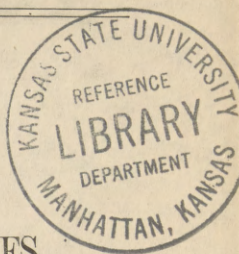


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MERCHANT MARINE LEGISLATION

GOVERNMENT

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HEARINGS

BEFORE THE

MERCHANT MARINE AND FISHERIES

SUBCOMMITTEE OF THE

COMMITTEE ON COMMERCE

UNITED STATES SENATE

EIGHTY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 1183, S. 1184, S. 1185, S. 1456, S. 1627,

S. 1690, and S. 1728

BILLS PERTAINING TO MERCHANT MARINE LEGISLATION
AND A BILL TO AUTHORIZE AN ADDITIONAL ASSISTANT
SECRETARY OF COMMERCE

APRIL 24, 25, MAY 10 AND 15, 1961

Printed for the use of the Committee on Commerce



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MERCHANT MARINE LEGISLATION

MONDAY, APRIL 24, 1961

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee was called to order at 10 a.m., by the Honorable E. L. Bartlett, in room 5110, New Senate Office Building.

Senator BARTLETT. The committee will be in order.

In the hearings this morning and tomorrow the Merchant Marine Subcommittee will take up the following four bills:

S. 1289, which would eliminate the oath requirement on export declarations;

S. 1183, which would provide for reimbursement of certain vessel construction expenses;

S. 1184, which would restore vessels to their former owner on the same basis and the same conditions upon which they were requisitioned; and

S. 1185, which would permit steamship companies to make expenditures from capital reserve funds for research and design.

The subcommittee hopes to take up these maritime bills as quickly as possible in order to make necessary changes in the various acts.

(The bills follow:)

[S. 1289, 87th Cong., 1st sess.]

A BILL To amend section 4200 of the Revised Statutes of the United States so as to eliminate the oath requirement with respect to certain export manifests.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4200 of the Revised Statutes of the United States (46 U.S.C. 92) is amended—

(1) by striking out "oath" in the first two sentences and inserting in lieu thereof "certification";

(2) by striking out "upon oath" in the third sentence and inserting in lieu thereof "by certification"; and

(3) by striking out that portion of the fourth sentence preceding the proviso and inserting in lieu thereof "The certifications shall be in writing".

[S. 1183, 87th Cong., 1st sess.]

A BILL To amend the Merchant Marine Act, 1936, in order to provide for the reimbursement of certain vessel construction expenses.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 502 of the Merchant Marine Act, 1936 (46 U.S.C. 1152), is amended by striking out the fifth sentence in subsection (f) and inserting in lieu thereof the following: "In the event that a contract is made providing for a price in excess of the lowest responsible bid which otherwise would be accepted, (1) such excess shall be paid by the Federal Maritime Board as a part of the cost of national defense, (2) the Federal Maritime Board shall reimburse the applicant the amount, if any, by which expenses incurred by him for inspection and supervision of the vessel during construction and delivery of the vessel to its home port exceed the estimated expenses for the same services which would have been incurred if the vessel had been constructed by the lowest responsible bidder, and (3) such excess price and excess expenses shall not be considered as a part of the construction-differential subsidy."

NOTE.—Professional staff member assigned to these hearings, August J. Bourbon.

SEC. 2. The amendment made by this Act shall be effective with respect to any contract entered into under the provisions of section 502 of the Merchant Marine Act, 1936, as amended, and the Federal Maritime Board shall, with the consent of the other parties thereto, modify any such contract entered into prior to the date of the enactment of this Act to the extent authorized by the amendment made by this Act.

[S. 1184, 87th Cong., 1st sess.]

A BILL To conform the provisions of section 802 of the Merchant Marine Act, 1936, with those of section 510 thereof as amended by Public Law 86-575, approved July 5, 1960, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 802 of the Merchant Marine Act, 1936, as amended, (46 U.S.C. 1212) is hereby amended:

(1) By inserting "(a)" after "SEC. 802."

(2) By adding new subsections (b), (c), (d) and (e), reading as follows:

"(b) The contracts to which subsection (a) of this section is applicable shall expressly provide that the provisions of subsection (a) shall remain in force (1) as to vessels delivered by the shipbuilder prior to January 1, 1946, only in the event the United States shall acquire such vessels within twenty years of the date of such delivery by the shipbuilder, and (2) as to vessels delivered by the shipbuilder on or after January 1, 1946, only in the event the United States shall acquire such vessels within twenty-five years of the date of such delivery by the shipbuilder. The provisions of this subsection shall apply to such contracts entered into before and after the enactment of this subsection.

"(c) If any vessel, which was acquired by the United States and to which the provisions of subsection (a) are applicable, is to be released from Government service, such vessel shall be offered for sale to the owner from whom such vessel was acquired or to the person for whom the vessel was constructed or being constructed but to whom delivery thereof was prevented by the United States (such owner or person being hereinafter in this section referred to as the 'former owner') at a price computed as follows: The basic value of each such vessel shall be the price paid by the United States to the party from whom acquired, from which shall be deducted normal depreciation at the rate of 4 or 5 per centum per annum, as the case may be depending upon the life of the vessel as provided in this Act, on a straight line basis upon the former owner's gross book value of the vessel, and from which shall also be deducted, as war service, depreciation at the rate of 3 per centum per annum, for each year or portion thereof between the date of acquisition by the United States and reacquisition by the former owner under this subsection. As used herein, gross book value shall mean the actual construction cost of such vessel (together with the actual cost of capital improvements thereon, but excluding the cost of national-defense features) less the amount of construction-differential subsidy theretofore paid incident to the construction or reconditioning of such vessel. Prior to delivery to the former owner, each such vessel shall be restored in a condition at least as good as when acquired by the United States, less ordinary wear and tear, or the former owner shall be paid or credited with an amount sufficient to place the vessel in such condition.

"(d) In the event such vessel was, at the time of acquisition from the former owner by the United States, subject to a mortgage in favor of the United States, such vessel shall be sold to the former owner upon the same terms and conditions as those contained in such mortgage. In the event such vessel was subject to a mortgage insured under the provisions of title XI of this Act at the time of acquisition of the vessel by the United States, or such vessel was eligible for such an insured mortgage, the Secretary of Commerce shall, at the request of the former owner, insure a mortgage in connection with the reacquisition of the vessel by the former owner pursuant to this section.

"(e) In the event that any such vessel cannot be returned to the former owner, at the termination of the emergency or as soon thereafter as is reasonably possible, the former owner thereof shall be given a preference as to any person except the former owner thereof, to purchase a similar vessel, at a price computed in accordance with subsection (c) of this section, and under the terms and conditions set forth in subsections (b) and (d) of this section."

Senator BARTLETT. The first witness this morning is our friend, Congressman Edgar W. Hiestand, of California. And I understand, Mr. Hiestand, that you are going to address your remarks to S. 1289?

Mr. HIESTAND. That is correct, Mr. Chairman.

Senator BARTLETT. We will be very glad to hear from you.

Mr. HIESTAND. I appreciate the opportunity for appearing before you.

**STATEMENT OF HON. EDGAR W. HIESTAND, REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. HIESTAND. I appear before you in behalf of one of the originators of the idea, who happens to be a constituent of mine but who couldn't possibly be here. I introduced a counterpart in the House which has had favorable consideration, but the subcommittee hasn't voted yet.

I have statements in the hands of the committee in very brief shape; however, S. 1289 would, as you have indicated, eliminate one part of the long-carried-on redtape on the part of our Government. I introduced another bill in a previous Congress to clean up a lot of other odds and ends of unnecessary redtape, but it didn't get anywhere, and so I introduced this counterpart this year on this particular one thing, the notarial on the requirement. So far as I know, Mr. Chairman, there is no opposition to this.

We have filed with the committee a great many statements of those in favor, those that are interested, the shipping companies, the chambers of commerce, and on down the line, and so on. Everyone is in favor, and apparently there is no opposition. I won't take up the committee's time in reading the statements.

In very brief shape, the bill would eliminate needless wasted work on the part of exporters, steamship lines, and U.S. Customs Service. It would, secondly, eliminate an inequity existing between different forms of transportation. The other forms of transportation never did have the oath, some of them, and this is a carryover from a great many years. It has been proven unnecessary.

There is one part, a correction that should go in, which the House committee will no doubt take as a committee amendment. It just amends a couple of spots which are included in the statement where the word "oath" was included and should be eliminated, and so forth. It's very clear.

I will be happy to answer questions. The situation is, briefly, that at L.A. there are some 13,000 declarations cleared each month, and at San Francisco there are 24,000 each month. And the industry associations with whom we have been working in preparing this legislation have been informed that one-quarter of the time of four different customs people is taken up administering the oaths on these declarations.

Often, declarations come in from third parties but, lacking notarial acknowledgement, time is wasted. Undoubtedly shipments have missed vessels because of this, resulting in potential loss to the shipper who may not have completed his contract of sale on time, as well as to the carrier whose vessel probably has gone out with free space.

I feel that the statement is pretty carefully worked out and pretty well documented; and, as I say, so far as I know, there is no opposition, sir.

Senator BARTLETT. Thank you, sir.

Your statement, I infer, you desire to have incorporated in the record as prepared by Mr. T. R. Stetson, together with the letter

address to you by Mr. Figueroa, of Overseas Operations, Ltd., of Los Angeles.

Mr. HIESTAND. If you please, sir.
 Senator BARTLETT. That will be done.
 (Documents follow :)

STATEMENT BY T. R. STETSON, DIRECTOR OF EXPORTS, ON BEHALF OF
 UNITED STATES BORAX & CHEMICAL CORP. ON S. 1289

This bill, introduced by the Honorable Chairman, Mr. Magnuson, on behalf of himself and Mr. Kuchel (as a companion measure to the bill introduced in the House by the Honorable Mr. Hiestand) is intended to:

1. Eliminate needless wasted work on the part of exporters, steamship lines, and the U.S. Customs Service.
2. Eliminate an inequity existing between different forms of transportation.

This end has been sought for years by shippers and administrative agencies alike, and we commend the gentlemen in the Congress, in the administration, and in the steamship and exporting industries, who have all helped and cooperated in such a splendid manner to bring this needed improvement to the point where it can have the attention it deserves. It is particularly apropos at a time when national policy urges all of use to do everything possible to increase U.S. exports, and where an interdepartmental team of Government experts, in close cooperation with industry, is working at international levels to reduce and eliminate unnecessary paperwork in international trade wherever it can properly be done. Time presently wasted, and intended to be saved by this legislation, can well be put by all concerned to increase efforts in expanding trade.

To deal with the specific issues, exporters must file with the collector of customs a statement of manifest (sample attached), describing each shipment intended to be exported from the United States (outlining quantity, value, destination, consignee, etc.) for statistical and export control purposes; before the goods are loaded on the transporting conveyance and as a precedent to the conveyance being cleared to depart from the United States. When the conveyance is an oceangoing vessel, the laws governing ocean shipping—sought here to be amended—require that these manifests or declarations be made under oath, subscribed to before a notary public or a customs official. When the conveyance is a railroad car or truck, or an airplane, the oath is not required. We have been unable to find any just or sound reason for this disparity.

