MARVIN HANSON, OWNER

KOVAKOVICH AND SONS

ANCHORAGE AK

GARY BOGART, SALES MANAGER

ANITER-ALASKA

ANCHORAGE AK

DON ROSEN, OWNER

DONHYROCK LUMBER CO

FAIRBANKS AK

WU 1201 5706548



# Telegram

JIM ETHINGTON, OPERATIONS MGR

SURPRISE BAKERY

ANCHORAGE AK

JIM SORE, MANAGER

EDGE1 BUILDING SUPPLY

ANCHORAGE AK

MURPHY TURNER

PACIFIC FRUIT AND PRODUCE

ANCHORAGE AK

CERKY MATHEWS

GNLCO BUILDERS SUPPLY

ANCHORAGE AK

RUSS WELSH, OWNER

SIMPSON SAUSAGE CIRCLE MEATS

ANCHORAGE AK

CRVILLE PROCTOR, OWNER

PROCTORS GROCERY

ANCHORAGE AK

CORT PINKO, OWNER

JERRY UFLING, OWNER

WU 1201 5706548

ALASKA HOUSEWARES

RICHARD EMERY, OWNER



Telegram

NORTHERN MEAT 1150 DOAKING RD  
ANCHORAGE AK ANCHORAGE AK 99522

VALLEY GRACE, PRESIDENT ALCAN DISTRIBUTORS  
V.F. GRACE CO PAUL WINEGART, MGR  
ANCHORAGE AK 633 EAST WAREHOUSE AVE  
ANCHORAGE AK

STEVE KARAKACH, PRESIDENT PIONEER AUTOMOTIVE  
YUPON OFFICE SUPPLY SANDY STOMYS, OWNER  
ANCHORAGE AK 1130 EAST DOAKING RD  
ANCHORAGE AK 99502

PAIL SEMENZI, VICE PRESIDENT ALASKA STEEL/FORMERLY STACK  
WU 1201 51 05 00 AM



Telegram

ARCTIC CIRCLE ENTERPRISES, INC STEEL FLETCHERS, MANAGER  
ANCHORAGE AK 1200 WEST DOAKING  
ANCHORAGE AK

BOB LINDSFORD, OWNER GRAYLOR ELECTRIC CO, INC  
SUPERIOR MILLWORK PAUL FLASKA, QUOTATION REP  
ANCHORAGE AK 5531 A ST  
ANCHORAGE AK 99503

TIM MARESE, OWNER MOBILE SUPPLY INC  
GREYS-KANJO OF ALASKA, INC HUTCH PHILLIPS, DIVISION MGR  
ANCHORAGE AK 3264 RAMPART DR  
ANCHORAGE AK

WU 1201 51 05 00 AM



Telegram

PANASONIC WEST INC MIKE PRITZETT  
PAT GALLEGHER, SALES MGR CRAIG TAYLOR EQUIPMENT  
4456 BUSINESS PARK BLVD ANCHORAGE AK  
ANCHORAGE AK 99503

ALASKA TORO DISTRIBUTORS PETER OLETTOMANN  
RICK LOHMAN, GENERAL MGR REPLACEMENT CLASH CO  
5733 B ST ANCHORAGE AK

TOY SUPPLIES PHIL COHEN, OWNER  
JACK GREEN, OWNER SALES CORP OF ALASKA  
3134 WEST NORTHERN LIGHTS ANCHORAGE AK  
WU 1201 51 05 00 AM



Telegram

ANCHORAGE AK 99503

3126 8TH  
WU 1201 51 05 00 AM

2056 EST\*  
 440650 CARL UI\*  
 440650 CARL UI\*  
 440650 CARL UI  
 WHAT ABOUT AREA CODE TO DIAL FROM ALASKA  
 \*  
 440650 CARL UI\*94  
 AK NAV INC AHG  
 40650\*

SHERATON CARLTON HOTEL

ATTN: SIMON PALMER, ROOM 408  
 FROM: CHARLES A. BARR, ALASKA AGENCIES, INC

THE FOLLOWING MESSAGE WAS MAILED FROM THE FAIRBANKS OFFICE OF  
 NORTHLAND HUBB, INC. ON MONDAY, MARCH 14, 1983 TO YOUR SAN FRAN.  
 OFFICE

\*NORTHLAND HUBB, INC., AS A RELATED SHIPPER OF GROCERY PRODUCTS  
 AND MERCHANDISE TO ALASKA HAS A MAJOR INTEREST IN SEEING THE  
 ALASKA SHIPPING TRADE STAY AS COMPETITIVE AS POSSIBLE.  
 ONE OF THE MAJOR ROAD-BLOCKS TO THE LONG TERM DEVELOPMENT OF  
 OUR STATE HAS BEEN HIGH COST OF SURFACE TRANSPORTATION. FOR THIS  
 REASON WE STRONGLY SUPPORT THE APPLICATION OF ALASKA NAVIGATION  
 AND ARE AGAINST REPEAL OF THE 3RD PROVISIO OF THE JONES ACT.

DAVID C. KILBOURN, GEN. MGR.  
 NORTHLAND HUBB, INC. \*

SHERATON CARLTON HOTEL

ATTN: SIMON PALMER, RM. 408  
 FROM: CHARLES A. BARR, ALASKA AGENCIES, INC.

THE FOLLOWING IS A COPY OF A SIGNED MESSAGE ON FILE IN OUR OFFICE:

\*AS SUBSTANTIAL SHIPPERS OF FREIGHT TO ALASKA WE WISH TO BE ON  
 RECORD IN FAVOR OF CONTINUING THE JONES ACT EXEMPTION WHICH WOULD  
 ALLOW COMPETITIVE WATER CARRIER SERVICE TO ALASKA.

NERLAND'S HOME FURNISHINGS  
 S. G. NERLAND\*

))))

REPLY VIA ITT

Mr. PALMER. The third point that I would like to make is the question of cost. In spite of recording massive profits every year, \$103 million in 1981 and \$157 million in 1982, Sea-Land still operates 35-year-old ships on the trade to Alaska when worldwide the shipping industry accepts that the economic life of a ship is a maximum of 20 to 25 years.

But of course Alaska pays the bill and has to accept the regular increases in freight rates because the present ship operators have a stranglehold on the trade. If the Third Proviso is eliminated, the only hope under current law for an alternative ship service for Alaskans will also be eliminated.

I emphasize ship service as opposed to further barge services.

I maintain that the Third Proviso should be kept because it encourages competition which would lower the cost of transportation as a result.

Those interests encouraging elimination of the Third Proviso argue that more carriers on the trade would result in reduced revenues for some operators whose unit costs and therefore rates would increase.

This is obvious nonsense and contrary to experiences in every other sector of the transportation industry worldwide.

What competition would do is eliminate the inefficient carrier, put a lid on freight-rate increases, and insure that Alaskans have a choice of carrier.

If the Third Proviso is abolished, Alaska, with its trade predicted to increase anywhere from 40 to 100 percent over the next 8 years, will have no shipping options other than TOTE's expensive RO-RO ships; Sea-Land's three, sometimes four, 35-year-old antiques; and a bunch of barges.

Who opposes the Third Proviso and why?

Predictably, those who wish to eliminate the Third Proviso are those who stand to gain most from the resulting elimination of potential competition. It is no mere coincidence that Senator Gorton's bill, S. 3000, should have been introduced as soon as it became apparent that my company's plans to operate a service were serious and had sufficient cargo support to make it viable.

So also with this bill. Although introduced for apparently the best of reasons, these would, on closer examination, be no more than a smokescreen for the removal of competition on a trade dominated by carriers operating out of the State of Washington.

My company's service, which is the immediate target of the proposal to eliminate the Third Proviso, would, if quotations of those seeking this change in the law are correct, cause the loss of thousands of jobs and millions of dollars investment in the State of Washington, dislocate a major segment of the Puget Sound economic infrastructure, and so forth.

I submit respectfully that this is nonsense. My company's plan is to lift approximately 200 containers on average per week or about 5.6 percent of the present trade requiring 25 men to load the ships.

Hardly a significant volume of cargo or loss of jobs particularly in view of even the low forecast increase in the Alaskan trade.

Again I urge that what is best for Alaska should be paramount when considering the Third Proviso situation. The exaggerated rhetoric of the self-interest groups in the State of Washington

should be considered in perspective; they are the desperate claims of shipping companies who have and wish to perpetuate a monopolistic grip on the Alaskan trade irrespective of the interests of the people of that State.

Arguments for Third Proviso elimination and answers. Proponents of the bill eliminating the Third Proviso will argue that a foreign-flag operator will lower freight rates, drive out U.S.-flag operators and, having established a monopoly, will then increase rates *erga n.*

Answers: The added rail cost of third-proviso shipping makes costs comparable to those of direct shipping operations.

Shipping monopolies are established by protectionist legislation such as this and not by competitive, open-market conditions.

The additional rail cost of third-proviso shipping is \$490 for a 20-foot container, \$680 for a 40-foot container, as against a total through cost to my company of just over \$1,200 for a 20-foot container and \$1,900 for a 40-foot container.

So you can see that the cost of shipping under the Third Proviso which necessitates rail carriage over Canadian lines adds a significant cost to our operation.

They also say that the domestic trade must be exclusive to U.S.-built flag shipping. The answer is no U.S. ships exist today which could lift the projected increase in Alaska's trade.

It is a matter of record that no order for U.S. merchant ships has been placed in U.S. yards for the year 1985.

In this situation, therefore, the Jones Act forces Alaskan consumers to subsidize inefficient overage shipping.

Some Third Proviso shipping is necessary to restrain U.S.-flag operators' rate increases.

The final argument often made is that U.S.-flag shipping is strategically vital. The answer is that eliminating the Third Proviso only harms Alaska; it does not promote U.S.-flag shipping.

Only the number of tugs and barges will increase.

A thought that strikes me is that if elimination of the Third Proviso were concurrent with allowing foreign-built U.S.-flag ships to operate on the Alaskan trade, that would be good for Alaska and U.S.-flag shipping.

In summary, may I say that trade with Alaska is irrefutably increasing; present ships are overfull most of the year even now; Alaska needs and should not be denied increased shipping options.

Elimination of the Third Proviso would be protectionist of the interests of the present shipping operators, discriminatory in the first place against my company and prejudicial to the interests of the people of Alaska.

There has been undue haste to eliminate the Third Proviso which makes one suspect that special interests and not Alaska's interests have been considered.

It is time Alaska and its particular requirement for maximum shipping opportunities was considered. The Third Proviso should not be suspended or eliminated.

Thank you, Mr. Chairman.

Mr. BONKER. Thank you, Mr. Palmer.

Mr. PALMER. Excuse me for making it so long.

Mr. BONKER. We believe in equal time. Mr. Cook.

#### STATEMENT OF IRVIN P. COOK, JR.

Mr. Cook. Thank you, I appreciate the opportunity to testify here today. My name is Irvin P. Cook, vice president and part owner of Alaska Industrial Traffic Service. We are a consulting company that aids shippers. Before I go further, I would like to define the word "shipper" as a person who tenders freight to the carrier. I know often the term shipper is used as a water carrier, but in this case we tender freight to a carrier, water, rail, whatever.

We provide consulting service to shippers and 80 clients who ship and carry goods to, from, and within the State of Alaska.

During this involvement in the Alaska transportation industry, we have become familiar with the needs of those moving freight to Alaska from the viewpoint of the purchaser of transportation. AITS recognizes the concepts that 46 U.S. Code, section 883, was established to encourage and preserve a strong merchant marine industry, and it supports that piece of legislation to that extent.

AITS recognizes that 46 U.S.C. 883 was not established for the purpose of stifling commerce; however, it is apparent that 46 U.S.C. 883 does in fact stifle trade to Alaska. In partial recognition of this, Alaska was incorporated into the Third Proviso.