We have, however, in researching the various statutes in cooperation with the many others concerned with this remedial legislation, found another section of the ocean shipping statutes, beyond those outlined in the bill as originally introduced, covering the oath requirements, hence the following addition is needed to these bills, S.1289 and/or H.R. 4744: "That section 337 of the Revised Statutes of the United States (15 U.S.C. 174) is amended—

"(1) by striking out 'oath' in the third sentence of the paragraph numbered 'fifth' and inserting 'certification'."

The heading should also be revised to read:

"To amend sections 4200 and 337 of the Revised Statutes of the United States so as to eliminate the oath requirement with respect to certain export manifests." [Insertions italicized.]

A draft of S. 1289, as it would read with this amendment, is attached as exhibit B. Also attached, as exhibit C, is conformed text of sections 4200 and 337, as they would be amended.

Concerning the time involved, U.S. Borax files from 250 to 300 export declarations per month. Each document, after being certified by the signature of the staff member handling the shipment, has to be taken to a notary for an additional signature and seal. We estimate from one-half hour to an hour per day waste motion, and we are only one company. We have commissioned notaries in our own office to do this, which is probably less time consuming than to take the oath at the customhouse; but there are many, many cases where the oath is taken there, meaning that a customs officer must take time to stamp and sign each declaration. At Los Angeles, some 13,000 declarations are cleared each month. At San Francisco, the figure is 24,000 per month, and the industry associations with whom we have been working in preparing this legislation have been informed that one-quarter of the time of four different customs people is taken in administering oaths on these declarations. Ofttimes declarations

come in through third parties, properly signed but lacking notarial acknowledgment, and time is wasted writing letters and returning them to the originator for completion. Undoubtedly shipments have missed vessels because of this, resulting in a potential loss to shipper who may not have completed his contract of sale on time, as well as to the carrier whose vessel probably has gone out with free space.

All of the time spent in administering or obtaining oaths, that is, everything beyond the original certification, is sheer waste. Multiply the examples just cited by the exporters, customs, and steamship people throughout the country, and the hundreds of thousands, or probably millions of declarations filed every year; and you have a fantastic figure. We have been commended many times for continuing our efforts toward this saving in time and work. It is our understanding that oath requirements on related shipping documents have been eliminated by administrative order in most cases where it could be done that way. Another example is the elimination long ago of the oath requirement on income tax returns. (See footnote 1.) Although the official views of administrative agencies, such as Customs and Commerce Department, will, of course, be in their official reports to your committee, unofficial conversations with many people in these agencies convince us that they are wholeheartedly in accord with this proposal; and obviously without their sympathy it would have been useless for the industry people concerned to have sought this legislation. Actually it was in such discussions that the need for also amending section 337 was turned up. See also the remarks of the Honorary Mr. Magnuson, at the time this bill was introduced, exhibit D attached.

With this statement is submitted a sample of "Shipper's Export Declaration," form 7525-V (Rev. May 1954), on which item 19 reads, "I declare that all statements made and all information contained in this export declaration are true and correct. I am aware of the penalties provided for false representation." Reference is made to various statutes detailed on the back, providing fines up to \$10,000 and/or imprisonment up to 5 years for violations or false or misleading statements. It is respectfully submitted that anyone who would under these circumstances falsify an export declaration would not in any way be deterred by the additional step of having his signature attested by a notary or customs official. At no time during many discussions has anyone, government official or civilian, mentioned any detriment to security because of not requiring oath on air, rail, or truck shipments.

Under the Export Control Act a corporation or partnership designating employees to sign and certify export declarations on its behalf must do so by filing an appropriate power of attorney with the collector of customs. Such powers of attorney would still be required as identification and authority for the person signing/certifying the declarations. However, because the document to be signed by virtue of such powers of attorney has to be notarized, so must the powers of attorney themselves; and we have been informed that collectors frequently have to waste time returning powers of attorney which have reached them properly signed but without the notarial seal. Again delays and waste ensue.

This matter has been under discussion, correspondence, and study for a number of years, by both industry (particularly the Facilitation Committee of Pacific American Steamship Association/Marine Exchange) and Government, to determine just exactly how this much-needed improvement and modernization should be accomplished; and the result of this very careful consideration is now before you, gentlemen—with the opportunity to relieve the several parties involved in each of many export transactions of this wasteful burden. The author of this statement, on behalf of himself and the United States Borax & Chemical Corp., as well as various trade organizations with which he is associated, again wishes to express sincere appreciation to the many people throughout the country, in industry and government, and particularly the legislators who have most willingly and ably grasped the opportunity to assist industry, for the help, cooperation, and encouragement in bringing this matter to the point where we can hopefully look forward before long to saying, "mission accomplished." Thank you.

¹ The following certification on Federal income tax returns has been used for many, many years without the notarial oath:

"I declare under the penalties of perjury that this return (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct, and complete return."

FORM 1024-Y
(REV. MAY 1954)
(See Instructions on
Reverse Side)

U. S. DEPARTMENT OF COMMERCE
BUREAU OF THE CENSUS—BUREAU OF FOREIGN COMMERCE
SHIPPER'S EXPORT DECLARATION

OF SHIPMENTS TO FOREIGN COUNTRIES OR NONCONTIGUOUS TERRITORIES OF THE UNITED STATES
EXPORT SHIPMENTS ARE SUBJECT TO U. S. CUSTOMS INSPECTION
READ CAREFULLY THE INSTRUCTIONS ON BACK TO AVOID DELAY AT SHIPPING POINT
Goods must be accompanied by a declaration which shall be filed with the Collector of Customs. This declaration shall not be used to effect any exportation after the expiration date of the export license referred to herein, except as specifically authorized by export regulations.

DECLARATIONS SHOULD BE TYPEWRITTEN OR PREPARED IN INK

Form approved. Budget Bureau No. 41-R37.4.

CONFIDENTIAL For use solely for official purposes of the Department of Commerce. Use for unauthorized purposes is prohibited. (Title 15, Sec. 30.5 (b) C. F. R.; 50 U. S. C. App., 2020c.)
Do Not Use This Area

Do Not Use This Area

District	Port	Country (For customs use only)

FILE NO. (This Space for Use of Customs)

1. EXPORTING CARRIER (if vessel, give name, flag and pier number) 2. FROM (U. S. Port of Export)

3. EXPORTER (Principal or seller—licensee)

Address (Number, street, place, State)

4. AGENT OF EXPORTER (Forwarding agent)

Address (Number, street, place, State)

5. ULTIMATE CONSIGNEE

Address (Place, country)

6. INTERMEDIATE CONSIGNEE

Address (Place, country)

7. FOREIGN PORT OF UNLOADING (For vessel and air shipments only)

8. PLACE AND COUNTRY OF ULTIMATE DESTINATION (Not place of transshipment)

(9)	(10)	(11)	(12)	(13)	(14)	(15)
MARKS AND NOS.	NUMBER AND KIND OF PACKAGES, DESCRIPTION OF COMMODITIES, EXPORT LICENSE NUMBER, EXPIRATION DATE (OR GENERAL LICENSE SYMBOL) (Describe commodities in sufficient detail to permit verification of this Statement. Do not use general terms. Insert required license information on line below description of each item)	SHIPPING (Gross) WEIGHT IN POUNDS (required for vessel and air shipments only)	SPECIES "D" OR "E"	SCHEDULE B COMMODITY NO.	NET QUANTITY IN SCHEDULE B UNITS (State unit)	VALUE AT U. S. PORT OF EXPORT (Selling price or cost if not sold, including insurance and other charges to U. S. port of destination) (Nearest whole dollar; omit cents figure)

INSTRUCTIONS FOR THE USE OF THE YELLOW SHIPPER'S EXPORT DECLARATION (Commerce Form 7525-V)

(Follow Carefully to Avoid Delay at Shipping Point)

I. PROVISIONS OF LAW AND REGULATIONS.

- (a) Vessels shall not be cleared for foreign ports until export declarations verified by oath, of the cargo, or its parts have been delivered to the collector at the point of exportation by the shipper, importer, consignee, or consignors thereof. Similar provisions apply to exportations by rail, air, vehicle, or otherwise.
- (b) A declaration presented to a Collector of Customs or Postmaster and used to effect an exportation of any commodity for which an export license is required, shall be subject to inspection by the exporter (1) that all statements made and information set forth in the declaration have been furnished by him or on his behalf for the purpose of effecting an exportation in accordance with the export control regulations; (2) that the exportation of export license is authorized in the declaration; (3) that the general or validated export license is identified in the declaration; (4) that the statements made in the declaration are identical in all respects with the contents of the validated export license; (5) that the terms, provisions and conditions of the applicable general license; and (4) that all other terms, provisions, and conditions of the export control regulations applicable to the exportation have been met.
- (c) It is unlawful under the export regulations and the export control law, in addition to the provisions of any other law, for any person, whether or not situated in the United States, to violate the provisions of the export control law, to falsify or conceal any material fact, whether directly or indirectly, in connection with the exportation of any commodity, or to furnish any false or misleading statement or representation relating to information on the Shipper's Export Declaration required for statistical purposes, subject to a maximum penalty of \$10,000 or imprisonment for 5 years, or both (18 U. S. C. Sec. 1001).
- (d) Shipper's export declarations must also be filed for shipments between the United States and its noncontiguous territories, except Alaska and Hawaii.

Division, Bureau of the Census. Collectors will not authenticate a declaration which has been altered, changed, or amended, except as and to the extent authorized by the export control regulations.

(f) For shipments by rail to Mexico and Canada separate declarations shall be prepared for each carload. Export Declarations are for use solely for official purposes authorized by the Secretary of Commerce. Under no circumstances shall they be used for any other purpose. With the provisions of the Export Control Act (Title 49, U. S. C. Sec. 1001), the export declarations will be published or disclosed only when the Secretary has determined that the withholding thereof is contrary to the national interest.

III. EXPLANATION OF TERMS.

ITEM 1. *Exporting Carrier*.—If vessel, give name, flag, and number or name of place at which goods were laden; if air, rail, vehicle, or ferry carrier, give name of carrier, identify carrying plane, train, vehicle, or ferry, e. g., by number, flight, or other designation.

ITEM 2. *United States Port of Export*.—Insert United States Customs port of exportation in terms of Schedule D, "Code Classification of Customs Districts."

ITEM 3. *Exporter*.—In case of licensed exportation, exporter named shall be licensee named in the validated export license or person entitled to make the exportation under applicable general license in conformity with export control regulations.

ITEM 4. *Agent of Exporter*.—In case of licensed exportation, state name of duly authorized for the Agent of Exporter. See paragraph II (c).

ITEM 5. *Ultimate Consignee*.—In case of licensed exportation, ultimate consignee (whether by sale in U. S. or otherwise) to be person named as ultimate consignee in validated export license or authorized to be ultimate consignee under applicable general license in conformity with export control regulations.

ITEM 6. *Intermediate Consignee*.—In case of licensed exportation, intermediate consignee shall be person named as such in validated export license or authorized to act as such under applicable general license and in conformity with export control regulations. If none, state name of ultimate consignee should be inserted if known at time of authentication.

ITEM 7. *Foreign Port of Destination*.—Insert foreign port of unloading (i. e., foreign port at which the merchandise will be unloaded from the exporting carrier specified in item 1) should be shown for vessel and air shipments only.

ITEM 8. *Place and Country of Ultimate Destination*.—The final place and country of destination, not the place of transshipment, should be shown in the space provided for "Place and Country of Ultimate Destination." Special care should be taken to give the final place and country destination for goods shipped through Canada, United Kingdom, Canal Zone, or other countries for transshipment to other countries, such as through Chile or Peru, destined for Bolivia.