AITS has, over the past 2 years, sought to augment the existing service to Alaska by use of one or two small ships. We were completely frustrated in our efforts. Suitable domestic bottom ships were unavailable. The only ships that were available were foreign built. The Third Proviso would have permitted the use of these ships out of Prince Rupert, or Vancouver, Canada, to Alaska.

Over the past 2 years various clients of ours have experienced delays in shipping due to demand exceeding the capacity of the two major ocean carriers to Alaska—Sea-Land Service, Inc., and Totem Ocean Trailer Express, Inc.—and every year more and more barge lines have come into the Alaska trade to handle the excess trade. A number of our clients have used barge service in lieu of operationally faster and operationally more reliable service of ships, because there has been inadequate shipping capacity.

One of our clients has already been notified by one of the major ocean carriers that in spite of the fact that he has been shipping an average of 12 vans per week, through the winter, his bookings will be cut back to 7 vans per week, during the coming summer months, and this is during his busiest period.

There is a firm by the name of Alaska Navigation, Inc., that proposes to enter into the Alaska trade. As near as I have been able to determine, Alaska Navigation, Inc., has been unable to find domestic-built ships suitable for this trade. Consequently, they had to resort to a foreign-built ship in an attempt to enter the Alaska trade.

The existence of 46 U.S.C. 883 has not fostered the building of the required ships. However, the Third Proviso has made it possible for additional carriage capacity to Alaska.

The question to be answered when reviewing the issue of whether the Third Proviso should be eliminated is, will the elimination of the Third Proviso really encourage and preserve a strong merchant

marine fleet? That is doubtful. What will happen is that the elimination of the Third Proviso will impede commerce to Alaska.

Currently, Knappton Corp. is operating railcar barges from Prince Rupert, Canada, to Alaska. In the past, Crowley Maritime Corp. operated a railcar ship from Vancouver, Canada, to Alaska. Both services are and were necessary for the economic growth of Alaska, and both services are and were performed with foreign bottoms, transporting goods originating and destined in the United States. Crowley Maritime has taken the *Trainship Alaska* out of service. Knappton Corp. is inaugurating its Korean-built bottom railcar barge *Aqua Train* April 20, 1983.

The existence of the Third Proviso allows carriers more flexibility in responding to the needs of the general shipping public.

Even if it is determined that there is currently adequate freight movement capacity to Alaska, that should not be considered. The Third Proviso allows carriers to be better able to respond to the demand for transportation. To eliminate the Third Proviso eliminates future possible responses to insufficient capacity that can hurt commerce in Alaska and that can hurt my clients.

Several of our clients have written letters of support of retaining the Third Proviso, and several have written in support of Alaska Navigation. Copies are attached.

Up to the middle of the last year, the current water carriers felt that they had to compete with certain commodity rates established by the rail-barge movement from Prince Rupert. When their ships became full this was no longer necessary, and their rates on those same commodities became higher. Without full competition these water carriers can and have allowed their prices to climb increasingly higher.

Alaska needs the Third Proviso.

I just obtained a telex to answer some of your questions on rates. If I may, in 1979, March 18, 1979, both TOTE and Sea-Land had a rate of \$3.19 per hundredweight on iron or steel plate steel. Today, their rate, TOTE's rate, is \$5.46, a 71-percent increase. Sea-Land has a rate of \$5.03, representing a 58-percent increase.

As an aside, it should be noted that Sea-Land does charge an additional charge to pick up in the Seattle area on some freight.

What has happened here is that TOTE, in light of lack of excess capacity, has felt they were able and capable and prudent to increase their rates, and need not be competitive with Sea-Land.

The same has applied to foodstuffs, canned goods, et cetera. In March 1979, both TOTE and Sea-Land had a rate of \$2.98. Today the rate for TOTE is \$6.04, a rate increase of 102 percent. Sea-Land has a rate of \$5.83. Again, there are possible additional pickup charges that apply on some freight in the case of Sea-Land.

Additionally, another client of ours, a department store, in 1973 said—said to us—that in 1973 transportation costs, as a percentage of total retail store sales, were 10 percent. Now it is 20 percent. For that reason, Alaska does need the Third Proviso. Thank you.

Mr. BONKER. Thank you, Mr. Cook.

I wish time permitted something of a rebuttal to all the points that you have raised either from committee members or from your competitors, many of whom are sitting back there shaking their

heads as you have gone through the litany of charges and assumptions in your statements.

We don't have that much time. I am trying to conclude the hearings. I will raise just one question about your statement, Mr. Palmer, about competition.

You seem to imply that there is not much competition now in this trade route between the lower 48 and Alaska, at least on waterborne traffic.

The fact is you say that if the Third Proviso is abolished, Alaska with its trade predicted to increase anywhere from 40 to 100 percent over the next 8 years will have no shipping options other than TOTE's expensive RO-RO ships and Sea-Land's 35-year-old antiquities and a bunch of barges.

Mr. PALMER. Yes.

Mr. BONKER. I hope you don't run against me sometime. That is an awful characterization of what I have always thought was one of the most efficient and modern carriers in the business. But anyway, with respect to this question of competition according to a recent article in the *Journal of Commerce*, March 8, 1982, it points out that in the Alaskan trade it is the most competitive of all of the domestic offshore trades involving 14 carriers who have filed financial reports and from that we know that no one of them accounts for more than 15 percent of the FMC-regulated traffic revenues.

I can't imagine having any more competition short of chaos than what we presently have in that trade route.

How can you claim it is not very competitive?

Mr. PALMER. Mr. Chairman, I think there are two points that you raised, the first is the *Journal of Commerce* statement that the Alaska trade is the most competitive of all domestic routes.

Mr. BONKER. That is according to the *Journal of Commerce*.

Mr. PALMER. Right.

Mr. BONKER. They use as their information the filing of reports before the FMC.

Mr. PALMER. My rebuttal or my comment on that statement is that competition is a very comparative thing. The transpacific trade has got 25 or 30, maybe more, operators, as Mr. Hiltzheimer knows.

The comparable domestic trades that the *Journal of Commerce* is talking about are trades from the east coast, for example, to Puerto Rico where there are two dominant carriers. The Navieras de Puerto Rico, and Sea-Land. The trade to Hawaii, yes, another comparable domestic trade, has one dominant carrier—Matson.

So actually, on their sort of statistics—four carriers on the Alaska trade would make it more competitive than any other domestic U.S. trade.

The second point you make of there surely being enough competition just looking at the Alaska trade. Certainly there are 11 or 12 carriers, but there are actually only three modes of transportation, one by Sea-Land and TOTE, fast, containerized, very efficient, very good, I am not—

Mr. BONKER. I am glad to see you acknowledge some of their merits.

Mr. PALMER. Right. The second is train barges, like Crowley, for example, and the third is other barges working break-bulk, and unitized cargo. It is a fact of doing business with Alaska as far as my understanding is concerned that cargo which moves on one carrier very definitely is of a type that would not move on another and would not either move on a third.

The barges take 10, 12, 14 days to Alaska, the ships take 3 days to get up to Alaska, and are not delayed by weather. You have a totally different segment of the trade going in each type of carrier. That is the reason for my saying Sea-Land and TOTE don't compete with each other effectively because for the major part of the year from April through October they are full.

The barge lines quote the same rates because they move a different type of cargo, same with the railcar barges.

Mr. BONKER. With respect to this question of increased trade and whether we have the capability to handle that trade, I thought Mr. Hiltzheimer made a valid point. They already have a substantial investment in this business and if the Third Proviso continues as the threat as do other foreign carriers undermining their investment, it will reduce their ability to handle that trade.

You can characterize them as people who are protecting their turf, as you have done in your statement, for example, but I imagine if you were in the same business, you would be saying the same things.

Mr. PALMER. Yes, Mr. Chairman. I probably would.

There is a point I would like to make here. Listening to the testimony before my own, the main point that seems to be coming out with some tremendous headline slogans involves statements about lost millions of dollars, and thousands of jobs and ruining economies of States and this sort of thing.

I should feel conceited that we have such tremendous ambitions. The fact of life, Mr. Chairman, is that we are planning to put on two ships, small ships, far smaller than anything operated by Sea-Land and TOTE and to lift a very small proportion of the cargo involving actually not Canadian rail companies, but Burlington Northern which I believe is a U.S. company.

If we were to raise rates after we had wiped everybody out of the trade, life dictates and the market conditions will dictate that further competition would come in and wipe us out. We are not so foolish as to want to monopolize the trade. With respect, sir, I would just like to state that I find the claims that we are about to monopolize the trade and deprive whole States of employment is grossly exaggerated and actually a hysterical accusation designed to create attention.

Mr. BONKER. Mr. Palmer, to be honest with ourselves, you may have modest intentions and we may find a loophole for you to put your one or two ships or barges through, but once that loophole is discovered, there are going to be a lot of other ships and more interest in it. We can see how greatly enlarged it could be and how it could jeopardize the status quo.

If we were only concerned about your involvement that wouldn't maybe be an imminent danger to anything economically speaking but once this loophole has been realized, once we have crossed the line with the ICC and we have seen a new dimension to the Thi-

## FULL TEXT OF INITIATIVE Initiative No. 83-02

For an Act entitled: "An Act terminating the Alaska Transportation Commission and repealing transportation laws administered by the commission; requiring persons who carry passengers or freight for hire to hold insurance or other security; and requiring the governor to lobby Congress for the repeal of the federal Jones Act."

### BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

\* Section 1. **STATEMENT OF PURPOSE.** The people of Alaska recognize that

- (1) because of Alaska's great size and distance from markets, Alaskans must have access to efficient low-cost transportation in order for people and goods to move safely inside and outside the state;
- (2) a little-known but powerful state regulatory agency, the Alaska Transportation Commission (ATC), creates motor and air carrier monopolies by legalized price fixing and tariffs, which artificially raises shipping rates and makes consumer goods more expensive for all Alaskans;
- (3) the primary purpose of the ATC is to fix rates, not promote safety, and other government agencies can insure safety standards while allowing persons to contract freely for services;
- (4) abolishing the ATC and its anti-competitive practices will subject air carriers and trucking companies to free market competition, thereby reducing freight rates, improving service, and saving Alaskan consumers millions of dollars each year;
- (5) a federal law, known as the Jones Act, requires that ships bound for Alaska from other American ports must be built and registered in the United States and staffed with American crews, thereby granting such ships an unfair monopoly and protecting them from free market competition, which costs Alaskan consumers millions of dollars each year;
- (6) the Jones Act should be repealed, and the governor should use all appropriate means to persuade Congress to do so.

\* Section 2. AS 29.48 is amended by adding a new section to read:

#### Sec. 29.48.036. **REGULATION OF TRANSPORTATION CARRIERS.**

Notwithstanding AS 29.48.035(a), a municipality may not regulate an activity regarding transportation of passengers or freight for hire if the regulation conflicts with the regulation of that activity by the Alaska Transportation Commission as the regulation existed on April 1, 1983 under former AS 02.05, AS 42.07, or AS 42.10.

\* Section 3. AS 42.30 is amended by adding a new section to read:

### ARTICLE 5. RESPONSIBILITIES OF MOTOR AND AIR CARRIERS.

#### Sec. 42.30.200. **FINANCIAL RESPONSIBILITY.**

(a) A person who carries passengers or freight for hire intrastate shall procure and maintain security in an amount determined by the Department of Public Safety as necessary for the reasonable protection of the public against damages or injury caused by the person.

(b) Evidence of security required under (a) of this section shall be filed with the department and must be

- (1) a policy or certificate of insurance issued by an insurer acceptable to the department; or
- (2) a bond of a surety company licensed to write surety bonds in the state; or
- (3) evidence accepted by the department, showing ability to self-insure; or
- (4) other security approved by the department.

(c) The department may authorize enforcement officers to enforce this section.