IV. DESCRIPTION OF ARTICLES, QUANTITIES, AND VALUES.

COLUMN 9.—Insert marks and numbers.

COMB 10—Insert number and kinds of packages, description of commodities, export license number, and expiration date, or general license symbol. Commodities must be described by nature and quantity in sufficient detail to permit verification of the Schedule B commodity numbers assigned. The description of the articles must be definite and complete, and conform with that set forth in the validated export license or with the requirements of the applicable license. Trade names, catalog numbers or other characteristic trade names, and trademarks, if any, must be stated in parentheses. General terms such as "dry goods," "groceries," "meats," etc., are not sufficient.

COMB 11—Insert gross weight in pounds for vessel and air shipments only.

COLUMN 11.—Insert gross weight in pounds for vessel and air shipments only.

CHARTS 12.—Specify whether of domestic or foreign origin. Exports of domestic manufactured commodities include commodities which are the growth, produce, or manufacture of the United States. Exports of foreign manufactured commodities include commodities of foreign origin which entered the United States as imports, and which have been changed in form or character in the United States. Commodities of foreign origin which have been changed in the United States from the form in which they were imported, or which have been enhanced in value by further manufacture in the United States, are considered as "domestic" commodities. The above definition of the distinction between domestic and foreign commodities is for statistical purposes only. The "domestic" column (12) on this export declaration and is included in the statistical purposes only.

Column 13.—Insert the Schedule B commodity code number. (See Instruction VII (a) below.)

Column 14.—Insert the net quantity in Schedule B unit. State the unit of quantity shown, i. e., pounds, square yards, etc.

COLUMN 15.—Insert the dollar value at time and place (U. S. port) of export (omit cents if none). Value stated to be the selling price, or cost if not sold, including inland freight, insurance, and other charges to border point, seaport, or exporting airport. Ocean freight, marine insurance, and other charges incurred beyond the U. S. port of exportation should be excluded.

ITEM 16.—For convenience of exporter, to be inserted if desired.

ITEM 17.—To be inserted by Collector of Customs.

V. SIGNATURES AND NOTARIZATION.

ITEMS 18, 19, and 20.—See paragraphs II (h) and II (c) of these instructions.

VI. FOREIGN COMMERCE STATISTICAL REGULATIONS—EXPORT CONTROL REGULATIONS.

FOR ORDER. Detailed information regarding preparation of the export declaration, rules and regulations for collection of statistics for Foreign Commerce and Navigation of the United States (Title 15, Chapter I, Part 30, Code of Federal Regulations), copies of which may be purchased from the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C., at a price of 35 cents a copy. Information concerning export regulations and regulations regarding the export of commodities may be obtained from the Department of Commerce, Office of Commerce Administration, Washington 25, D. C.

VIT SCHEDULE B AND BLANKS.

(g) Shipper's Statistical Classification Domestic and Foreign Exports may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D. C., local Collectors of Customs, and the Department of Commerce Field Offices, 22, D. C., local Collectors of Customs, and the Department of Commerce Field Offices.

(h) Shipper's Export Declaration blanks may be obtained from the Superintendent of Documents, Government Printing Office, Washington 25, D. C., local Collectors of Customs, and Department of Commerce Field Offices located in principal cities. They may be printed by private parties provided they conform to the official form and markings. Shipper's Export Declaration may not be reproduced in any form.

U.S. GOVERNMENT PRINTING OFFICE: 1960-O-533549 16-56093-5

(g) For instructions regarding the use of this form for parcel-post exportations, see current United States Official Postal Guide, Part II. One copy of the declaration should be mailed by postmaster to Foreign Trade Division, Bureau of the Census, 434 Customhouse, N. Y. 4.

UNIT SHIPPER'S EXPORT DECLARATIONS (Commerce Form 7525-V).

(a) Carrier's Trade or Destination (Country of origin, country of destination, vessel, air, rail, car, vehicle, and ferry) for all merchandise shipped to foreign countries, except Canada. For shipments to Canada, and between the United States and its territories and possessions (except Alaska and Hawaii), the declarations must be made in Canadian dollars. For all other countries, the declarations must be made in U.S. dollars. For U.S. merchandise shipped to foreign countries, the U.S. Customs Form 7535-1 should be filed for merchandise shipped in-transit through the United States to a foreign country to another. In lieu thereof, "shipper's Export Declaration for U.S. Merchandise Shipped to Another Country" (U.S. Customs Form 7533) should be filed.

(b) The exporter or his authorized forwarding agent or a duly authorized officer of the carrier must obtain a permit to export from the U.S. Customs and Border Protection. The original declaration covering shipment by vessel to a foreign country must be verified by a notary public, customs officer, or other person authorized to administer oaths. Oath is not required on declaration covering shipment by rail, air, or water to the United States and its territories and possessions or to the Canal Zone, but is required on declaration covering shipment to any other country. (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (aa), (ab), (ac), (ad), (ae), (af), (ag), (ah), (ai), (aj), (ak), (al), (am), (an), (ao), (ap), (aq), (ar), (as), (at), (au), (av), (aw), (ax), (ay), (az), (ba), (bb), (bc), (bd), (be), (bf), (bg), (bh), (bi), (bj), (bk), (bl), (bm), (bn), (bo), (bp), (bq), (br), (bs), (bt), (bu), (bv), (bw), (bx), (by), (bz), (ca), (cb), (cc), (cd), (ce), (cf), (cg), (ch), (ci), (cj), (ck), (cl), (cm), (cn), (co), (cp), (cq), (cr), (cs), (ct), (cu), (cv), (cw), (cx), (cy), (cz), (da), (db), (dc), (dd), (de), (df), (dg), (dh), (di), (dj), (dk), (dl), (dm), (dn), (do), (dp), (dq), (dr), (ds), (dt), (du), (dv), (dw), (dx), (dy), (dz), (ea), (eb), (ec), (ed), (ee), (ef), (eg), (eh), (ei), (ej), (ek), (el), (em), (en), (eo), (ep), (eq), (er), (es), (et), (eu), (ev), (ew), (ex), (ey), (ez), (fa), (fb), (fc), (fd), (fe), (ff), (fg), (fh), (fi), (fj), (fk), (fl), (fm), (fn), (fo), (fp), (fq), (fr), (fs), (ft), (fu), (fv), (fw), (fx), (fy), (fz), (ga), (gb), (gc), (gd), (ge), (gf), (gg), (gh), (gi), (gj), (gk), (gl), (gm), (gn), (go), (gp), (gq), (gr), (gs), (gt), (gu), (gv), (gw), (gx), (gy), (gz), (ha), (hb), (hc), (hd), (he), (hf), (hg), (hh), (hi), (hj), (hk), (hl), (hm), (hn), (ho), (hp), (hq), (hr), (hs), (ht), (hu), (hv), (hw), (hx), (hy), (hz), (ia), (ib), (ic), (id), (ie), (if), (ig), (ih), (ii), (ij), (ik), (il), (im), (in), (io), (ip), (iq), (ir), (is), (it), (iu), (iv), (iw), (ix), (iy), (iz), (ja), (jb), (jc), (jd), (je), (jf), (jg), (jh), (ji), (jj), (jk), (jl), (jm), (jn), (jo), (jp), (jq), (jr), (js), (jt), (ju), (jv), (jw), (jx), (jy), (jz), (ka), (kb), (kc), (kd), (ke), (kf), (kg), (kh), (ki), (kj), (kk), (kl), (km), (kn), (ko), (kp), (kq), (kr), (ks), (kt), (ku), (kv), (kw), (kx), (ky), (kz), (la), (lb), (lc), (ld), (le), (lf), (lg), (lh), (li), (lj), (lk), (ll), (lm), (ln), (lo), (lp), (lq), (lr), (ls), (lt), (lu), (lv), (lw), (lx), (ly), (lz), (ma), (mb), (mc), (md), (me), (mf), (mg), (mh), (mi), (mj), (mk), (ml), (mm), (mn), (mo), (mp), (mq), (mr), (ms), (mt), (mu), (mv), (mw), (mx), (my), (mz), (na), (nb), (nc), (nd), (ne), (nf), (ng), (nh), (ni), (nj), (nk), (nl), (nm), (nn), (no), (np), (nq), (nr), (ns), (nt), (nu), (nv), (nw), (nx), (ny), (nz), (oa), (ob), (oc), (od), (oe), (of), (og), (oh), (oi), (oj), (ok), (ol), (om), (on), (oo), (op), (oq), (or), (os), (ot), (ou), (ov), (ow), (ox), (oy), (oz), (pa), (pb), (pc), (pd), (pe), (pf), (pg), (ph), (pi), (pj), (pk), (pl), (pm), (pn), (po), (pp), (pq), (pr), (ps), (pt), (pu), (pv), (pw), (px), (py), (pz), (qa), (qb), (qc), (qd), (qe), (qf), (qg), (qh), (qi), (qj), (qk), (ql), (qm), (qn), (qo), (qp), (qq), (qr), (qs), (qt), (qu), (qv), (qw), (qx), (qy), (qz), (ra), (rb), (rc), (rd), (re), (rf), (rg), (rh), (ri), (rj), (rk), (rl), (rm), (rn), (ro), (rp), (rq), (rr), (rs), (rt), (ru), (rv), (rw), (rx), (ry), (rz), (sa), (sb), (sc), (sd), (se), (sf), (sg), (sh), (si), (sj), (sk), (sl), (sm), (sn), (so), (sp), (sq), (sr), (ss), (st), (su), (sv), (sw), (sx), (sy), (sz), (ta), (tb), (tc), (td), (te), (tf), (tg), (th), (ti), (tj), (tk), (tl), (tm), (tn), (to), (tp), (tq), (tr), (ts), (tt), (tu), (tv), (tw), (tx), (ty), (tz), (ua), (ub), (uc), (ud), (ue), (uf), (ug), (uh), (ui), (uj), (uk), (ul), (um), (un), (uo), (up), (uq), (ur), (us), (ut), (uu), (uv), (uw), (ux), (uy), (uz), (va), (vb), (vc), (vd), (ve), (vf), (vg), (vh), (vi), (vj), (vk), (vl), (vm), (vn), (vo), (vp), (vq), (vr), (vs), (vt), (vu), (vv), (vw), (vx), (vy), (vz), (wa), (wb), (wc), (wd), (we), (wf), (wg), (wh), (wi), (wj), (wk), (wl), (wm), (wn), (wo), (wp), (wq), (wr), (ws), (wt), (wu), (wv), (ww), (wx), (wy), (wz), (xa), (xb), (xc), (xd), (xe), (xf), (xg), (xh), (xi), (xj), (xk), (xl), (xm), (xn), (xo), (xp), (xq), (xr), (xs), (xt), (xu), (xv), (xw), (xx), (xy), (xz), (ya), (yb), (yc), (yd), (ye), (yf), (yg), (yh), (yi), (yj), (yk), (yl), (ym), (yn), (yo), (yp), (yq), (yr), (ys), (yt), (yu), (yv), (yw), (yx), (yy), (yz), (za), (zb), (zc), (zd), (ze), (zf), (zg), (zh), (zi), (zj), (zk), (zl), (zm), (zn), (zo), (zp), (zq), (zr), (zs), (zt), (zu), (zv), (zw), (zx), (zy), (zz).

c) Destination of agent must be in writing and signed by the exporter on declaration or in separate document providing similar authorization, which shall be filed with the collector. Export control regulations define a "forwarding agent" as a person authorized by a named exporter to perform for the exporter actual services which facilitate exportation of goods, such as the preparation of documents, the securing of shipping space, the forwarding of documents to the Collector of Customs or the forwarding of documents to the destination of the goods, or the forwarding of goods to the place of destination of the shipment by submission of documents to the Collector of Customs or to export control officers, securing cargo space or delivering the commodities to the export-carrier, obtaining bills of lading in connection with the exportation, and attending to the forwarding of goods to the destination of the shipment by forwarding bills of lading, but which is not regularly engaged in the freight forwarding business; but

Q. An authenticated declaration evidencing the existence of a validated export license is an exportation permitted by an applicable general license. It is a violation of the export control law and regulations for any person to receive, use, alter, or assist in collecting, or to cause to be collected, any such validated export license from a Customs collector. Customs in connection with the exportation of any commodity under a general or validated export license, for the purpose of facilitating or effecting any exportation other than that authorized by such license, may require the person receiving the validated export license to furnish, in addition to the validated export license, a declaration evidencing the unauthorized change, alteration, or amendment may not take any action to facilitate the exportation of such commodity without the consent of the nearest Customs collector. The exportation to such collector.