\* Section 4. AS 44.19 is amended by adding a new section to article 1 to read:

Sec. 44.19.035. **JONES ACT REPEAL.** The governor shall use best efforts and all appropriate means to persuade the United States Congress to repeal 46 U.S.C. secs. 861, et seq., known as the Jones Act. Until that Act is repealed, the governor shall publish an annual report documenting the harmful effects of the Act on Alaska commerce, and progress made towards its repeal. The report shall be submitted to the legislature no later than its convening each year.

\* Section 5. If any provision of this Act is held invalid, the remaining provisions of this Act are severable and remain in effect.

\* Section 6. AS 02.05.; AS 28.10.411(b); AS 39.25.120(c)(7); AS 39.50.200(b)(30); AS 42.07; AS 42.10; and AS 44.66.010(a)(2) are repealed.

BILL SHEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

STATE OF ALASKA - POSITION ON JONES ACT

The Merchant Marine Act (Jones Act), which was adopted by Congress in 1920, prevents the transportation of goods between U.S. ports on foreign-built vessels unless there is an intermediary stop at a foreign port. The State of Alaska favors an amendment to the Jones Act which would allow foreign-built ships into the U.S. coast cargo and passenger trade, provided that they meet American safety standards, and are U.S. owned, registered, manned, and repaired.

The intent of the Jones Act was to protect American ship builders and operators from free market competition by foreign ships which have lower construction and operating costs. The concern was that otherwise the United States would not have a sufficient merchant marine fleet for wartime demands. If, however, under the State's proposal, foreign-built vessels were still U.S. registered and operated, then they would be available during wartime or other periods of national emergency.

As a result of the Jones Act protection, freight rates are very high in the U.S. coast trade. In fact, where competition exists from land-based transportation service (rail and truck), the Jones Act merchant marine fleet has declined dramatically in the past twenty years. Because Alaska, Hawaii, and the noncontiguous territories (except the Virgin Islands) have no significant alternative to the Jones Act fleet, they bear the penalty of higher freight rates. The Alaska trade alone supports nearly one-third of the entire Jones Act fleet.

The Jones Act penalizes the U.S. and Alaska in several ways:

1) It reduces federal and state oil revenues by effectively imposing higher tanker transportation charges which are tax deductible. (This will be ameliorated by proposed C.D.S. regulations by the Federal Department of Transportation).

2) It limits U.S. markets for Alaskan products (fish, coal, minerals and timber) by contributing to higher destination costs as compared with export to the Pacific Rim nations.

3) It raises the cost of all domestic freight coming into the State, thereby contributing to a higher cost of living and depressing economic development.

4) It depresses the tourism industry in the Pacific Northwest and Alaska by raising the cost of tourist passage from Seattle to Alaska and limiting the flexibility of cruise ship itineraries.

In the future, these penalties will become more severe. As U.S. ships are constructed to replace existing ships, the cost differential between U.S. and foreign ship construction will increase. In a subsidized environment, Alaska and the domestic purchasers of Alaska products will have no choice but to pay higher freight rates.

Our proposal would eliminate the most expensive and burdensome aspect of the Jones Act while ameliorating impacts on the maritime industry. We expect that a future increase in the construction of U.S. naval vessels will help offset business lost as a result of foreign competition for cargo vessel construction. Further, it is anticipated that lower marine freight rates will increase shipping business, thereby creating a need for more U.S. maritime and service-related employees.

It should be recognized that the high cost of American shipbuilding has in fact inhibited the growth and development of U.S. maritime commerce. Foreign-built cruise ships utilizing Canadian ports because of Jones Act restrictions still encounter significant limitations on their operations when they bring their passengers into Alaskan ports. Presently, the Alaska Marine Highway system must turn away thousands of tourist users and passengers because of lack of space. Yet foreign-built ferry vessels, which could be used to expand Alaska's ferry service for everyone's benefit, are available at lower cost.

June 30, 1983

June 5, 1920.  
[H. R. 10373.]  
[Public, No. 201.]

CHAP. 250.—An Act To provide for the promotion and maintenance of the American merchant marine, to repeal certain emergency legislation, and provide for the disposition, regulation, and use of property acquired thereunder, and for other purposes.

Merchant Marine Act, 1920.  
Policy for development of an American merchant marine, etc., declared.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States; and it is hereby declared to be the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of such a merchant marine, and, in so far as may not be inconsistent with the express provisions of this Act, the United States Shipping Board shall, in the disposition of vessels and shipping property as hereinafter provided, in the making of rules and regulations, and in the administration of the shipping laws keep always in view this purpose and object as the primary end to be attained.

Shipping Board to execute provisions relating thereto.

Designated legislation repealed.

SEC. 2. (a) That the following Acts and parts of Acts are hereby repealed, subject to the limitations and exceptions hereinafter, in this Act, provided:

Emergency shipping fund provisions.  
Vol. 40, p. 182.

(1) The emergency shipping fund provisions of the Act entitled "An Act making appropriations to supply urgent deficiencies in appropriations for the Military and Naval Establishments on account of war expenses for the fiscal year ending June 30, 1917, and for other purposes," approved June 15, 1917, as amended by the Act entitled "An Act to amend the emergency shipping fund provisions of the Urgent Deficiency Appropriation Act, approved June 15, 1917, so as to empower the President and his designated agents to take over certain transportation systems for the transportation of shipyard and plant employees, and for other purposes," approved April 22, 1918, and as further amended by the Act entitled "An Act making appropriation to supply deficiencies in appropriations for the fiscal year ending June 30, 1919, and prior fiscal years, on account of war expenses, and for other purposes," approved November 4, 1918;

Transporting shipyard employees.  
Vol. 40, p. 535.

(2) Section 3 of such Act of April 22 1918;

Acquiring shipbuilding plants, etc.  
Vol. 40, p. 1022.

(3) The paragraphs numbered 2 and 3 under the heading "Emergency shipping fund" in such Act of November 4, 1918; and

Compensation for street railroads, etc.  
Vol. 40, p. 535.

Appropriation for plants, etc.  
Vol. 40, p. 1022.

(4) The Act entitled "An Act to confer on the President power to prescribe charter rates and freight rates and to requisition vessels, and for other purposes," approved July 18, 1918.

Control of shipping charters.  
Vol. 40, p. 913.

(5) Sections 5, 7, and 8, Shipping Act, 1916.

Construction, etc., by Shipping Board.  
Vol. 39, p. 730.

Limitations on repeals.

(b) The repeal of such Acts or parts of Acts is subject to the following limitations:

Existing contracts assumed.

(1) All contracts or agreements lawfully entered into before the passage of this Act under any such Act or part of Act shall be assumed and carried out by the United States Shipping Board, hereinafter called "the board."

Accruing rights, etc., declared valid.

(2) All rights, interests, or remedies accruing or to accrue as a result of any such contract or agreement or of any action taken in pursuance of any such Act or parts of Acts shall be in all respects as valid, and may be exercised and enforced in like manner, subject

to the provisions of subdivision (c) of this section, as if this Act had not been passed.

(3) The repeal shall not have the effect of extinguishing any penalty incurred under such Acts or parts of Acts, but such Acts or parts of Acts shall remain in force for the purpose of sustaining a prosecution for enforcement of the penalty therein provided for the violation thereof.

Incurred penalties to be enforced.

(4) The board shall have full power and authority to complete or conclude any construction work begun in accordance with the provisions of such Acts or parts of Acts if, in the opinion of the board, the completion or conclusion thereof is for the best interests of the United States.

Completion of construction work authorized.

(c) As soon as practicable after the passage of this Act the board shall adjust, settle, and liquidate all matters arising out of or incident to the exercise by or through the President of any of the powers or duties conferred or imposed upon the President by any such Act or parts of Acts; and for this purpose the board, instead of the President, shall have and exercise any of such powers and duties relating to the determination and payment of just compensation: *Provided*, That any person dissatisfied with any decision of the board shall have the same right to sue the United States as he would have had if the decision had been made by the President of the United States under the Acts hereby repealed.

Early liquidation of pending matters, directed.

Board to determine compensation.

Proviso. Suit if decision unsatisfactory.

SEC. 3. (a) That section 3 of the "Shipping Act, 1916," is amended to read as follows:

Shipping Act, 1916. Vol. 39, p. 720, amended.

"SEC. 3. That a board is hereby created to be known as the United States Shipping Board and hereinafter referred to as the board. The board shall be composed of seven commissioners, to be appointed by the President, by and with the advice and consent of the Senate; and the President shall designate the member to act as chairman of the board, and the board may elect one of its members as vice chairman. Such commissioners shall be appointed as soon as practicable after the enactment of this Act and shall continue in office two for a term of one year, and the remaining five for terms of two, three, four, five, and six years, respectively, from the date of their appointment, the term of each to be designated by the President, but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he succeeds.

United States Shipping Board. Creation, appointment, etc.

Tenure of office.

"The commissioners shall be appointed with due regard to their fitness for the efficient discharge of the duties imposed on them by this Act, and two shall be appointed from the States touching the Pacific Ocean, two from the States touching the Atlantic Ocean, one from the States touching the Gulf of Mexico, one from the States touching the Great Lakes and one from the interior, but not more than one shall be appointed from the same State. Not more than four of the commissioners shall be appointed from the same political party. A vacancy in the board shall be filled in the same manner as the original appointments. No commissioner shall take any part in the consideration or decision of any claim or particular controversy in which he has a pecuniary interest.

Qualifications, and geographical distribution of commissioners.

Political division.

Pecuniary prohibition.

"Each commissioner shall devote his time to the duties of his office, and shall not be in the employ of or hold any official relation to any common carrier or other person subject to this Act, nor while holding such office acquire any stock or bonds thereof or become pecuniarily interested in any such carrier.

Other employment, etc., forbidden.

"The duties of the board may be so divided that under its supervision the directorship of various activities may be assigned to one or more commissioners. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

Division of duties, etc.

Seal.	A vacancy in the board shall not impair the right of the remaining members of the board to exercise all its powers. The board shall have an official seal, which shall be judicially noticed.
Business procedure, legal assistance, etc.	"The board may adopt rules and regulations in regard to its procedure and the conduct of its business. The board may employ within the limits of appropriations made therefor by Congress such attorneys as it finds necessary for proper legal service to the board in the conduct of its work, or for proper representation of the public interest in investigations made by it or proceedings pending before it whether at the board's own instance or upon complaint, or to appear for or represent the board in any case in court or other tribunal.
Duties, etc., of existing board continued.	The board shall have such other rights and perform such other duties not inconsistent with the Merchant Marine Act, 1920, as are conferred by existing law upon the board in existence at the time this section as amended takes effect.
Temporary continuance of present commissioners.	"The commissioners in office at the time this section as amended takes effect shall hold office until all the commissioners provided for in this section as amended are appointed and qualify."
Vol. 30, p. 729, amended.	(b) The first sentence of section 4 of the "Shipping Act, 1916," is amended to read as follows:
Salary of members.	"SEC. 4. That each member of the board shall receive a salary of \$12,000 per annum."
All Government acquired vessels, etc., transferred to Board.	SEC. 4. That all vessels and other property or interests of whatsoever kind, including vessels or property in course of construction or contracted for, acquired by the President through any agencies whatsoever in pursuance of authority conferred by the Acts or parts of Acts repealed by section 2 of this Act, or in pursuance of the joint resolution entitled "Joint resolution authorizing the President to take over for the United States the possession and title of any vessel within its jurisdiction, which at the time of coming therein was owned in whole or in part by any corporation, citizen, or subject of any nation with which the United States may be at war, or was under register of any such nation, and for other purposes," approved May 12, 1917, with the exception of vessels and property the use of which is in the opinion of the President required by any other branch of the Government service of the United States, are hereby transferred to the board:
Enemy vessels. Vol. 40, p. 75.	<i>Provided</i> , That all vessels in the military and naval service of the United States, including the vessels assigned to river and harbor work, inland waterways, or vessels for such needs in the course of construction or under contract by the War Department, shall be exempt from the provisions of this Act.
In Government use excepted.	SEC. 5. That in order to accomplish the declared purposes of this Act, and to carry out the policy declared in section 1 hereof, the board is authorized and directed to sell, as soon as practicable, consistent with good business methods and the objects and purposes to be attained by this Act, at public or private competitive sale after appraisalment and due advertisement, to persons who are citizens of the United States except as provided in section 6 of this Act, all of the vessels referred to in section 4 of this Act or otherwise acquired by the board. Such sale shall be made at such price and on such terms and conditions as the board may prescribe, but the completion of the payment of the purchase price and interest shall not be deferred more than fifteen years after the making of the contract of sale.
Proviso. Others under War or Navy Departments exempt herefrom.	The board in fixing or accepting the sale price of such vessels shall take into consideration the prevailing domestic and foreign market price of, the available supply of, and the demand for vessels, existing freight rates and prospects of their maintenance, the cost of constructing vessels of similar types under prevailing conditions, as well as the cost of the construction or purchase price of the vessels to be sold, and any other facts or conditions that would influence a prudent, solvent business man in the sale of similar vessels or prop-
Sales of acquired vessels to citizens directed.	
Exception. Post, p. 991.	
Terms, etc.	
Considerations entering into price fixing.	

erty which he is not forced to sell. All sales made under the authority of this Act shall be subject to the limitations and restrictions of section 9 of the "Shipping Act, 1916," as amended.

SEC. 6. That the board is authorized and empowered to sell to aliens, at such prices and on such terms and conditions as it may determine, not inconsistent with the provisions of section 5 (except that completion of the payment of the purchase price and interest shall not be deferred more than ten years after the making of the contract of sale), such vessels as it shall, after careful investigation, deem unnecessary to the promotion and maintenance of an efficient American merchant marine; but no such sale shall be made unless the board, after diligent effort, has been unable to sell, in accordance with the terms and conditions of section 5, such vessels to persons citizens of the United States, and has, upon an affirmative vote of not less than five of its members, spread upon the minutes of the board, determined to make such sale; and it shall make as a part of its records a full statement of its reasons for making such sale. Deferred payments of purchase price of vessels under this section shall bear interest at the rate of not less than 5½ per centum per annum, payable semiannually.

SEC. 7. That the board is authorized and directed to investigate and determine as promptly as possible after the enactment of this Act and from time to time thereafter what steamship lines should be established and put in operation from ports in the United States or any Territory, District, or possession thereof to such world and domestic markets as in its judgment are desirable for the promotion, development, expansion, and maintenance of the foreign and coastwise trade of the United States and an adequate postal service, and to determine the type, size, speed, and other requirements of the vessels to be employed upon such lines and the frequency and regularity of their sailings, with a view to furnishing adequate, regular, certain, and permanent service. The board is authorized to sell, and if a satisfactory sale can not be made, to charter such of the vessels referred to in section 4 of this Act or otherwise acquired by the board, as will meet these requirements to responsible persons who are citizens of the United States who agree to establish and maintain such lines upon such terms of payment and other conditions as the board may deem just and necessary to secure and maintain the service desired; and if any such steamship line is deemed desirable and necessary, and if no such citizen can be secured to supply such service by the purchase or charter of vessels on terms satisfactory to the board, the board shall operate vessels on such line until the business is developed so that such vessels may be sold on satisfactory terms and the service maintained, or unless it shall appear within a reasonable time that such line can not be made self-sustaining. The Postmaster General is authorized, notwithstanding the Act entitled "An Act to provide for ocean mail service between the United States and foreign ports, and to promote commerce," approved March 3, 1891, to contract for the carrying of the mails over such lines at such price as may be agreed upon by the board and the Postmaster General: *Provided*, That preference in the sale or assignment of vessels for operation on such steamship lines shall be given to persons who are citizens of the United States who have the support, financial and otherwise, of the domestic communities primarily interested in such lines if the board is satisfied of the ability of such persons to maintain the service desired and proposed to be maintained, or to persons who are citizens of the United States who may then be maintaining a service from the port of the United States to or in the general direction of the world market port to which the board has determined that such service should be established: *Provided further*,

Coastwise trade limitations.  
*Post*, p. 994.

Permissive sales to aliens.

Condition, etc.

Interest on deferred payments.

Investigation, etc., for establishing steamship lines to promote foreign and coastwise trade, etc.

Type, etc., of vessels.

Disposal of acquired vessels to citizens agreeing to operate such lines.

Temporary operation by Board, if none by citizens obtained.

Rates for ocean mail service, allowed.  
Vol. 26, p. 132.

Priority.  
Preference in sales, etc., of vessels therefor.

Continuation of present service.

Rates for Government service not to be less than cost, if citizens are operating same service.

Investigation directed for developing water commerce transportation facilities, etc. Extent of, designated.

Proviso. Findings as to detrimental rail rates, etc., to be submitted to Interstate Commerce Commission for action.

Insurance required on vessels sold on deferred payments.

Fire, marine, etc.

Protection and indemnity.

Payment of premiums.

Insurance fund authorized for Government vessels, plants, etc.

That where steamship lines and regular service have been established and are being maintained by ships of the board at the time of the enactment of this Act, such lines and service shall be maintained by the board until, in the opinion of the board, the maintenance thereof is unbusinesslike and against the public interests: *And provided further*, That whenever the board shall determine, as provided in this Act, that trade conditions warrant the establishment of a service or additional service under Government administration where a service is already being given by persons, citizens of the United States, the rates and charges for such Government service shall not be less than the cost thereof, including a proper interest and depreciation charge on the value of Government vessels and equipment employed therein.

SEC. 8. That it shall be the duty of the board, in cooperation with the Secretary of War, with the object of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which it has jurisdiction, to investigate territorial regions and zones tributary to such ports, taking into consideration the economies of transportation by rail, water and highway and the natural direction of the flow of commerce; to investigate the causes of the congestion of commerce at ports and the remedies applicable thereto; to investigate the subject of water terminals, including the necessary docks, warehouses, apparatus, equipment, and appliances in connection therewith, with a view to devising and suggesting the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between carriers by water and carriers by rail; to advise with communities regarding the appropriate location and plan of construction of wharves, piers, and water terminals; to investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and to investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight which would naturally pass through such ports: *Provided*, That if after such investigation the board shall be of the opinion that rates, charges, rules, or regulations of common carriers by rail subject to the jurisdiction of the Interstate Commerce Commission are detrimental to the declared object of this section, or that new rates, charges, rules, or regulations, new or additional port terminal facilities, or affirmative action on the part of such common carriers by rail is necessary to promote the objects of this section the board may submit its findings to the Interstate Commerce Commission for such action as such commission may consider proper under existing law.

SEC. 9. That if the terms and conditions of any sale of a vessel made under the provisions of this Act include deferred payments of the purchase price, the board shall require, as part of such terms and conditions, that the purchaser of the vessel shall keep the same insured (a) against loss or damage by fire, and against marine risks and disasters, and war and other risks if the board so specifies, with such insurance companies, associations or underwriters, and under such forms of policies, and to such an amount, as the board may prescribe or approve; and (b) by protection and indemnity insurance with such insurance companies, associations, or underwriters and under such forms of policies, and to such an amount as the board may prescribe or approve. The insurance required to be carried under this section shall be made payable to the board and/or to the parties as interest may appear. The board is authorized to enter into any agreement that it deems wise in respect to the payment and/or the guarantee of premiums of insurance.

SEC. 10. That the board may create out of net revenue from operations and sales, and maintain and administer, a separate insurance fund, which it may use to insure in whole or in part,

against all hazards commonly covered by insurance policies in such cases, any interest of the United States (1) in any vessel, either constructed or in process of construction, and (2) in any plants or materials heretofore or hereafter acquired by the board or hereby transferred to the board.

SEC. 11. That during a period of five years from the enactment of this Act the board may annually set aside out of the revenues from sales and operations a sum not exceeding \$25,000,000, to be known as its construction loan fund, to be used in aid of the construction of vessels of the best and most efficient type for the establishment and maintenance of service on steamship lines deemed desirable and necessary by the board, and such vessels shall be equipped with the most modern, the most efficient, and the most economical machinery and commercial appliances. The board shall use such fund to the extent required upon such terms as the board may prescribe to aid persons, citizens of the United States, in the construction by them in private shipyards in the United States of the foregoing class of vessels. No aid shall be for a greater sum than two-thirds of the cost of the vessel or vessels to be constructed, and the board shall require such security, including a first lien upon the entire interest in the vessel or vessels so constructed as it shall deem necessary to insure the repayment of such sum with interest thereon and the maintenance of the service for which such vessel or vessels are built.

SEC. 12. That all vessels may be reconditioned and kept in suitable repair and until sold shall be managed and operated by the board or chartered or leased by it on such terms and conditions as the board shall deem wise for the promotion and maintenance of an efficient merchant marine, pursuant to the policy and purposes declared in sections 1 and 5 of this Act; and the United States Shipping Board Emergency Fleet Corporation shall continue in existence and have authority to operate vessels, unless otherwise directed by law, until all vessels are sold in accordance with the provisions of this Act, the provision in section 11 of the "Shipping Act, 1916," to the contrary notwithstanding.

SEC. 13. That the board is further authorized to sell all property other than vessels transferred to it under section 4 upon such terms and conditions as the board may determine and prescribe.

SEC. 14. That the net proceeds derived by the board prior to July 1, 1921, from any activities authorized by this Act, or by the "Shipping Act, 1916," or by the Acts specified in section 2 of this Act, except such an amount as the board shall deem necessary to withhold as operating capital, for the purposes of section 12 hereof, and for the insurance fund authorized in section 10 hereof, and for the construction loan fund authorized in section 11 hereof, shall be covered into the Treasury of the United States to the credit of the board and may be expended by it, within the limits of the amounts heretofore or hereafter authorized, for the construction, requisitioning, or purchasing of vessels. After July 1, 1921, such net proceeds, less such an amount as may be authorized annually by Congress to be withheld as operating capital, and less such sums as may be needed for such insurance and construction loan funds, shall be covered into the Treasury of the United States as miscellaneous receipts. The board shall, as rapidly as it deems advisable, withdraw investment of Government funds made during the emergency under the authority conferred by the Acts or parts of Acts repealed by section 2 of this Act and cover the net proceeds thereof into the Treasury of the United States as miscellaneous receipts.

SEC. 15. That the board shall not require payment from the War Department for the charter hire of vessels owned by the United

Construction loan fund.  
Creation of, from revenues of board.

Use specified.

In aid of construction at private shipyards.

Limit, lien, etc.

Care, etc., of vessels by Board until disposed of.

Emergency Fleet Corporation continued to operate vessels, etc.

Vol. 39, p. 732.

Sales of property other than vessels.

Net proceeds of activities, etc.  
Disposition of, until July 1, 1921.

After July 1, 1921.

Investments made during emergency to be withdrawn, etc.

No charter hire required of vessels used by War Department.