[illegible]

Revised May 1954.

For sale by the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C.

EXHIBIT B

COMPLETE TEXT OF BILL S. 2289 AS IT WOULD BE REVISED BY THE AMENDMENTS
PROPOSED HEREIN

[Insertions in italic]

A BILL, To amend sections 4200 and 337 of the Revised Statutes of the United States so as to eliminate the oath requirement with respect to certain export manifests.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4200 of the Revised Statutes of the United States (46 U.S.C. 92) is amended—

(1) by striking out "oath" in the first two sentences and inserting in lieu thereof "certification";

(2) by striking out "upon oath" in the third sentence and inserting in lieu thereof "by certification"; and

(3) by striking out that portion of the fourth sentence preceding the proviso and inserting in lieu thereof "The certifications shall be in writing." That section 337 of the Revised Statutes of the United States (15 U.S.C. 174) is amended—

(1) by striking out "oath" in the third sentence of the paragraph numbered "Fifth" and inserting "certification."

EXHIBIT C

Below is the conformed text of 46 U.S.C. 92, as it would be amended by S. 1289 (and/or H.R. 4744) :

"§ 92. Manifests of shippers

"Before a clearance shall be granted for any vessel bound to a foreign port, the owners, shippers, or consignors of the cargo of such vessels shall deliver to the collector manifests of the cargo, or the parts thereof shipped by them respectively, and shall verify the same by [oath] *certification*. Such manifests shall specify the kinds and quantities of the articles shipped respectively, and the value of the total quantity of each kind of article; and the [oath] *certification* to each manifest shall state that it contains a full, just, and true account of all articles laden on board of such vessel by the owners, shippers, or consignors, respectively, and that the values of such articles are truly stated, according to their actual cost, or the values which they truly bear at the port and time of exportation. And before a clearance shall be granted for any such vessel, the master of that vessel, and the owners, shippers, and consignors of the cargo, shall state, [upon oath] *by certification*, to the collector, the foreign port or country in which such cargo is truly intended to be landed. [The oaths shall be taken and subscribed in writing:] *The certification shall be in writing*: Provided, That in order that the commerce of the United States may move with expedition and without undue delay, the Commissioner of Customs is authorized to make regulations permitting the clearance of a vessel having on board cargo destined to a foreign port or to a port in noncontiguous territory belonging to the United States, before delivery to the collector of customs of shippers' manifests or export declarations of the cargo laden on board, upon receipt by the collector of a bond with security approved by him in the penal sum of \$1,000, conditioned that the complete shippers' manifests or export declarations of all cargo laden aboard such vessel shall be filed with him not later than the fourth business day after the clearance of the vessel * * *."

Following is the conformed text of 15 U.S.C. 174, as it would be amended by S. 1289 (and/or H.R. 4744) :

"§ 174. Regulations imposed on collectors

"In order to enable the Director of the Bureau of Foreign and Domestic Commerce to prepare the annual report on the statistics of commerce and navigation required to be submitted to Congress by the Secretary of Commerce, the following regulations shall be observed by all collectors of customs :

"First. The kinds and quantities of all imported articles free from duty shall be ascertained by entry, made upon oath or affirmation, by the owner, or by the consignee or agent of the importer, or by actual examination, where the collector shall think such examination necessary; and the values of all such ar-

ticles shall be ascertained in the same manner in which the values of imports subject to duties ad valorem are ascertained.

"Second. The values of all imported articles subject to specific duties shall be ascertained in the manner in which the values of imports subject to duties ad valorem are ascertained.

"Third. The several collectors shall keep separate accounts of the kinds, quantities, and values of such parts of the imports subject to duties ad valorem as may be directed by the Secretary of Commerce.

"Fourth. All articles exported shall be valued at their actual cost, or the values which they may truly bear, at the time of exportation, in the ports of the United States from which they are exported, and all articles imported shall be valued at their actual cost, or the values which they may truly bear in the foreign ports from which they are exported for importation into the United States, at the time of such exportation.

"Fifth. Before a clearance shall be granted for any vessel bound to a foreign place, the collector shall require the owners, shippers, or consignors of the cargo to deliver to the collector manifests of the cargo, or of the parts thereof shipped by them respectively, which manifests shall specify the kinds and quantities of the articles shipped by them respectively and the value of the total quantity of each kind of articles; and state that such manifest contains a full, just, and true account of all articles laden on board of such vessel by the owners, shippers, or consignors, respectively, and that the values of such articles are truly stated, according to their actual cost, or the values which they truly bear at the port and time of exportation. And the collector shall also require the master of the vessel, and the owners, shippers, and consignors of the cargo, to state in writing, to the collector, the foreign place or country in which such cargo is truly intended to be landed. The manifests and statements hereby required shall be verified by the [oath] certification of the person by whom they are respectively made and subscribed."

EXHIBIT D

EXTRACT FROM CONGRESSIONAL RECORD, SENATE, MARCH 10, 1961 (P. 3458)

ELIMINATION OF OATH REQUIREMENT WITH RESPECT TO CERTAIN EXPORT MANIFESTS

Mr. MAGNUSON. Mr. President, on behalf of myself, and the Senator from California (Mr. Kuchel), by request, I introduce, for appropriate reference, a bill to amend section 4200 of the Revised Statutes of the United States so as to eliminate the oath requirement with respect to certain export manifests. I ask unanimous consent that an explanation of the proposed amendment be printed in the Record.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the explanation will be printed in the Record.

The bill (S. 1289) to amend section 4200 of the Revised Statutes of the United States so as to eliminate the oath requirement with respect to certain export manifests, introduced by Mr. Magnuson (for himself and Mr. Kuchel), by request, was received, read twice by its title, and referred to the Committee on Interstate and Foreign Commerce.

The explanation presented by Mr. Magnuson is as follows:

"Title 46, United States Code, section 92, requires an oath on shipper's export declarations when filed with the collector of customs. This oath requirement imposes a burden on the public and also on the collector of customs. The workload of the customs house is increased to the extent necessary to return shipper's export declarations for the required verification when it is inadvertently omitted. Inconvenience, delay, and expense to both the Government and the public result.

"Ample precedent for this proposed change exists. Treasury Decision No. 53268 of May 25, 1953, is an example of how this problem has been taken care of administratively by the Treasury Department. It reads, in part, as follows:

"To eliminate the administrative requirement of oaths the customs regulations of 1943 (19 CFR, ch. 1), as amended, are amended as follows: Paragraph 3.71 is amended by substituting "certify" for "make oath" in the first sentence."

"At present, legislation is being processed through the Congress to amend the Federal Communications Act by eliminating the requirement of an oath or affirmation on certain documents filed with the Federal Communications Commission.

"Title 18, section 1001, United States Code, provides that whoever makes any false or fraudulent statements or representations concerning any matter within the jurisdiction of any department or agency of the United States shall be punished by a fine of not more than \$10,000 or imprisoned for not more than 5 years, or both.

"It is obvious, therefore, that the elimination of the oath requirement would not adversely affect the interest of the Government and would, in fact, benefit both exporters and the Government at a time when our Government is very actively endeavoring to increase our exports."

APRIL 19, 1961.

Re H.R. 4744, elimination of oath requirement on shipper's export declaration.
MR. EDGAR W. HIESTAND,
Old House Office Building, Washington, D.C.

DEAR MR. HIESTAND: I sincerely believe that the subject bill should be given your careful consideration and that your assistance in expediting its acceptance as a law will result in savings in time and money to the Government, exporters, foreign freight forwarders, and steamship operators.

Very truly yours,

RODOLFO F. FIGUEROA.

Senator BARTLETT. Do you want to offer a specific amendment?

Mr. HIESTAND. It's in the statement, that section 337 of the Revised Statutes of the United States, 15 U.S.C. 174 is amended, No. 1, by striking out "oath" in the third sentence of the paragraph numbered "fifth" and inserting "certification."

It's one of those places we didn't have it.

And the heading should also be revised to read: "To amend sections 4200 and 337 of the Revised Statutes." That was agreed to by the House subcommittee and no doubt will be a committee amendment there.

Senator BARTLETT. Thank you very much for coming over and presenting your views.

Mr. HIESTAND. Thank you. I appreciate your courtesy.

Senator BARTLETT. Thank you, sir.

Mr. Ely, Chief of the Foreign Trade Division, Bureau of the Census, who will testify on the same bill.

Mr. Ely.

STATEMENT OF J. EDWARD ELY, CHIEF, FOREIGN TRADE DIVISION, BUREAU OF THE CENSUS

Mr. ELY. This letter is in reply to your request dated March 16, 1961, for the views of this Department with respect to S. 1289, a bill to amend section 4200 of the Revised Statutes of the United States so as to eliminate the oath requirement with respect to certain export manifests.

A bill, H.R. 2032 has been introduced which would provide for the collection and compilation of foreign trade statistics. One of the provisions of that bill is the repeal of present laws under which foreign trade statistics are collected and compiled, including the repeal of the laws requiring an oath on export declarations.

I would like to interject, from the prepared statement, to note that Mr. Hiestand did point out that this other bill does eliminate other redtape and gets an orderly fashion out of very archaic laws which are involved in the compiling of foreign trade statistics, much of which dates back to 1820, and has been amended in patch-work fashion.

ion and at times has been amended only in part with other related statutes not involved, so that the administration has been working on getting a bill which would get rid of the redtape, as Mr. Hiestand calls it, in a number of places in the foreign trade statistic operation or requirements, including this one of oath.

The next part of the letter deals with this amendment which Mr. Hiestand has now revised, this law. We pointed out in the letter there was an oversight in the draft of the bill as presented.

Since the repealer section of H.R. 2032 would eliminate both Revised Statutes 4200 and 337, in addition to providing a modernized and a more efficient and economical method of collecting and compiling foreign trade statistics, this Department prefers enactment of legislation such as H.R. 2032 with the following amendments:

Line 8, page 2, be amended by striking "except for Alaska and Hawaii." Line 12, page 2, be amended by striking the first three words and substituting, "and shall," and in the same line the words "in statistical form" be stricken.

These are editorial changes.

Line 8, page 3, be amended following the sentence ending "hereunder" by the insertion of a new sentence to read as follows: "The Secretary may also provide by rule or regulation for such confidentiality, publication, or disclosure, of information collected hereunder as he may deem necessary or appropriate in the public interest."