- Housing of shipyard employees. Authorizations for, terminated. Vol. 40, p. 438.
- Proviso.* Expenses allowed.
- Early disposal directed.
- Docks, etc., on Hudson River, Hoboken, N. J. Board to take over, control, etc. Vol. 40, p. 459.
- Other docks, etc., acquired for Army or Navy, may be transferred to Board.
- Temporary transfers to Army or Navy for needs thereof, permitted.
- Sales restricted. Vol. 39, p. 730. Vol. 40, p. 900, amended.
- Vessels purchased from Board by citizens, allowed American registry, etc.
- Proviso.* Foreign built vessels, etc., permitted coastwise trade if owned, etc., by citizens.
- Operation under such registry, etc.
- States Government furnished by the board from July 1, 1918, to June 30, 1919, inclusive, for the use of such department.
- SEC. 16. That all authorization to purchase, build, requisition, lease, exchange, or otherwise acquire houses, buildings or land under the Act entitled "An Act to authorize and empower the United States Shipping Board Emergency Fleet Corporation to purchase, lease, requisition, or otherwise acquire, and to sell or otherwise dispose of improved or unimproved lands, houses, buildings, and for other purposes," approved March 1, 1918, is hereby terminated: *Provided, however,* That expenditures may be made under said Act for the repair of houses and buildings already constructed, and the completion of such houses or buildings as have heretofore been contracted for or are under construction, if considered advisable, and the board is authorized and directed to dispose of all such properties or the interest of the United States in all such properties at as early a date as practicable, consistent with good business and the best interests of the United States.
- SEC. 17. That the board is authorized and directed to take over on January 1, 1921, the possession and control of, and to maintain and develop, all docks, piers, warehouses, wharves and terminal equipment and facilities, including all leasehold easements, rights of way, riparian rights and other rights, estates and interests therein or appurtenant thereto, acquired by the President by or under the Act entitled "An Act making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1918, and prior fiscal years, on account of war expenses, and for other purposes," approved March 28, 1918.
- The possession and control of such other docks, piers, warehouses, wharves and terminal equipment and facilities or parts thereof, including all leasehold easements, rights of way, riparian rights and other rights, estates or interests therein or appurtenant thereto which were acquired by the War Department or the Navy Department for military or naval purposes during the war emergency may be transferred by the President to the board whenever the President deems such transfer to be for the best interests of the United States.
- The President may at any time he deems it necessary, by order setting out the need therefor and fixing the period of such need, permit or transfer the possession and control of any part of the property taken over by or transferred to the board under this section to the War Department or the Navy Department for their needs, and when in the opinion of the President such need therefor ceases the possession and control of such property shall revert to the board. None of such property shall be sold except as may be hereafter provided by law.
- SEC. 18. That section 9 of the "Shipping Act, 1916," is amended to read as follows:
- "SEC. 9. That any vessel purchased, chartered, or leased from the board, by persons who are citizens of the United States, may be registered or enrolled and licensed, or both registered and enrolled and licensed, as a vessel of the United States and entitled to the benefits and privileges appertaining thereto: *Provided,* That foreign-built vessels admitted to American registry or enrollment and license under this Act, and vessels owned by any corporation in which the United States is a stockholder, and vessels sold, leased, or chartered by the board to any person a citizen of the United States, as provided in this Act, may engage in the coastwise trade of the United States while owned, leased, or chartered by such a person.
- "Every vessel purchased, chartered, or leased from the board shall, unless otherwise authorized by the board, be operated only under such registry or enrollment and license. Such vessels while employed

solely as merchant vessels shall be subject to all laws, regulations, and liabilities governing merchant vessels, whether the United States be interested therein as owner, in whole or in part, or hold any mortgage, lien, or other interest therein.

Merchant vessels, subject to laws, etc., therefor.

"It shall be unlawful to sell, transfer or mortgage, or, except under regulations prescribed by the board, to charter, any vessel purchased from the board or documented under the laws of the United States to any person not a citizen of the United States, or to put the same under a foreign registry or flag, without first obtaining the board's approval.

Sales, etc., subject to approval of Board.

"Any vessel chartered, sold, transferred or mortgaged to a person not a citizen of the United States or placed under a foreign registry or flag, or operated, in violation of any provision of this section shall be forfeited to the United States, and whoever violates any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000, or to imprisonment for not more than five years, or both."

Forfeiture for violations.

Punishment imposed.

SEC. 19. (1) The board is authorized and directed in aid of the accomplishment of the purposes of this Act

Special authority of Board.

(a) To make all necessary rules and regulations to carry out the provisions of this Act;

Make necessary rules, etc.

(b) To make rules and regulations affecting shipping in the foreign trade not in conflict with law in order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade, whether in any particular trade or upon any particular route or in commerce generally and which arise out of or result from foreign laws, rules, or regulations or from competitive methods or practices employed by owners, operators, agents, or masters of vessels of a foreign country; and

Rules to meet unfavorable trade laws, competitive practices, etc., of foreign countries.

(c) To request the head of any department, board, bureau, or agency of the Government to suspend, modify, or annul rules or regulations which have been established by such department, board, bureau, or agency, or to make new rules or regulations affecting shipping in the foreign trade other than such rules or regulations relating to the Public Health Service, the Consular Service, and the Steamboat Inspection Service.

Request departments, etc., to modify, etc., established rules thereof.

Exceptions.

(2) No rule or regulation shall hereafter be established by any department, board, bureau, or agency of the Government which affect shipping in the foreign trade, except rules or regulations affecting the Public Health Service, the Consular Service, and the Steamboat Inspection Service, until such rule or regulation has been submitted to the board for its approval and final action has been taken thereon by the board or the President.

Rules affecting foreign shipping trade subject to approval of Board.  
Exceptions.

(3) Whenever the head of any department, board, bureau, or agency of the Government refuses to suspend, modify, or annul any rule or regulation, or make a new rule or regulation upon request of the board, as provided in subdivision (c) of paragraph (1) of this section, or objects to the decision of the board in respect to the approval of any rule or regulation, as provided in paragraph (2) of this section, either the board or the head of the department, board, bureau, or agency which has established or is attempting to establish the rule or regulation in question may submit the facts to the President, who is hereby authorized to establish or suspend, modify, or annul such rule or regulation.

Disagreements as to rules, etc., to be submitted to the President.

Action thereon.

(4) No rule or regulation shall be established which in any manner gives vessels owned by the United States any preference or favor over those vessels documented under the laws of the United States and owned by persons who are citizens of the United States.

No preferences to Government vessels over citizen owned.

Common carriers by water. Vol. 39, p. 733, amended.	SEC. 20. (1) That section 14 of the Shipping Act, 1916, as amended, is amended to read as follows:
Specific restriction on transportation with foreign countries by.	"SEC. 14. That no common carrier by water shall, directly or indirectly, in respect to the transportation by water of passengers or property between a port of a State, Territory, District, or possession of the United States and any other such port or a port of a foreign country,—
Allowing deferred rebates.	"First. Pay, or allow, or enter into any combination, agreement, or understanding, express or implied, to pay or allow, a deferred rebate to any shipper. The term 'deferred rebate' in this Act means a return of any portion of the freight money by a carrier to any shipper as a consideration for the giving of all or any portion of his shipments to the same or any other carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement.
Definition.	
Using fighting ships.	"Second. Use a fighting ship either separately or in conjunction with any other carrier, through agreement or otherwise. The term 'fighting ship' in this Act means a vessel used in a particular trade by a carrier or group of carriers for the purpose of excluding, preventing or reducing competition by driving another carrier out of said trade.
Definition.	
Retaliating, etc., against shippers.	"Third. Retaliate against any shipper by refusing, or threatening to refuse, space accommodations when such are available, or resort to other discriminating or unfair methods, because such shipper has patronized any other carrier or has filed a complaint charging unfair treatment, or for any other reason.
Making unfair discriminatory shipping contracts.	"Fourth. Make any unfair or unjustly discriminatory contract with any shipper based on the volume of freight offered, or unfairly treat or unjustly discriminate against any shipper in the matter of (a) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage; (b) the loading and landing of freight in proper condition; or (c) the adjustment and settlement of claims.
Details.	
Penalty for violations.	"Any carrier who violates any provision of this section shall be guilty of a misdemeanor punishable by a fine of not more than \$25,000 for each offense."
New section.	(2) The Shipping Act, 1916, as amended, is amended by inserting after section 14 a new section to read as follows:
Determination by Board as to acts of persons not citizens.	"SEC. 14a. The board upon its own initiative may, or upon complaint shall, after due notice to all parties in interest and hearing, determine whether any person, not a citizen of the United States and engaged in transportation by water of passengers or property—
Violations of above provisions. Party to combinations, etc., against American carriers by water.	" (1) Has violated any provision of section 14, or ' (2) Is a party to any combination, agreement, or understanding, express or implied, that involves in respect to transportation of passengers or property, between foreign ports, deferred rebates or any other unfair practice designated in section 14, and that excludes from admission upon equal terms with all other parties thereto, a common carrier by water which is a citizen of the United States and which has applied for such admission.
Certificate of violation, etc., to the Secretary of Commerce.	"If the board determines that any such person has violated any such provision or is a party to any such combination, agreement, or understanding, the board shall thereupon certify such fact to the Secretary of Commerce. The Secretary shall thereafter refuse such person the right of entry for any ship owned or operated by him or by any carrier directly or indirectly controlled by him, into any port of the United States, or any Territory, District, or possession thereof, until the board certifies that the violation has ceased or such combination, agreement, or understanding has been terminated."
Vessel owned, etc., refused entry until violation ceases.	

SEC. 21. That from and after February 1, 1922, the coastwise laws of the United States shall extend to the island Territories and possessions of the United States not now covered thereby, and the board is directed prior to the expiration of such year to have established adequate steamship service at reasonable rates to accommodate the commerce and the passenger travel of said islands and to maintain and operate such service until it can be taken over and operated and maintained upon satisfactory terms by private capital and enterprise: *Provided*, That if adequate shipping service is not established by February 1, 1922, the President shall extend the period herein allowed for the establishment of such service in the case of any island Territory or possession for such time as may be necessary for the establishment of adequate shipping facilities therefor: *Provided further*, That until Congress shall have authorized the registry as vessels of the United States of vessels owned in the Philippine Islands, the Government of the Philippine Islands is hereby authorized to adopt, from time to time, and enforce regulations governing the transportation of merchandise and passengers between ports or places in the Philippine Archipelago: *And provided further*, That the foregoing provisions of this section shall not take effect with reference to the Philippine Islands until the President of the United States after a full investigation of the local needs and conditions shall, by proclamation, declare that an adequate shipping service has been established as herein provided and fix a date for the going into effect of the same.

SEC. 22. That the Act entitled "An Act giving the United States Shipping Board power to suspend present provisions of law and permit vessels of foreign registry and foreign-built vessels admitted to American registry under the Act of August 18, 1914, to engage in the coastwise trade during the present war and for a period of one hundred and twenty days thereafter, except the coastwise trade with Alaska," approved October 6, 1917, is hereby repealed: *Provided*, That all foreign-built vessels admitted to American registry, owned on February 1, 1920, by persons citizens of the United States, and all foreign-built vessels owned by the United States at the time of the enactment of this Act, when sold and owned by persons citizens of the United States, may engage in the coastwise trade so long as they continue in such ownership, subject to the rules and regulations of such trade: *Provided*, That the board is authorized to issue permits for the carrying of passengers in foreign ships if it deems it necessary so to do, operating between the Territory of Hawaii and the Pacific Coast up to February 1, 1922.

SEC. 23. That the owner of a vessel documented under the laws of the United States and operated in foreign trade shall, for each of the ten taxable years while so operated, beginning with the first taxable year ending after the enactment of this Act, be allowed as a deduction for the purpose of ascertaining his net income subject to the war-profits and excess-profits taxes imposed by Title III of the Revenue Act of 1918 an amount equivalent to the net earnings of such vessel during such taxable year, determined in accordance with rules and regulations to be made by the board: *Provided*, That such owner shall not be entitled to such deduction unless during such taxable year he invested, or set aside under rules and regulations to be made by the board in a trust fund for investment, in the building in shipyards in the United States of new vessels of a type and kind approved by the board, an amount, to be determined by the Secretary of the Treasury and certified by him to the board, equivalent to the war-profits and excess-profits taxes that would have been payable by such owner on account of the net earnings of such vessels but for the deduction allowed under the provisions of this section:

Coastwise laws.  
Extended to island Territories and possessions after February 1, 1922.  
Board to establish passenger, etc., service therewith.

*Proviso.*  
Extension of period.

Philippine Islands coastwise trade regulations.

Application to Philippine Islands deferred until adequate service established.

Coastwise trade.  
Admission of vessels of foreign registry to, repealed.  
Vol. 40, p. 392, repealed.

*Proviso.*  
Foreign built of American registry allowed in, if owned by citizens.

Hawaii passenger travel on foreign ships permitted to February 1, 1922.

Tax exemptions allowed owners of American ships in foreign trade.

Vol. 40, p. 1088.

Amount.

*Proviso.*  
Equivalent amount to be used for building approved vessels in American shipyards.

Part of construction required from ordinary funds.

Income tax exemption on sales by citizens of American ships built prior to January 1, 1914.

Vol. 40, pp. 1057-1096. New American ships to be built from proceeds.

Mails to be shipped on American vessels. Contract assignments forbidden, etc.

Determination of rates, etc.

Prior Act not applicable. Vol. 26, p. 830.

American Bureau of Shipping. Classification of vessels by, recognized.

Proviso. Government representative to be on committee.

Notation of, on official list of merchant vessels.

Cargo vessels. Passengers carried on, limited.

Proviso. Life saving equipment required.

*Provided further*, That at least two-thirds of the cost of any vessel constructed under this paragraph shall be paid for out of the ordinary funds or capital of the person having such vessel constructed.

That during the period of ten years from the enactment of this Act any person a citizen of the United States who may sell a vessel documented under the laws of the United States and built prior to January 1, 1914, shall be exempt from all income taxes that would be payable upon any of the proceeds of such sale under Title I, Title II, and Title III of the Revenue Act of 1913 if the entire proceeds thereof shall be invested in the building of new ships in American shipyards, such ships to be documented under the laws of the United States and to be of a type approved by the board.

SEC. 24. That all mails of the United States shipped or carried on vessels shall, if practicable, be shipped or carried on American-built vessels documented under the laws of the United States. No contract hereafter made with the Postmaster General for carrying mails on vessels so built and documented shall be assigned or sublet, and no mails covered by such contract shall be carried on any vessel not so built and documented. No money shall be paid out of the Treasury of the United States on or in relation to any such contract for carrying mails on vessels so built and documented when such contract has been assigned or sublet or when mails covered by such contract are in violation of the terms thereof carried on any vessel not so built and documented. The board and the Postmaster General, in aid of the development of a merchant marine adequate to provide for the maintenance and expansion of the foreign or coastwise trade of the United States and of a satisfactory postal service in connection therewith, shall from time to time determine the just and reasonable rate of compensation to be paid for such service, and the Postmaster General is hereby authorized to enter into contracts within the limits of appropriations made therefor by Congress to pay for the carrying of such mails in such vessels at such rate. Nothing herein shall be affected by the Act entitled "An Act to provide for ocean mail service between the United States and foreign ports, and to promote commerce," approved March 3, 1891.

SEC. 25. That for the classification of vessels owned by the United States, and for such other purposes in connection therewith as are the proper functions of a classification bureau, all departments, boards, bureaus, and commissions of the Government are hereby directed to recognize the American Bureau of Shipping as their agency so long as the American Bureau of Shipping continues to be maintained as an organization which has no capital stock and pays no dividends: *Provided*, That the Secretary of Commerce and the chairman of the board shall each appoint one representative who shall represent the Government upon the executive committee of the American Bureau of Shipping, and the bureau shall agree that these representatives shall be accepted by them as active members of such committee. Such representatives of the Government shall serve without any compensation, except necessary traveling expenses: *Provided further*, That the official list of merchant vessels published by the Government shall hereafter contain a notation clearly indicating all vessels classed by the American Bureau of Shipping.

SEC. 26. That cargo vessels documented under the laws of the United States may carry not to exceed sixteen persons in addition to the crew between any ports or places in the United States or its Districts, Territories, or possessions, or between any such port or place and any foreign port, or from any foreign port to another foreign port, and such vessels shall not be held to be "passenger vessels" or "vessels carrying passengers" within the meaning of the inspection laws and the rules and regulations thereunder: *Provided*, That nothing herein shall be taken to exempt such vessels from the laws, rules, and

regulations respecting life-saving equipment: *Provided further*, That when any such vessel carries persons other than the crew as herein provided for, the owner, agent, or master of the vessel shall first notify such persons of the presence on board of any dangerous articles, as defined by law; or of any other condition or circumstance which would constitute a risk of safety for passenger or crew.

Notice of risk, etc. to be given.

The privilege bestowed by this section on vessels of the United States shall be extended insofar as the foreign trade is concerned to the cargo vessels of any nation which allows the like privilege to cargo vessels of the United States in trades not restricted to vessels under its own flag.

Reciprocal allowance to foreign cargo vessels.

Failure on the part of the owner, agent, or master of the vessel to give such notice shall subject the vessel to a penalty of \$500, which may be mitigated or remitted by the Secretary of Commerce upon a proper representation of the facts.

Penalty for failure to give notice of risk.

SEC. 27. That 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 possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States, or vessels to which the privilege of engaging in the coastwise trade is extended by sections 18 or 22 of this Act: *Provided*, That this section shall not apply to merchandise transported between points within the continental United States, excluding Alaska, over through routes heretofore or hereafter recognized by the Interstate Commerce Commission for which routes rate tariffs have been or shall hereafter be filed with said commission when such routes are in part over Canadian rail lines and their own or other connecting water facilities: *Provided further*, That this section shall not become effective upon the Yukon river until the Alaska Railroad shall be completed and the Shipping Board shall find that proper facilities will be furnished for transportation by persons citizens of the United States for properly handling the traffic.

Merchandise transported in coastwise trade, etc., in other than American vessels to be forfeited.

Proviso. Exception.

Application to Yukon River delayed.

SEC. 28. That no common carrier shall charge, collect, or receive, for transportation subject to the Interstate Commerce Act of persons or property, under any joint rate, fare, or charge, or under any export, import, or other proportional rate, fare, or charge, which is based in whole or in part on the fact that the persons or property affected thereby is to be transported to, or has been transported from, any port in a possession or dependency of the United States, or in a foreign country, by a carrier by water in foreign commerce, any lower rate, fare, or charge than that charged, collected, or received by it for the transportation of persons, or of a like kind of property, for the same distance, in the same direction, and over the same route, in connection with commerce wholly within the United States, unless the vessel so transporting such persons or property is, or unless it was at the time of such transportation by water, documented under the laws of the United States. Whenever the board is of the opinion, however, that adequate shipping facilities to or from any port in a possession or dependency of the United States or a foreign country are not afforded by vessels so documented, it shall certify this fact to the Interstate Commerce Commission, and the commission may, by order, suspend the operation of the provisions of this section with respect to the rates, fares, and charges for the transportation by rail of persons and property transported from, or to be transported, to such ports, for such length of time and under such terms and conditions as it may prescribe in such order, or in any order supplemental thereto. Such suspension of operation of the provisions of this section may be terminated by order of the commission whenever the board is of the

Restriction on lower rail charges for transportation from foreign countries, etc., by water carriers.

By American vessels excepted.

Suspension if no adequate facilities afforded by American vessels.

Termination when facilities afforded.

opinion that adequate shipping facilities by such vessel at such ports are afforded and shall so certify to the commission.

Definitions.  
 "Association."  
 "Marine insurance companies."  
 Marine insurance associations. Not illegal under antitrust laws. Vol. 38, p. 780.  
 Apportionment of risks, etc.  
 Ship Mortgage Act, 1920.

SEC. 29. (a) That whenever used in this section—  
 (1) The term "association" means any association, exchange, pool, combination, or other arrangement for concerted action; and  
 (2) The term "marine insurance companies" means any persons, companies, or associations, authorized to write marine insurance or reinsurance under the laws of the United States or of a State, Territory, District, or possession thereof.  
 (b) Nothing contained in the "antitrust laws" as designated in section 1 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, shall be construed as declaring illegal an association entered into by marine insurance companies for the following purposes: To transact a marine insurance and reinsurance business in the United States and in foreign countries and to reinsure or otherwise apportion among its membership the risks undertaken by such association or any of the component members.

SEC. 30. Subsection A. That this section may be cited as the "Ship Mortgage Act, 1920."

Definitions.  
 "Document."  
 "Documented."  
 "Port of documentation."  
 "Vessel of the United States."  
 "Mortgagee."

DEFINITIONS.

Subsection B. When used in this section—  
 (1) The term "document" includes registry and enrollment and license;  
 (2) The term "documented" means registered or enrolled or licensed under the laws of the United States, whether permanently or temporarily;  
 (3) The term "port of documentation" means the port at which the vessel is documented, in accordance with law;  
 (4) The term "vessel of the United States" means any vessel documented under the laws of the United States and such vessel shall be held to continue to be so documented until its documents are surrendered with the approval of the board; and  
 (5) The term "mortgagee," in the case of a mortgage involving a trust deed and a bond issue thereunder, means the trustee designated in such deed.

RECORDING OF SALES, CONVEYANCES, AND MORTGAGES OF VESSELS OF THE UNITED STATES.

Recording of sales, conveyances, and mortgages of vessels of the United States.  
 Collector of customs to record bill of sale, etc.  
 Record book.  
 Contents.  
 Mortgages of vessels. Requirements to give preferred status, when sold, etc.

Subsection C. (a) No sale, conveyance, or mortgage which, at the time such sale, conveyance, or mortgage is made, includes a vessel of the United States, or any portion thereof, as the whole or any part of the property sold, conveyed, or mortgaged shall be valid, in respect to such vessel, against any person other than the grantor or mortgagor, his heir or devisee, and a person having actual notice thereof, until such bill of sale, conveyance, or mortgage is recorded in the office of the collector of customs of the port of documentation of such vessel, as provided in subdivision (b) of this subsection.  
 (b) Such collector of customs shall record bills of sale, conveyances, and mortgages, delivered to him, in the order of their reception, in books to be kept for that purpose and indexed to show—  
 (1) The name of the vessel;  
 (2) The names of the parties to the sale, conveyance, or mortgage;  
 (3) The time and date of reception of the instrument;  
 (4) The interest in the vessel so sold, conveyed, or mortgaged; and  
 (5) The amount and date of maturity of the mortgage.

Subsection D. (a) A valid mortgage which, at the time it is made includes the whole of any vessel of the United States of 200 gross tons and upwards, shall in addition have, in respect to such vessel and as

of the date of the compliance with all the provisions of this subdivision, the preferred status given by the provisions of subsection M, if—

(1) The mortgage is indorsed upon the vessel's documents in accordance with the provisions of this section;

(2) The mortgage is recorded as provided in subsection C, together with the time and date when the mortgage is so indorsed;

(3) An affidavit is filed with the record of such mortgage to the effect that the mortgage is made in good faith and without any design to hinder, delay, or defraud any existing or future creditor of the mortgagor or any lienor of the mortgaged vessel;

(4) The mortgage does not stipulate that the mortgagee waives the preferred status thereof; and

(5) The mortgagee is a citizen of the United States.

(b) Any mortgage which complies in respect to any vessel with the conditions enumerated in this subsection is hereafter in this section called a "preferred mortgage" as to such vessel.

(c) There shall be indorsed upon the documents of a vessel covered by a preferred mortgage—

(1) The names of the mortgagor and mortgagee;

(2) The time and date the indorsement is made;

(3) The amount and date of maturity of the mortgage; and

(4) Any amount required to be indorsed by the provisions of subdivision (e) or (f) of this subsection.

(d) Such indorsement shall be made (1) by the collector of customs of the port of documentation of the mortgaged vessel, or (2) by the collector of customs of any port in which the vessel is found, if such collector is directed to make the indorsement by the collector of customs of the port of documentation; and no clearance shall be issued to the vessel until such indorsement is made. The collector of customs of the port of documentation shall give such direction by wire or letter at the request of the mortgagee and upon the tender of the cost of communication of such direction. Whenever any new document is issued for the vessel, such indorsement shall be transferred to and indorsed upon the new document by the collector of customs.