May I interject, which is intended to get rid of a great deal of redtape in these requirements.

However, if the Congress does not enact H.R. 2032, this Department would be in favor of the enactment of S. 1289.

The Bureau of the Budget advised there would be no objection to the submission of this report from the standpoint of the administration's program.

In general, the legislation is in real need of getting rid of contradictions in the requirements, overlapping requirements, and places that are really contradictory, as well as providing for such very simple things as filing of export declarations for shipments by truck, because much of our legislation goes back before there were any trucks and air carriers involved in the foreign trade.

So what we have here in H.R. 2032 is an omnibus bill that would get rid of the redtape and confusion in many areas, including the elimination of the oath which is provided for in S. 1289.

So we would prefer the more orderly procedure of amending the whole basic legislation.

Thank you.

Senator BARTLETT. Mr. Ely, do you know the status of H.R. 2032?

Mr. ELY. Well, it's in the House, and following this statement, which presents the Secretary of Commerce's and the administration's views on 1289, which I have just read, there will be a letter to you from the Secretary of Commerce asking that you give consideration to the same sort of bill as H.R. 2032 with the amendments which I mentioned.

Senator BARTLETT. Now, if you will be so good as to educate the acting chairman, what does the law now require?

Mr. ELY. On the oath or on everything?

Senator BARTLETT. On the oath.

Mr. ELY. On the oath. There's a requirement for oath on vessel shipments only, and this goes away back to 1820. I might say this oath requirement is a very historic requirement.

Senator BARTLETT. What form does this making of the oath take?

Mr. ELY. Normally, the most common practice is for the oath to be taken in the collector of custom's office by a customs employee, so there is no charge for the oath and it's part of the filing of the document which must be done in person anyway, so that the burden is not one of having to go find a corner notary and get it notarized. Although some of the freight forwarders and exporters may have their own notary, they can have it done in the customhouse to file before the shipment is allowed to be loaded on the vessel.

Senator BARTLETT. What is in the document before the oath? What does it say?

Mr. ELY. Well, this is the export declaration form which is prepared for each export shipment out of the United States. It consists of a description in certain required terms of the commodity being exported, the quantity of it, the dollar value of it, where it's going; and I might add that this also is a document which is used for export control purposes. It's a joint statistical export document, so that there are certain requirements which are applicable for export control purposes as well as statistical purposes.

Senator BARTLETT. Now, if S. 1289 were to be enacted, would it mean that the export declaration would continue to be filed, but no oath would be made?

Mr. ELY. That is correct.

Senator BARTLETT. And you would have all the information needed?

Mr. ELY. That is correct.

Senator BARTLETT. Do you know why it was that originally the oath was required?

Mr. ELY. I have read the hearings of 1819 several years ago and apparently this was a matter of very bad information being given for the statistics. The Congress at that time was very concerned with the U.S. export statistics being so poor, and they undoubtedly required the oath as a method of getting more accurate information on the U.S. exports.

Senator BARTLETT. And you have no fear now that if the oath requirement is eliminated the data furnished to you will not be lacking?

Mr. ELY. I think this is true.

Taking this one area of it, the provisions of 1001 for providing information of material importance to the Government which is not correct would still be applicable. The difficulty, as we see it, is that the whole requirements that were originally instituted in 1820 need refurbishing, and that's what this H.R. 2032 is intended to do in order to make sure that there is provision for the getting of accurate information.

The provisions are not good provisions. Now I'm not saying that the badness in the provisions is overcome by the oath. It would seem to us that the Congress and everyone else wants to get good export statistics, and there's a need of complete refurbishing of which that would be one property.

Senator BARTLETT. Did you say the Secretary of Commerce is going to write a letter to the chairman and urge that the provisions of H.R. 2032 be incorporated in the bill?

Mr. ELY. Be introduced in the Senate; that is right.

Senator BARTLETT. Thank you very much. The Commerce report on S. 1289 will be placed in the record here.

It might be said at this point that the chairman has received a letter dated April 18 from the Grace Line, Inc., San Francisco, endorsing the bill, S. 1289; the Pacific American Steamship Association, by letter dated April 24 and signed by J. Monroe Sullivan, the vice president of the association, has done likewise; also, the Commerce and Industry Association of New York, letter dated March 27 of this year, signed by Joseph A. Sinclair, director of international trade relations. Also there are letters from Robert H. Langner, manager of the Marine Exchange, Inc., San Francisco; port of San Diego; Los Angeles Chamber of Commerce; Los Angeles Steamship Association; Safeguard International; American Potash & Chemical Corp.; the Firestone Tire & Rubber Co.; R. M. Hollingshead Corp.; Orange Products Division, Sunkist Growers—they are for it, too; and W. D. Fraser, of Los Angeles, importers and dealers in seeds, wholesale only, and others. They are for the bill.

(Letters follow:)

LOS ANGELES STEAMSHIP ASSOCIATION,
Los Angeles, Calif., April 19, 1961.

HON. WARREN G. MAGNUSON,
Old Senate Office Building, Washington, D.C.

DEAR MR. MAGNUSON: Our association desires to be on record in support of the proposed bill S. 1289 having to do with the elimination of notary requirements on shipper's export declarations.

As you are well aware, the Internal Revenue Service has long since eliminated the notarial oath on income tax returns and substituted a certification. There is no requirement for an oath to be taken for export shipments by rail, truck, or aircraft, and it seems only fair that it should now be eliminated on shipments by vessel, to reduce the burden of work which is required.

May we respectfully urge your strong support in the passage of this legislation.

Yours very truly,

MAX J. LINDER, *President.*

FOREIGN TRADES ASSOCIATION OF SOUTHERN CALIFORNIA,
Los Angeles, Calif., April 18, 1961.

HON. WARREN MAGNUSON,
U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR: The board of directors of the Foreign Trade Association have instructed me to write conveying the sentiments of this association concerning Senate bill 1289 which proposes the elimination of the shipper's oath presently required on export declarations.

It is the opinion of this association that the oath presently required serves no particularly useful purpose and its elimination would be a progressive step in the direction of customs simplification. Our membership consists of over 300 exporters and importers and other industries relating to foreign trade. This includes broad representation among freight forwarders and customhouse brokers, steamship companies, international banking departments, insurance companies, and many others. A survey of this membership concerning Senate bill 1289 indicates that very generally the members feel that the requirement for the oath impedes the rapid handling of documents and that its elimination would serve to encourage more people to enter into the spirit of the export expansion program.

We urgently request your support of this bill and trust it will receive a favorable hearing. If this association can be of service to you in the way of providing additional information or by other means, we hope that your office will feel free to call upon us.

Very truly yours,

R. D. KLEIST, *President.*

THE QUAKER OATS CO.,
Chicago, Ill., April 26, 1961.

HON. W. G. MAGNUSON,
Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: This is in reference to S. 1289, which I understand has been referred to the Committee on Interstate and Foreign Commerce and provides for the elimination of the notarial oath requirement on shipper's export declarations.

In a year of normal business the Quaker Oats Co. exports in excess of 10,000 shipments. As it takes an average of 3 minutes per shipment to notarize this oath we spend about 500 hours per year in this activity which serves no purpose and benefits no one. This absolute waste must cost the U. S. Government, shippers, and steamship companies many millions of dollars annually.

We encounter the strongest competition from foreign manufacturers in the world marketplace. We often lose business to these competitors even when we quote prices which are below our production costs. Surely it is not proper for our Government to insist on useless regulations which increase our costs and thereby reduce our ability to compete.

It is noted that under the proposed bill the export declaration must be signed, subject to the penalties of perjury and falsification of Federal documents. When it is realized that the notarial oath requirement in connection with shipper's export declaration applies only to steamship transportation and not on rail or truck shipments to Mexico or Canada nor on air shipments anywhere its superfluity becomes apparent. Incidentally, the Internal Revenue Service long ago recognized that a notarial oath was unnecessary on income tax returns and abandoned it in favor of a certification such as is suggested by S. 1289.

I am convinced the passage of S. 1289 will be of material assistance to all companies in the United States engaged in foreign commerce and respectfully petition your full support of it. It will be most appreciated if you make this letter a part of the record in the hearings on this bill.

I am taking the liberty of sending a copy of this letter to Senators Dirksen and Douglas of Illinois and Senators Hickenlooper and Miller of Iowa; a high percentage of our exports originate at Cedar Rapids, Iowa.

Yours very truly,

J. R. STALEY, Vice President.

AMERICAN MERCHANT MARINE INSTITUTE, INC.,
Washington, D.C., April 24, 1961.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: The American Merchant Marine Institute, Inc., a trade association representing the preponderance of American-flag shipping, favors enactment of S. 1289 which is being considered by your committee.

The bill would amend section 4200 of the Revised Statutes of the United States by eliminating the requirement of an oath on shippers' manifests of the cargo, and replacing it with a certification requirement.

Compliance with the existing notarization requirement is burdensome to private industry and the collectors of customs both money- and time-wise. Shipping companies often find it necessary to perform portside documentation functions; improperly notarized documents must be returned by the Bureau of Customs, both resulting in shipping delays.

It is estimated that in the San Francisco customs office the full time of one employee is required to stamp and sign declarations. When this is multiplied by the number of offices throughout the United States it is easily seen that elimination of the requirement would result in a substantial saving to the Government. And a considerable amount of time is spent by the employees of exporters who must wait their turn for notarizations at customshouses throughout the country. More than 3 million export declarations are filed each year at U.S. ports. The saving of 2 minutes for each declaration would amount to about 100,000 man-hours per year.

We wish to emphasize that the elimination of the requirement would in no wise operate to the adverse interest of the Government. Ample protection is afforded by section 1001, title 18, United States Code, which provides for a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both, for

making any false or fraudulent statements or representations concerning any matter within the jurisdiction of any department or agency of the U.S. Government.

Enactment of the proposed measure would facilitate the movement of exports in that it would eliminate a nonessential step in processing export declarations. This is particularly important now, when our Government is concerned about increasing our exports.

For the reasons expressed herein, it is urged that S. 1289 be given your favorable consideration. It is requested that this letter be made a part of the record of this bill.

Yours very truly,

ALVIN SHAPIRO.

PACIFIC AMERICAN STEAMSHIP ASSOCIATION,
Washington D.C., April 24, 1961.

Subject: S. 1289, eliminates oath on export declarations.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Our association supports this subject legislation because the oath requirement is a great burden on exporters and on shipping companies in that we are frequently asked to perform portside documentation functions for many shippers.

In the past few years, a number of administrative decisions have been made to remove requirements for notarized oaths and substituting therefor a simple certification. The present oath requirement is not necessary since the penal provisions of title 18, United States Code provide adequate protection to the Government. Thus, approval of this legislation will not eliminate any enforcement authority which the Government desires and will be in conformity with administrative practice throughout the Government.

The present notarization requirement involves the expenditure of time and money by both Government and private industry. The Bureau of Customs must return improperly notarized documents, thus causing delays to shippers and involving staff time. The San Francisco customs district handles some 24,000 declarations per month, of which approximately 75 percent are notarized at the customhouse, the balance being notarized at the office of the shipper or at the offices of notaries public. Each document now requires a stamp and signature by a customs official. We are advised that, in the San Francisco customs office alone, there is sufficient work of this type to consume the time of one full-time employee. In addition to this, similar time is used by private shipping firms. When the time involved to notarize these documents is multiplied by hundreds of thousands throughout the country, it is clear that both time and money can be saved by this legislation.