(e) A mortgage which includes property other than a vessel shall not be held a preferred mortgage unless the mortgage provides for the separate discharge of such property by the payment of a specified portion of the mortgage indebtedness. If a preferred mortgage so provides for the separate discharge, the amount of the portion of such payment shall be indorsed upon the documents of the vessel.

(f) If a preferred mortgage includes more than one vessel and provides for the separate discharge of each vessel by the payment of a portion of the mortgage indebtedness, the amount of such portion of such payment shall be indorsed upon the documents of the vessel. In case such mortgage does not provide for the separate discharge of a vessel and the vessel is to be sold upon the order of a district court of the United States in a suit in rem in admiralty, the court shall determine the portion of the mortgage indebtedness increased by 20 per centum (1) which, in the opinion of the court, the approximate value of the vessel bears to the approximate value of all the vessels covered by the mortgage, and (2) upon the payment of which the vessel shall be discharged from the mortgage.

Subsection E. The collector of customs upon the recording of a preferred mortgage shall deliver two certified copies thereof to the mortgagor who shall place, and use due diligence to retain, one copy on board the mortgaged vessel and cause such copy and the documents of the vessel to be exhibited by the master to any person having business with the vessel, which may give rise to a maritime lien upon the vessel or to the sale, conveyance, or mortgage thereof.

Preferred mortgages.

Indorsements, required on documents of vessel.

Indorsement by collector, etc.

Transfers to new documents.

Mortgages including other property.

Preferred mortgages, including more than one vessel.

Action of court on sale.

Copies of record to mortgagor.

Exhibition on vessel, etc.

The master of the vessel shall, upon the request of any such person, exhibit to him the documents of the vessel and the copy of any preferred mortgage of the vessel placed on board thereof.

Written notice of prior liabilities to be given by mortgagor to mortgagee.

Subsection F. The mortgagor (1) shall, upon request of the mortgagee, disclose in writing to him prior to the execution of any preferred mortgage, the existence of any maritime lien, prior mortgage, or other obligation or liability upon the vessel to be mortgaged, that is known to the mortgagor, and (2), without the consent of the mortgagee, shall not incur, after the execution of such mortgage and before the mortgagee has had a reasonable time in which to record the mortgage and have indorsements in respect thereto made upon the documents of the vessel, any contractual obligation creating a lien upon the vessel other than a lien for wages of stevedores when employed directly by the owner, operator, master, ship's husband, or agent of the vessel, for wages of the crew of the vessel, for general average, or for salvage, including contract salvage, in respect to the vessel.

Restriction for subsequent obligations creating a lien.

Claims upon vessel covered by a preferred mortgage.  
Notice, etc.

Subsection G. (a) The collector of customs of the port of documentation shall, upon the request of any person, record notice of his claim of a lien upon a vessel covered by a preferred mortgage, together with the nature, date of creation, and amount of the lien, and the name and address of the person. Any person who has caused notice of his claim of lien to be so recorded shall, upon a discharge in whole or in part of the indebtedness, forthwith file with the collector of customs a certificate of such discharge. The collector of customs shall thereupon record the certificate.

Discharge, etc., of mortgages.

(b) The mortgagor, upon a discharge in whole or in part of the mortgage indebtedness, shall forthwith file with the collector of customs for the port of documentation of the vessel, a certificate of such discharge. Such collector of customs shall thereupon record the certificate. In case of a vessel covered by a preferred mortgage, the collector of customs at the port of documentation shall (1) indorse upon the documents of the vessel, or direct the collector of customs at any port in which the vessel is found, to so indorse, the fact of such discharge, and (2) shall deny clearance to the vessel until such indorsement is made.

Preferred mortgage.

Bills of sale, etc.  
Record requirements.

Subsection H. (a) No bill of sale, conveyance, or mortgage shall be recorded unless it states the interest of the grantor or mortgagor in the vessel, and the interest so sold, conveyed, or mortgaged.

Acknowledgments.

(b) No bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge thereof, shall be recorded unless previously acknowledged before a notary public or other officer authorized by a law of the United States, or of a State, Territory, District, or possession thereof, to take acknowledgment of deeds.

Record, etc., at new port of documentation.

(c) In case of a change in the port of documentation of a vessel of the United States, no bill of sale, conveyance, or mortgage shall be recorded at the new port of documentation unless there is furnished to the collector of customs of such port, together with the copy of the bill of sale, conveyance, or mortgage to be recorded, a certified copy of the record of the vessel at the former port of documentation furnished by the collector of such port. The collector of customs at the new port of documentation is authorized and directed to record such certified copy.

Interest on preferred mortgages.

(d) A preferred mortgage may bear such rate of interest as is agreed by the parties thereto.

Inspection of records permitted.

Subsection I. Each collector of customs shall permit records made under the provisions of this section to be inspected during office hours, under such reasonable regulations as the collector may establish. Upon the request of any person the collector of customs shall furnish him from the records of the collector's office (1) a certificate

Certified copies to be furnished.

setting forth the names of the owners of any vessel, the interest held by each owner, and the material facts as to any bill of sale or conveyance of, any mortgage covering, or any lien or other incumbrance upon, a specified vessel, (2) a certified copy of any bill of sale, conveyance, mortgage, notice of claim of lien, or certificate of discharge in respect to such vessel, or (3) a certified copy as required by subdivision (c) of subsection H. The collector of customs shall collect a fee for any bill of sale, conveyance, or mortgage recorded, or any certificate or certified copy furnished, by him, in the amount of 20 cents a folio with a minimum charge of \$1.00. All such fees shall be covered into the Treasury of the United States as miscellaneous receipts.

Fees for recording, copies, etc.

PENALTIES.

Penalties.

Subsection J. (a) If the master of the vessel willfully fails to exhibit the documents of the vessel or the copy of any preferred mortgage thereof, as required by subsection E, the board of local inspectors of vessels having jurisdiction of the license of the master, may suspend or cancel such license, subject to the provisions of "An Act to provide for appeals from decision of boards of local inspectors of vessels and for other purposes," approved June 10, 1918.

License of master to be canceled on failure to exhibit documents, etc.

Vol. 40, p. 602.

(b) A mortgagor who, with intent to defraud, violates any provision of subsection F, and if the mortgagor is a corporation or association, the president or other principal executive officer of the corporation or association, shall upon conviction thereof be held guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned not more than 2 years, or both. The mortgaged indebtedness shall thereupon become immediately due and payable at the election of the mortgagee.

Punishment for withholding notice of prior debts, etc., by mortgagor.

(c) If any person enters into any contract secured by, or upon the credit of, a vessel of the United States covered by a preferred mortgage, and suffers pecuniary loss by reason of the failure of the collector of customs, or any officer, employee, or agent thereof, properly to perform any duty required of the collector under the provisions of this section, the collector of customs shall be liable to such person for damages in the amount of such loss. If any such person is caused any such loss by reason of the failure of the mortgagor, or master of the mortgaged vessel, or any officer, employee, or agent thereof, to comply with any provision of subsection E or F or to file an affidavit as required by subdivision (a) of subsection D, correct in each particular thereof, the mortgagor shall be liable to such person for damages in the amount of such loss. The district courts of the United States are given jurisdiction (but not to the exclusion of the courts of the several States, Territories, Districts, or possessions) of suits for the recovery of such damages, irrespective of the amount involved in the suit or the citizenship of the parties thereto. Such suit shall be begun by personal service upon the defendant within the limits of the district. Upon judgment for the plaintiff in any such suit, the court shall include in the judgment an additional amount for costs of the action and a reasonable counsel's fee, to be fixed by the court.

On preferred mortgages. Collector, for failure of duty, causing loss on contract covered by.

Failure of mortgagor, etc., to comply with requirements.

Jurisdiction of courts.

Service, etc.

FORECLOSURE OF PREFERRED MORTGAGES.

Foreclosure of preferred mortgages.

Enforcement of lien.

Subsection K. A preferred mortgage shall constitute a lien upon the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by such vessel. Upon the default of any term or condition of the mortgage, such lien may be enforced by the mortgagee by suit in rem in admiralty. Original jurisdiction of all such suits is granted to the district courts of the United States exclusively. In

Exclusive jurisdiction of Federal court.

Notices to be given.	addition to any notice by publication, actual notice of the commencement of any such suit shall be given by the libellant, in such manner as the court shall direct, to (1) the master, other ranking officer, or caretaker of the vessel, and (2) any person who has recorded a notice of claim of an undischarged lien upon the vessel, as provided in subsection G, unless after search by the libellant satisfactory to the court, such mortgagor, master, other ranking officer, caretaker, or claimant is not found within the United States. Failure to give notice to any such person, as required by this subsection, shall not constitute a jurisdictional defect; but the libellant shall be liable to such person for damages in the amount of his interest in the vessel terminated by the suit. It in personam for the recovery of such damages may be brought in accordance with the provisions of subdivision (c) of subsection J.
Effect of failure.	
Recovery of damages.	
Operation of vessel by receiver.	Subsection L. In any suit in rem in admiralty for the enforcement of the preferred mortgage lien, the court may appoint a receiver and, in its discretion, authorize the receiver to operate the mortgaged vessel. The marshal may be authorized and directed by the court to take possession of the mortgaged vessel notwithstanding the fact that the vessel is in the possession or under the control of any person claiming a possessory common-law lien.
Possession by marshal.	
"Preferred maritime lien." Meaning of.	Subsection M. (a) When used hereinafter in this section, the term "preferred maritime lien" means (1) a lien arising prior in time to the recording and indorsement of a preferred mortgage in accordance with the provisions of this section; or (2) a lien for damages arising out of tort, for wages of a stevedore when employed directly by the owner, operator, master, ship's husband, or agent of the vessel, for wages of the crew of the vessel, for general average, and for salvage, including contract salvage.
Termination of liens upon sale by court.	(b) Upon the sale of any mortgaged vessel by order of a district court of the United States in any suit in rem in admiralty for the enforcement of a preferred mortgage lien thereon, all preëxisting claims in the vessel, including any possessory common-law lien of which a lienor is deprived under the provisions of subsection L shall be held terminated and shall thereafter attach, in like amount and in accordance with their respective priorities, to the proceeds of the sale; except that the preferred mortgage lien shall have priority over all claims against the vessel, except (1) preferred maritime liens, and (2) expenses and fees allowed and costs taxed, by the court.
Attach thereafter to proceeds. Priorities.	
Suit in personam in addition.	Subsection N. (a) Upon the default of any term or condition of a preferred mortgage upon a vessel, the mortgagee may, in addition to all other remedies granted by this section, bring suit in personam in admiralty in a district court of the United States, against the mortgagor for the amount of the outstanding mortgage indebtedness secured by such vessel or any deficiency in the full payment thereof.
Not applicable to realty, etc., covered by mortgage.	(b) This section shall not be construed, in the case of a mortgage covering, in addition to vessels, realty or personalty other than vessels, or both, to authorize the enforcement by suit in rem in admiralty of the rights of the mortgagee in respect to such realty or personalty other than vessels.
Transfers of mortgaged vessels and assignment of vessel mortgages.	<b>TRANSFERS OF MORTGAGED VESSELS AND ASSIGNMENT OF VESSEL MORTGAGES.</b>
Approval of Board necessary.	Subsection O. (a) The documents of a vessel of the United States covered by a preferred mortgage may not be surrendered (except in the case of the forfeiture of the vessel or its sale by the order of any court of the United States or any foreign country) without the approval of the board. The board shall refuse such approval unless the mortgagee consents to such surrender.

(b) The interest of the mortgagee in a vessel of the United States covered by a mortgage, shall not be terminated by the forfeiture of the vessel for a violation of any law of the United States, unless the mortgagee authorized, consented, or conspired to effect the illegal act, failure, or omission which constituted such violation.