In addition to the direct time spent in actual notarization, a great deal of time is wasted by the employees of exporters standing in line at the customs houses all over the country waiting for notarizations. This is particularly true where a large number of ships sail over a span of a few days. If 2 minutes were saved for each of the 3-million-plus export declarations filed at all U.S. ports each year, there would be a saving of approximately 100,000 man-hours per year.

It has been called to our attention that an amendment to S. 1289 is needed in order to fully eliminate this oath requirement. This amendment follows: "Amend section 337 of the Revised Statutes of the United States (15 U.S.C. 174) by striking out the word, 'oath', in the third sentence of the fifth paragraph and inserting in lieu thereof the word, 'certification'."

We are always seeking an opportunity to help our shippers become and remain competitive in world markets. We feel that this legislation will be a small but significant step in that direction and, for the above reasons, we strongly urge its approval.

It is respectfully requested that this letter be made a part of the official hearing record on this bill.

Yours very truly,

J. MONROE SULLIVAN.

REDLANDS, CALIF., April 14, 1961.

HON. WARREN G. MAGNUSON,
*Chairman, Senate Committee on Commerce,
Old Senate Office Building, Washington, D.C.:*

Understand S. 1289 and H.R. 4744 scheduled for hearing April 24. Since intent is to eliminate necessity notarizing customs declarations for vessel shipments which is time consuming and expensive and not required for rail, air, or truck declarations, as shipper large quantities via vessel urge your immediate and followup support and approval.

WRIGHT E. TOALSON,
Traffic Manager, Pure Gold, Inc.

NEW YORK, N.Y., April 24, 1961.

Senator WARREN G. MAGNUSON,
Senate Office Building, Washington, D.C.:

Our league representing over hundred international manufacturing trading shipping organizations in New York area concurs provisions S. 1289 to eliminate notarization shippers export declarations and urge every action assure prompt passage.

FRANK J. MEADE,
President, National Export Traffic League, Inc.

SAFEGUARD INTERNATIONAL,
Upper Darby, Pa., April 19, 1961.

Re Senate Bill 1289.

HON. WARREN G. MAGNUSON,
*Chairman, Commerce Committee,
U.S. Senate, Washington, D.C.*

HON. WARREN G. MAGNUSON: We have been advised that at long last there is being considered a bill which will eliminate the necessity of notarizing export declarations on ocean freight shipments.

It is not presently necessary to notarize an export declaration on air or parcel post shipments, and no valid reason has ever been proposed to prove the need for notarizing ocean and rail freight shipments.

This is the source of unnecessary cost and inconvenience that should be eliminated. Your favorable vote on this will be deeply appreciated.

Respectfully yours,

MARCY F. RODERICK, *President.*

AMERICAN POTASH & CHEMICAL CORP.,
Los Angeles, Calif., April 18, 1961.

Subject: Bills S. 1289 and H.R. 4744.

HON. WARREN G. MAGNUSON,
Old Senate Office Building, Washington, D.C.

DEAR MR. MAGNUSON: We have been told that hearings will be scheduled on the above companion bills for April 24. These bills provide for elimination of notarial oath on shipper's export declarations.

We are in favor of passage of this bill. The present requirement that these declarations be sworn to before a notary public or customs official is time consuming and annoying, particularly when a similar oath is not required on export shipments by rail, truck or aircraft.

I hope you will see your way clear to recommending passage of this bill.

Very truly yours,

C. M. QUINN, *Traffic Manager.*

THE FIRESTONE TIRE & RUBBER CO.,
Los Angeles, Calif., April 14, 1961.

HON. WARREN G. MAGNUSON,
Old Senate Office Building, Washington, D.C.

DEAR MR. MAGNUSON: We understand that as chairman of the Senate Committee on Interstate and Foreign Commerce you have scheduled a hearing for April 24 on bill S. 1289. We request that this letter be included in the record of the hearing in support of this legislation.

We have considered the proposal and believe that the elimination of the statute requirement that declarations or manifests be sworn to before a notary public or customs official will save for shippers, carriers, and customs officers substantial amounts of time now unnecessarily wasted. We think that the proposed certification, under penalty of perjury and falsification of Federal documents, as outlined in form 7525-V, is ample protection to the Government. The Internal Revenue Service has long since eliminated the notarial oath on income tax returns and substituted such a certification. Furthermore, the oath is not required nor taken on export shipments by rail, truck, or aircraft. The oath is required only on shipments by vessel. If this oath was really necessary, we believe that in view of the volume of shipments by these other means of transport, Government officials would long since have taken action to obtain same on such declarations.

We therefore advocate passage of this bill as being in the public interest and ask your support accordingly.

Very truly yours,

H. F. GULDE, *Traffic Manager.*

R. M. HOLLINGSHEAD CORP.,
Camden, N.J., April 17, 1961.

HON. WARREN G. MAGNUSON,
*Chairman, Commerce Committee,
Old Senate Office Building, Washington, D.C.*

DEAR SENATOR MAGNUSON: I understand that the above is scheduled for hearing April 24.

Request this letter be included in record of the hearing: I request that same be included in support of such legislation.

What bill does: It does a very simple thing—it eliminates the requirements for notarization on the shipper's export declaration.

What is a shipper's export declaration? It is a document filed by every American supplier when shipping overseas, as per copy attached.

Imagine! A notary seal or oath necessary on a statistical paper: Think of the absurdity of requiring same, when it is not required on the following:

Income tax returns: No notary oath or seal is required.

Export licenses: I was instrumental in having them eliminated in 1941, when export licenses were started.

Great saving for Philadelphia customs office: I have learned that the Philadelphia district processes approximately 100,000 shipper's export declarations yearly, and passage of the above bill would eliminate a terrific amount of work for the customs officers throughout the United States. The saving in time and effort would be terrific.

Would eliminate 2,300,000 notarizations: It is estimated that the savings would be that great.

No one would lose their notary fee: The majority of the shipper's export declarations are made out by the foreign freight forwarders (customs house brokers), and they do not make a charge for notarization.

Simple bill—eliminate unnecessary work: This is one of the bills that I think Congress would enjoy passing immediately, and without further delay.

Export men have been trying to get this thing changed for the last 20 years: Heretofore, it was embodied in other bills which do a lot of things on other Governmental papers.

Approved by the U.S. Government: I have letters from both of the following Departments of the U.S. Department of Commerce, saying that they heartily approve of doing away with notarizations, and passing the above bill: Bureau of Foreign Commerce, and Bureau of the Census.

Know no one that is opposed to doing away with notarization: I can assure you, I have never met anyone who opposed this legislation which would eliminate notarization.

Trusting you will do your best to assure passage of the above bill, I am,

Yours sincerely,

W. H. LUKENS,
Vice President, Export.

ORANGE PRODUCTS DIVISION,
SUNKIST GROWERS,
Ontario, Calif., April 17, 1961.

HON. WARREN G. MAGNUSON,
Old Senate Office Building, Washington, D.C.

DEAR MR. MAGNUSON: We understand a hearing has been scheduled for April 24, 1961, on the proposed bill S. 1289. We respectfully request this letter be included in support of this legislation.

We have carefully considered the above proposal and are convinced if said proposal passes that it will save substantial amounts of time for shippers, carriers and customs, that is now unnecessarily wasted and that the proposed certification, under penalty of perjury and falsification of Federal documents, as outlined in Form 7525-V, is ample protection to the Government. This certification has been substituted for the notarial oath that was once required by the Internal Revenue Service on income tax returns. The notarial oath is not required for shipments by rail, truck, or via air. We are quite certain that if this oath served a purpose, in view of the increased volume of shipments by these modes of transportation, the Government would have long ago taken steps to obtain an oath on such declarations.

In view of the above we strongly urge the above proposal be approved.

Very truly yours,

C. D. VAN TREESE,
Acting Traffic Manager.

LOS ANGELES, CALIF., April 14, 1961.

HON. WARREN G. MAGNUSON,
Old Senate Office Building, Washington, D.C.

DEAR MR. MAGNUSON: We understand that you as chairman of the Senate Committee on Interstate and Foreign Commerce have scheduled a hearing for April 24 on the proposed bill S. 1289. We respectfully request that this letter be included in the record of the hearing, in support of this legislation.

After careful consideration of this proposal, we are convinced that the elimination of the statute requirement that these declarations of manifests be sworn to before a notary public or customs official will save for shippers, carriers, and customs officers substantial time now unnecessarily wasted; and that the proposed certification, under penalty of perjury and falsification of Federal document, as outlined in Form 7525-V, is ample protection to the Government. The International Revenue Service has long since eliminated the notarial oath on income tax returns and substituted such a certification. Furthermore, the oath is not required on other carriers, but only on shipments by vessel. If the oath really served a purpose we are confident that in view of the volume of shipments by these other means of transport, Government officials would long since have been taking action to obtain an oath on such declarations. Not only have they not moved in that direction, but it is our understanding that they are wholeheartedly in sympathy with proposals to eliminate the oath requirements on exportations by vessel.

Therefore we strongly urge a do pass recommendation on this bill, or any similar legislation.

Very truly yours,

W. D. FRASER.

COMMERCE & INDUSTRY ASSOCIATION OF NEW YORK, INC.,
New York, N.Y., March 27, 1961.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: Elimination of the requirement for notarization of the shipper's export declaration, which enactment of this bill would provide, will result in appreciable savings by shippers, carriers, and customs officials without, in our judgment, any reduction in the accuracy of information furnished, the effectiveness of export control, or in the protection of the Government.

The fact that the requirement for notarization of income tax returns was removed several years ago, apparently without any adverse effect on the revenue, would appear to be adequate evidence that the notarized requirement for export declarations serves no practical purpose.

As far as we are aware this is not a controversial issue and there would appear to be no need for public hearings.

We urge, therefore, that your committee give prompt and favorable consideration to S. 1289.

Sincerely,

JOSEPH A. SINCLAIR,
Director, International Trade Relations.

MARINE EXCHANGE, INC.,
San Francisco, Calif., March 16, 1961.

Regarding S. 1289 and H.R. 4744.

Hon. WARREN G. MAGNUSON,
*Senate Office Building,
Washington, D.C.*

DEAR SENATOR MAGNUSON: The Marine Exchange of the San Francisco Bay region strongly urges enactment by the Congress of the above recently introduced legislation which would eliminate the notarial oath requirement on shipper's export declarations covering cargoes exported by sea.

Acting unanimously upon the recommendation of the exchange's maritime facilitation committee, the directors agreed with the results of the group's study that elimination of the obsolete notarization rule would have no adverse effects on either the Government or industry, and on the contrary would result in immediate and considerable savings of time and expense to both.

In addition to the many reasons for approving this legislation endorsed by our board, including the ample protection afforded the Government's export control program in adopting the substitute "certification" and that the present law discriminates against our water carriers since air and land exports do not require notarized declarations, it was noted that the action is consistent with the present heavy emphasis on increasing the volume and competitiveness of U.S. exports.

Removing a burdensome step involved in the preparation of each of the several million declarations filed annually by shippers will to that extent reduce the cumulative expense of exporting, and hence have a positive effect in reducing the cost of placing our goods in world markets.

Your sponsorship of this legislation is most constructive and we extend to you on behalf of the trade and shipping industry here our sincere appreciation.

Sincerely,

ROBERT H. LANGER, *Manager.*

PORT OF SAN DIEGO,
OFFICE OF THE PORT DIRECTOR,
San Diego, Calif., March 16, 1961.