Interest of mortgagee if vessel forfeited for violation of law.

(c) Upon the sale of any vessel of the United States covered by a preferred mortgage, by order of a district court of the United States in any suit in rem in admiralty for the enforcement of a maritime lien other than a preferred maritime lien, the vessel shall be sold free from all preexisting claims thereon; but the court shall, upon the request of the mortgagee, the libellant, or any intervenor, require the purchaser at such sale to give and the mortgagor to accept a new mortgage of the vessel for the balance of the term of the original mortgage. The conditions of such new mortgage shall be the same, so far as practicable, as those of the original mortgage and shall be subject to the approval of the court. If such new mortgage is given, the mortgagee shall not be paid from the proceeds of the sale and the amount payable as the purchase price shall be held diminished in the amount of the new mortgage indebtedness.

Effect of sale by order of court.

New mortgage, etc., by purchaser.

Effect on price.

(d) No rights under a mortgage of a vessel of the United States shall be assigned to any person not a citizen of the United States without the approval of the board. Any assignment in violation of any provision of this section shall be void.

Approval, etc., of assignments by Board.

(e) No vessel of the United States shall be sold by order of a district court of the United States in any suit in rem in admiralty to any person not a citizen of the United States.

Sales only to citizens.

MARITIME LIENS FOR NECESSARIES

Subsection P. Any person furnishing repairs, supplies, towage, use of dry dock or marine railway, or other necessities, to any vessel, whether foreign or domestic, upon the order of the owner of such vessel, or of a person authorized by the owner, shall have a maritime lien on the vessel, which may be enforced by suit in rem, and it shall not be necessary to allege or prove that credit was given to the vessel.

Maritime liens for necessities.

Persons entitled to. Vol. 36, p. 604.

Enforcement.

Subsection Q. The following persons shall be presumed to have authority from the owner to procure repairs, supplies, towage, use of dry dock or marine railway, and other necessities for the vessel: The managing owner, ship's husband, master, or any person to whom the management of the vessel at the port of supply is intrusted. No person tortiously or unlawfully in possession or charge of a vessel shall have authority to bind the vessel.

Authority to procure repairs, etc., presumed.

Chartered vessels, etc.

Subsection R. The officers and agents of a vessel specified in subsection Q shall be taken to include such officers and agents when appointed by a charterer, by an owner pro hac vice, or by an agreed purchaser in possession of the vessel; but nothing in this section shall be construed to confer a lien when the furnisher knew, or by exercise of reasonable diligence could have ascertained, that because of the terms of a charter party, agreement for sale of the vessel, or for any other reason, the person ordering the repairs, supplies, or other necessities was without authority to bind the vessel therefor.

Restriction.

Subsection S. Nothing in this section shall be construed to prevent the furnisher of repairs, supplies, towage, use of dry dock or marine railway, or other necessities, or the mortgagee, from waiving his right to a lien, or in the case of a preferred mortgage lien, to the preferred status of such lien, at any time, by agreement or otherwise; and this section shall not be construed to affect the rules of law now existing in regard to (1) the right to proceed against the vessel for advances, (2) laches in the enforcement of liens upon vessels, (3) the right to proceed in personam, (4) the rank of preferred maritime liens among

Waiving of liens by agreement.

Rights not affected.

themselves, or (5) priorities between maritime liens and mortgages, other than preferred mortgages, upon vessels of the United States.

Statutes of States superseded.

Subsection T. This section shall supersede the provisions of all State statutes conferring liens on vessels, in so far as such statutes purport to create rights of action to be enforced by suits in rem in admiralty against vessels for repairs, supplies, towage, use of dry dock or marine railway, and other necessities.

Miscellaneous provisions.

#### MISCELLANEOUS PROVISIONS.

Existing mortgages not affected.

Subsection U. This section shall not apply (1) to any existing mortgage, or (2) to any mortgage hereafter placed on any vessel now under an existing mortgage, so long as such existing mortgage remains undischarged.

Books, certificates, etc., to be furnished collectors.

Subsection V. The Secretary of Commerce is authorized and directed to furnish collectors of customs with all necessary books and records, and with certificates of registry and of enrollment and license in such form as provides for the making of all indorsements thereon required by this section.

Executive regulations to be proscribed.

Subsection W. The Secretary of Commerce is authorized to make such regulations in respect to the recording and indorsing of mortgages covering vessels of the United States, as he deems necessary to the efficient execution of the provisions of this section.

Laws repealed. R. S., secs. 4192-4196, pp. 808, 809, repealed. Vol. 36, p. 604, repealed.

Subsection X. Sections 4192 to 4196, inclusive, of the Revised Statutes of the United States, as amended, and the Act entitled "An Act relating to liens on vessels for repairs, supplies, or other necessities," approved June 23, 1910, are repealed. This section, however, so far as not inconsistent with any of the provisions of law so repealed, shall be held a reenactment of such repealed law, and any right or obligation based upon any provision of such law and accruing prior to such repeal, may be prosecuted in the same manner and to the same effect as if this Act had not been passed.

R. S., sec. 4530, p. 870, amended.

SEC. 31. That section 4530 of the Revised Statutes of the United States is amended to read as follows:

Merchant seamen. Payments while in port. Vol. 36, p. 1163, amended.

"SEC. 4530. Every seaman on a vessel of the United States shall be entitled to receive on demand from the master of the vessel to which he belongs one-half part of the balance of his wages earned and remaining unpaid at the time when such demand is made at every port where such vessel, after the voyage has been commenced, shall load or deliver cargo before the voyage is ended, and all stipulations in the contract to the contrary shall be void: *Provided*, Such a demand shall not be made before the expiration of, nor oftener than once in, five days nor more than once in the same harbor on the same entry. Any failure on the part of the master to comply with this demand shall release the seaman from his contract and he shall be entitled to full payment of wages earned. And when the voyage is ended every such seaman shall be entitled to the remainder of the wages which shall be then due him, as provided in section 4529 of the Revised Statutes: *Provided further*, That notwithstanding any release signed by any seaman under section 4552 of the Revised Statutes any court having jurisdiction may upon good cause shown set aside such release and take such action as justice shall require: *And provided further*, That this section shall apply to seamen on foreign vessels while in harbors of the United States, and the courts of the United States shall be open to such seamen for its enforcement."

Provisos. Limitations extended.

In full at end of voyage.

Vol. 38, p. 1165. Setting aside of release. R. S., sec. 4552, p. 880.

Applicable to foreign seamen in American ports.

Wages of seamen. Vol. 38, p. 1163, amended.

SEC. 32. That paragraph (a) of section 10 of the Act entitled "An Act to remove certain burdens on the American merchant marine and encourage the American foreign carrying trade, and for other purposes," approved June 26, 1884, as amended, is hereby amended to read as follows:

"SEC. 10. (a) That it shall be, and is hereby, made unlawful in any case to pay any seaman wages in advance of the time when he has actually earned the same, or to pay such advance wages, or to make any order, or note, or other evidence of indebtedness therefor to any other person, or to pay any person, for the shipment of seamen when payment is deducted or to be deducted from a seaman's wages. Any person violating any of the foregoing provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$25 nor more than \$100, and may also be imprisoned for a period of not exceeding six months, at the discretion of the court. The payment of such advance wages or allotment, whether made within or without the United States or territory subject to the jurisdiction thereof, shall in no case except as herein provided absolve the vessel or the master or the owner thereof from the full payment of wages after the same shall have been actually earned, and shall be no defense to a libel suit or action for the recovery of such wages. If any person shall demand or receive, either directly or indirectly, from any seaman or other person seeking employment, as seaman, or from any person on his behalf, any remuneration whatever for providing him with employment, he shall for every such offense be deemed guilty of a misdemeanor and shall be imprisoned not more than six months or fined not more than \$500."

Payment in advance, etc., unlawful.

Punishment for violations.

Liability whether paid within or without United States territory.

Punishment for receiving pay from seamen for employment.

SEC. 33. That section 20 of such Act of March 4, 1915, be, and is, amended to read as follows:

Vol. 33, p. 1185, amended.

"SEC. 20. That any seaman who shall suffer personal injury in the course of his employment may, at his election, maintain an action for damages at law, with the right of trial by jury, and in such action all statutes of the United States modifying or extending the common-law right or remedy in cases of personal injury to railway employees shall apply; and in case of the death of any seaman as a result of any such personal injury the personal representative of such seaman may maintain an action for damages at law with the right of trial by jury, and in such action all statutes of the United States conferring or regulating the right of action for death in the case of railway employees shall be applicable. Jurisdiction in such actions shall be under the court of the district in which the defendant employer resides or in which his principal office is located."

Injuries to seamen in service. Actions for damages allowed.

Resulting in death.

Jurisdiction of courts.

SEC. 34. That in the judgment of Congress, articles or provisions in treaties or conventions to which the United States is a party, which restrict the right of the United States to impose discriminating customs duties on imports entering the United States in foreign vessels and in vessels of the United States, and which also restrict the right of the United States to impose discriminatory tonnage dues on foreign vessels and on vessels of the United States entering the United States should be terminated, and the President is hereby authorized and directed within ninety days after this Act becomes law to give notice to the several Governments, respectively, parties to such treaties or conventions, that so much thereof as imposes any such restriction on the United States will terminate on the expiration of such periods as may be required for the giving of such notice by the provisions of such treaties or conventions.

Treaty restrictions on discriminatory customs and tonnage duties to be terminated.

Notice to be given foreign Governments.

SEC. 35. That the power and authority vested in the board by this Act, except as herein otherwise specifically provided, may be exercised directly by the board, or by it through the United States Shipping Board Emergency Fleet Corporation.

Delegation of powers to Emergency Fleet Corporation.

SEC. 36. That if any provision of this Act is declared unconstitutional or the application of any provision to certain circumstances be held invalid, the remainder of the Act and the application of such provisions to circumstances other than those as to which it is held invalid shall not be affected thereby.

Invalidity of any provision not to affect remainder of Act.

General meaning of terms used in this Act.

Vol. 39, pp. 728, 729.

Vol. 39, p. 77, amended.

Controlling interest of corporations, etc., to be owned by citizens.

Coastwise trade.

Controlling interest not deemed owned by citizens. Interests specified.

Seventy-five percent interests not deemed owned by citizens. Interests specified.

Receivers and trustees included.

Title.

June 5, 1920.  
[H. R. 11214.]  
[Public, No. 262.]

Immigration. Exclusion of alien anarchists, etc.

SEC. 37. That when used in this Act, unless the context otherwise requires, the terms "person," "vessel," "documented under the laws of the United States," and "citizen of the United States" shall have the meaning assigned to them by sections 1 and 2 of the "Shipping Act, 1916," as amended by this Act; the term "board" means the United States Shipping Board; and the term "alien" means any person not a citizen of the United States.

SEC. 38. That section 2 of the Shipping Act, 1916, is amended to read as follows:

"SEC. 2. (a) That within the meaning of this Act no corporation, partnership, or association shall be deemed a citizen of the United States unless the controlling interest therein is owned by citizens of the United States, and, in the case of a corporation, unless its president and managing directors are citizens of the United States and the corporation itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof, but in the case of a corporation, association, or partnership operating any vessel in the coastwise trade the amount of interest required to be owned by citizens of the United States shall be 75 per centum.

"(b) The controlling interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (c) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

"(c) Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States; or (c) if, through any contract or understanding it is so arranged that more than 25 per centum of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

"(d) The provisions of this Act shall apply to receivers and trustees of all persons to whom the Act applies, and to the successors or assignees of such persons."

SEC. 39. That this Act may be cited as the Merchant Marine Act, 1920.

Approved, June 5, 1920.

CHAP. 251.—An Act To amend the Act entitled "An Act to exclude and expel from the United States aliens who are members of the anarchistic and similar classes," approved October 16, 1918.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 1 of the Act entitled "An Act to exclude and expel from the United States aliens