Hon. WARREN G. MAGNUSON,
U.S. Senate, Washington D.C.

DEAR SENATOR MAGNUSON: The port of San Diego has been advised of Senate bill (S. 1289) introduced by Senator Kuchel and yourself as a companion bill to Congressman Hiestand's H.R. 4744. These bills, which would eliminate the requirement of notarization of shippers' export declarations, have been referred to the Senate Interstate and Foreign Commerce Committee and the House Merchant Marine and Fisheries Committee for action.

It is respectfully requested that these bills be reported out of committee with a do-pass recommendation at the earliest possible moment.

The elimination of the requirement for notarizing export declarations when moved via vessel will assist in saving American exporters several thousand dollars per year in both time and money. It will also eliminate the present discrimination against movement by vessel, since the oath requirement does not apply on exportations by truck or rail (e.g., to Mexico or Canada), or on any exportation by air.

Statements made by numerous people in governmental circles have indicated the necessity of assisting exporters in developing world markets. The removal of an unnecessary restriction will greatly assist in attaining this objective.

Your favorable action in this matter is therefore respectfully requested.

Very truly yours,

JOHN BATE.

LOS ANGELES CHAMBER OF COMMERCE,

Los Angeles, April 17, 1961.

Re S. 1280, elimination of oath requirements on shippers export declarations.

HON. WARREN G. MAGNUSON,
*Chairman, Senate Interstate and Foreign Commerce Committee,
 Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: It is understood that the referenced bill has been scheduled for hearing before the Interstate and Foreign Commerce Committee, of which you are chairman, on April 24, 1961.

The position of the Los Angeles Chamber of Commerce, supporting and endorsing this bill, has previously been made known to you by our letter dated March 27, 1961. At this time we wish to reemphasize our position, and it is respectfully requested that this letter be included in the record of the hearing in support of this legislation.

The Board of Directors of the Los Angeles Chamber of Commerce at its meeting on March 23, 1961, approved the report of its maritime and harbor affairs committee, recommending that the Los Angeles Chamber endorse and support S. 1289 and H.R. 4744, and any other properly drafted bill that has as its purpose the elimination of the oath requirement on shippers export declarations. A copy of the board report is enclosed for record.

The elimination of this archaic and unnecessary statutory requirement that export declarations and manifests be sworn to before a notary public or customs official will save shippers, carriers, and customs officials thousands of man-hours annually. It should be emphasized that the notarial oath requirement is applicable only to export shipments by water carrier. It does not apply to export shipments by air, rail, or truck. In view of this, it is logical to consider why, if this requirement is essential to export shipping by water carrier, it is not essential for export shipments by any other mode of transportation. In this connection it is notable that the notarial oath is a requirement of U.S. shipping laws, not administrative regulation.

The elimination of the notarial oath on export shipping declarations in no way lessens protection to the Government, since the proposed legislation provides for the certification of these documents. Certification, under penalty of perjury and falsification of Federal documents, as outlined in form 7525-V, is ample protection to the Government.

In view of the foregoing, the Los Angeles Chamber of Commerce strongly recommends and urges the passage of this legislation.

Sincerely,

H. C. McCLELLAN, *President.*

LOS ANGELES CHAMBER OF COMMERCE,

March 23, 1961.

COMMITTEE REPORT TO BOARD OF DIRECTORS

(Approved by boards of directors)

Committee: Maritime and Harbor Affairs, Fulton W. Wright, chairman.
 Subject: H.R. 4744 and S. 1289; elimination of notarization of shippers export declarations and manifests.
 Status: For action.

RECOMMENDATION

That the Los Angeles Chamber of Commerce endorse and support H.R. 4744 and S. 1289, and any other bill which has as its purpose the elimination of notarization of shippers export declarations and manifests.

BACKGROUND INFORMATION

For many years, the shipping industry has sought to eliminate the requirement of notarizing shipping export documents and manifests. It has been estimated that well in excess of a million such documents are notarized annually throughout the United States. For example, San Francisco customs district processes approximately 24,000 such documents monthly, while Los Angeles processes about 13,000 monthly. The time required to conduct such processing on the part of customs officials, shippers, and exporters runs into many thousands of man-hours per year.

The requirement that shippers' export declarations and manifests be signed before a notary public or customs officer authorized to administer oaths, is a requirement of U.S. shipping laws, not administrative regulation. It is notable that this is required only by laws governing the operation of vessels in foreign trade, whereas in exportations by rail or truck into Canada and Mexico and exportation by air to any place in the world, the notarial oath is not required on shippers' export declarations.

Bills have been introduced to the House and Senate in previous years to eliminate the notarial oaths, but because these bills contained other associated items for consideration that were controversial, they died in committee.

CONCLUSION

H.R. 4744 and S. 1289, a companion bill, is noncontroversial and has the support of export shippers, the maritime industry, U.S. Customs, and other Federal agencies concerned with export control. With the elimination of the notarial oath, now required on such documents, the Government would still be fully protected by signature of the shipper under penalty of perjury and penalty for falsifying Federal documents, just as in the case of Federal income tax returns. Accordingly, the committee believes that the above recommendation should be adopted by the board of directors.

U.S. BORAX,
MARKETING DEPARTMENT,
April 21, 1961.

Subject: Bills S. 1289 and H.R. 4744
Senator WARREN G. MAGNUSON,
Old Senate Office Building, Washington, D.C.

DEAR SIR: The National Industrial Traffic League is very seriously concerned with the amount of paperwork involved in making shipments in interstate and foreign commerce. It heartily favors any streamlining of clerical work that will reduce the cost of making shipments. Each time papers are handled by an individual the cost of performing the clerical work increases substantially.

The league therefore urges your favorable consideration of these two bills designed to eliminate the notarial oath requirements on shipments by vessel. Certification by the exporter acknowledges his awareness of the laws and export control regulations. This should be adequate assurance on ocean-going shipments as it is now on shipments by rail, air, and vehicle that the regulations have been complied with.

Respectively submitted,

W. E. MALEY,
*Chairman, Export-Import Traffic Committee,
the National Industrial Traffic League.*

GRACE LINE, INC.,
San Francisco, Calif., April 18, 1961.

HON. WARREN G. MAGNUSON,
Old Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: We are addressing you as chairman of the Senate Committee on Interstate and Foreign Commerce in connection with the hearing which we understand is scheduled for April 24 on the proposed bill S. 1289 (H.R. 4744) having to do with the elimination of notarial oath on shippers' export declarations.

This is very much in line with our overall ship documentation simplification work program, which Mr. Ralph B. Dewey, president of the Pacific American Steamship Association, reports was unanimously adopted by the IMCO meeting in London on April 14.

We are naturally very much interested in having this bill receive favorable action, and your assistance in this regard will be very much appreciated.

Very truly yours,

D. N. LILLEVAND.

(Subsequently, reports from the Secretary of the Treasury dated April 28, 1961, and the Secretary of Commerce dated April 24, 1961, were received, and are made part of the record at this point.)

THE SECRETARY OF THE TREASURY,
Washington, April 28, 1961.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: In your letter of March 13, 1961, you asked for the Department's comments on S. 1289, a bill to amend section 4200 of the Revised Statutes of the United States so as to eliminate the oath requirement with respect to certain export manifests.

The bill would amend section 4200 of the Revised Statutes, as amended (46 U.S.C. 92), to substitute for the requirement that the shippers' export manifests called for by that section be verified by oath the requirement that they be certified in writing. The oath requirement is no longer necessary in view of the provision, by section 1001 of title 18, U.S. Code, of a penalty for false statements made to the Government on material matters.

There is another provision of law which should be considered. The fifth paragraph of section 337 of the Revised Statutes (15 U.S.C. 174) also requires that export manifests be verified by oath. Since the substance of this paragraph is also contained in section 4200 of the Revised Statutes, as amended (46 U.S.C. 92), the fifth paragraph of section 337, above, can be repealed. Should your committee not wish to take this action, the paragraph should be amended in order to eliminate entirely the oath requirement. This can be done by amending the third sentence of the fifth paragraph of section 337 of the Revised Statutes (15 U.S.C. 174) to read as follows:

The manifests and statements hereby required shall be verified by certification of the person by whom they are respectively made and subscribed.

Subject to the above, the Treasury Department would have no objection to the enactment of S. 1289.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Very truly yours,

ROBERT H. KNIGHT,
Acting Secretary of the Treasury.

THE SECRETARY OF COMMERCE,
Washington, D.C., April 24, 1961.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reply to your request dated March 13, 1961, for the views of this Department with respect to S. 1289, a bill to amend section 4200 of the Revised Statutes of the United States so as to eliminate the oath requirement with respect to certain export manifests.

A bill, H.R. 2032, has been introduced which would provide for the collection and compilation of foreign trade statistics. One of the provisions of that bill is the repeal of present laws under which foreign trade statistics are collected and compiled, including the repeal of the laws requiring an oath on export declarations.

S. 1289 would repeal Revised Statute 4200 which is found in title 46 United States Code, section 92. Evidently through an oversight no provision was made for the repeal of Revised Statute 337 which is found in title 15 United States Code, section 174 and which also requires an oath on the export declaration.

Since the repealer section of H.R. 2032 would eliminate both Revised Statute 4200 and 337, in addition to providing a modernized and a more efficient and economical method of collecting and compiling foreign trade statistics, this Department prefers enactment of legislation such as H.R. 2032 with the following amendments:

Line 8, page 2, be amended by striking "except for Alaska and Hawaii." Line 12, page 2, be amended by striking the first three words and substituting, "and

shall," and in the same line the words "in statistical form" be stricken. Line 8, page 3, be amended following the sentence ending "hereunder" by the insertion of a new sentence to read as follows: "The Secretary may also provide by rule or regulation for such confidentiality, publication, or disclosure, of information collected hereunder as he may deem necessary or appropriate in the public interest."

However, if the Congress does not enact H.R. 2032 this Department would be in favor of the enactment of S. 1289.

The Bureau of the Budget advised there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

EDWARD GUDEMAN,
Undersecretary of Commerce.

Senator BARTLETT. Thank you, Mr. Ely.

Now we shall turn to S. 1184, with testimony to be offered first by Mr. Albert E. May, acting executive director of the American Steamship Lines.

**STATEMENT OF ALBERT E. MAY, ACTING EXECUTIVE DIRECTOR,
COMMITTEE OF AMERICAN STEAMSHIP LINES**

Mr. MAY. I have no statement on this. I am simply appearing as the acting executive director of the Committee of American Steamship Lines. The 15-member companies of our committee support and urge the passage of S. 1184.

Testimony of the Committee of American Steamship Lines on this bill will be presented by John M. Will, president, American Export Lines, Inc.

Senator BARTLETT. Thank you, Mr. May.

Admiral Will.

Admiral, your testimony will be on S. 1184?

Admiral WILL. It will, sir.

Senator BARTLETT. We will be glad to hear from you.

**STATEMENT OF ADM. JOHN M. WILL, PRESIDENT, AMERICAN
EXPORT LINES, INC., APPEARING AS VICE CHAIRMAN OF THE
COMMITTEE OF AMERICAN STEAMSHIP LINES, ACCOMPANIED BY
IRA L. EWERS, COUNSEL, AND FRANK A. NEMEC, VICE PRESI-
DENT, LYKES BROS. STEAMSHIP CO., CHAIRMAN OF VESSEL
REPLACEMENT COMMITTEE**

Admiral WILL. Mr. Chairman, my name is John M. Will. I am president of American Export Lines, Inc., but I am appearing before you today as vice chairman of the Committee of American Steamship Lines, in support of S. 1184. I am accompanied on my left by Mr. Ira L. Ewers as counsel for our committee in this respect and Mr. Frank A. Nemeć, on my right, vice president of Lykes Bros. Steamship Co., who is chairman of our vessel replacement committee.

Section 802 of the Merchant Marine Act of 1936, as amended, directs that every contract executed under title V of the act shall contain a provision that in the event the Government acquires through purchase or requisition ownership of a vessel on which construction-differential subsidy was paid, the owner shall be paid therefor the value therefor but in no event shall such value exceed the actual depreciated construction cost.

Section 802 as it now stands is deficient in a number of important respects. These deficiencies, including lack of any termination dates for requisition and lack of any provision for returning ships requisitioned under section 802, have long been of concern of shipowners. Therefore, it is my intention to describe these deficiencies and support the provisions of S. 1184.

The purposes of S. 1184 are to amend section 802 so as to:

1. Conform section 802 with amendments to section 510 of the act as amended by Public Law 86-575. The latter is the provision which extended the statutory life of vessels delivered by shipbuilders after January 1, 1946, to 25 years;

2. Permit the former owners of vessels taken by the United States under this section to reacquire any such existing ships after their national service is ended;

3. Provide for resale to former owner of a ship which at the time of acquisition was subject to a Government mortgage, upon the same terms and conditions contained in such mortgage and provides for the same eligibility for mortgage insurance under title XI as existed at the time of acquisition; and

4. If while in the possession of the Government vessels are lost or otherwise rendered unsuitable for return to commercial service, the bill gives the former owners a preference in acquiring similar ships from the United States.

Before discussing each of these objectives I should like to point out that section 802 applies only to vessels on which a construction subsidy has been paid. Other vessels may be requisitioned by the Government under section 902 which not only provides just compensation to the owners but makes provision to enable former owners to promptly reacquire ships when the Government no longer needs them. Evidently the framers of the 1936 act considered that the Government was to have special rights in vessels built with construction subsidy. It should be emphasized however that construction subsidies are paid to and for the benefit of shipbuilding yards and not for the benefit of the shipowner. There is ample legislative history and many official statements can be found to sustain this position. Construction subsidy is not intended to directly benefit the shipowner. The Government pays the excess up to a limit of 55 percent of the difference between foreign and domestic costs. The shipowner is compensated only for the additional costs imposed by the requirement that he build his ships in American yards of American materials. This is a wise policy designed to maintain a healthy American shipbuilding industry. It is not a subsidy to shipowners.

Nevertheless, the burden of section 802 which relates to vessels built with construction subsidy paid to shipyards falls entirely upon the shipowners. We do occupy a unique position in that our national policy is based on a Government-industry partnership. Thus we do not intend to take exception to basic premise of Government requisition under section 802. We merely wish to demonstrate in discussing the objectives of S. 1184 that times have changed since this provision was enacted so that a revision of the section to make it less onerous on the industry is not only warranted but can be accomplished with equity and fairness to both Government and industry.

We have now entered upon a peacetime vessel replacement program unparalleled in our Nation's history. It involves the construction of

some 300 new vessels at a total cost estimated at some \$4 billion. These ships are the most modern in our merchant marine. They include innovations designed to enhance efficient and economic operation. They will contribute substantially to our military and economic strength.

The Government is indeed making a substantial contribution but it should not be forgotten that industry's capital expenditure constitutes a tremendous financial burden which will sorely tax our financial resources and add a staggering debt burden.

As section 802 now stands, the owner of a vessel subject to the 802 restriction who sells such a vessel to a private buyer as part of his replacement program suffers immediate handicaps. The purchaser of such a vessel, irrespective of its age, must agree that forever after the Government may acquire the vessel at its lowest residual, fully depreciated value. There is in effect a cloud on the title which will obviously be reflected in the selling price. If the owner elects not to sell to a private buyer but trades his vessel or vessels in under section 510 of the Merchant Marine Act of 1936, the impediment of section 802 does not apply. If the traded-in vessel is then traded-out by the Government to a private purchaser under the Vessel Exchange Act, the new owner is subject to section 802 only until the end of the vessel's statutory life. Putting the two examples side by side, this means that when an owner sells a vessel subject to 802 to another owner, he passes along to the second owner the 802 restrictions which run with the title thereto. This reflects in the price he obtains for the vessel or that subsequent owners may obtain for the vessel. But if the same vessel is traded in to the Government and then sold by the Government under the Vessel Exchange Act, the Government could expect a better price for the same vessel because the 802 restriction ends with the statutory life.

It should be remembered that not all vessels are subject to section 802—only those built with construction differential subsidy. Identical vessels sold at similar prices under the Merchant Ship Sales Act do not have this impediment. It has been estimated that as between otherwise comparable vessels the existence or nonexistence of the section 802 impediment may make a difference of over \$100,000 in the sales price.

This disadvantage to owners can be illustrated by a statement in a circular letter dated February 16, 1961, from A. L. Burbank & Co., Ltd.—a firm of ship brokers offering for sale an American-flag C-3 turbine ship. The letter states:

We believe the vessel's superior condition coupled with her freedom from section 802 will justify a premium price.

Even if the proposed legislation is enacted, private venders will not be on a completely even basis with sales by the Government under the Vessel Exchange Act. The duration of the impediment will have been conformed, but under section 802 it is the construction cost which is depreciated whereas under the Vessel Exchange Act the basis of depreciation is the price paid for the traded-out vessel.

As more and more vessels approach the end of their statutory life, this distinction becomes increasingly important, but conforming the period of the impediment at least tends to reduce the disparity.

Let me now discuss each of the objectives I have listed:

1. Conform section 802 with amendments to section 510 of the act as amended by Public Law 86-575. The latter is the provision which extended the statutory life of vessels delivered by shipbuilders after January 1, 1946, to 25 years.

The purpose of this amendment is to conform the period of applicability of section 802 to the provisions of section 510 as amended by the Vessel Exchange Act, Public Law 86-575. It has been contended but disputed that section 802, as it now stands, is without limit and may run forever with the title of the ship. The Vessel Exchange Act of July 5, 1960, Public Law 86-575, when originally introduced, had the same basic fault. However, as a result of the hearings, this fault was recognized and the bill was amended and eventually enacted so as to be applicable only if the vessels were acquired by the Government "at any time within 20 years of the date of construction." In reporting the bill—Senate Report No. 1275, 86th Congress, 2d session—Senator Engle explained:

The new provision in subsection (5) limiting the acquisition restriction on any traded-out vessel to the 20-year life of the vessel is designed to prevent a cloud on title and a burden on property which would stem from such indefinite restrictions.

The principle therein adopted is also incorporated in S. 1184 in that the provisions of section 802, as amended, would be applicable to vessels only during their statutory life. This provision is eminently fair and removes a burdensome handicap on present owners.

2. Permit the former owners of ships requisitioned by the Government under this section to reacquire such vessels after their national service is ended.

Since the act makes no provision for the former owners to reacquire their ships after their national use is completed, this legislation is proposed to correct this deficiency.

The bill before you seeks no undue advantage but merely proposes to restore vessels requisitioned under the provisions of section 802 to their former owners under conditions similar to those which governed their requisition for service by the United States. Recognizing, however, that extended periods of emergency or war service are likely to take a greater physical toll of the ship than would normal commercial operations, the bill incorporates an additional allowance for rigorous use computed at 3 percent per year of Government use in accordance with the provisions of the Merchant Ship Sales Act of 1946. With this exception, this purpose of S. 1184 is to provide the means of restoring vessels requisitioned under section 802 to their former owners as equitably and as expeditiously as possible so that, upon the termination of Government service, the former owner will have a reasonable opportunity to reestablish his shipping service in the best interests of the peacetime commerce of the United States.

The manner in which the bill will operate is illustrated by the following simplified example:

	Price paid by United States to owner upon requisition	Price to be paid by former owner to Government on reacquisition
Original cost of new ship to owner (after payment of construction-differential subsidy to a domestic shipyard)-----	\$5,000,000	\$5,000,000
Depreciation (in this example taken at \$200,000 per year): Taken by United States after 5 years in commercial service, 5 years at \$200,000, or-----	(1,000,000)	(1,000,000)
Reduction on account of 1 year of emergency or war service:-----		
Normal depreciation-----		(200,000)
War service allowance (for period of war service) 3 percent $\times$ \$5,000,000-----		(150,000)
Price paid by United States to former owner-----	4,000,000	
Price paid to United States by former owner on return of ship-----		3,650,000

NOTE.—The foregoing example excludes the effect of depreciating construction subsidy so as to simplify the owner's position.

A similar arrangement was enacted for the return of fishing vessels and vessels in the Great Lakes during World War II.

Quite simply, the bill makes the United States the owner of a ship for the period of its national need and provides that any such ship may be reacquired by its former owner on a similar basis. In effect, under the formula of the bill, the United States pays for the use of the ship through: (a) normal depreciation, and (b) a war-service allowance.

A very important purpose of this legislation is to make provision for the prompt return of vessels when no longer needed for national defense rather than to leave this problem for resolution after the termination of hostilities. It will be recalled that World War II was over on September 2, 1945, the Merchant Ship Sales Act was not enacted until March 8, 1946, and we did not get all of our replacement vessels until more than a year thereafter. This concept of prompt delivery can be implemented by amending the first four lines of subsection (c) to read as follows:

(c) If any vessel, which was acquired by the United States and to which the provisions of subsection (a) are applicable, [is to] can be released from Government service, such vessel shall be *immediately* offered for sale to the former owner from whom such vessel was acquired * * *.

As to the third provision, it provides for resale to the former owner of a ship which at the time of acquisition was subject to a Government mortgage, upon the same terms and conditions contained in such mortgage and provides for the same eligibility for mortgage insurance under title XI as existed at the time of acquisition.

Under present law when a ship subject to restrictions of section 802 is requisitioned for title, the owner receives depreciated cost price. Since title is taken by the Government, existing mortgages are paid off. If the Government itself has a mortgage on the vessel, that indebtedness is satisfied. If the Government has insured publicly held bonds under title XI of the act, the bondholders are paid.

The former owner may have spent a great deal of time and money in arranging his financing, and his own investment may be as small as permitted by law—certainly not less than 25 percent of the cost of the vessel.

At the end of a national emergency the former owner wishes to reestablish himself in shipping. But he has no Government loan available to him and his original vessel probably is no longer eligible for mortgage insurance under title XI. He has only his original capital funds.

It is the purpose of this section to restore the former owner to his original financial status. If he had a Government loan on the original vessel he is entitled to purchase the vessel upon the same terms and conditions of the original mortgage. If his mortgage was insured under title XI or was eligible for such insurance, he retains those rights of insurance upon the same terms and conditions as he had before his vessel was taken from him. Thus he can restore his financial structure to that prior to requisition.

In other words, substantial and valuable financing rights would be restored just as the vessel itself would be restored to preemergency condition except for unavoidable wear and tear. The former owner is neither better nor worse off than before the Government acquired his ship.

The fourth provision: If while in the possession of the Government vessels are lost or otherwise rendered unsuitable for return to commercial service, the bill gives the former owners a preference in acquiring similar ships from the United States.

We realize, of course, that during Government possession a vessel may be lost or so substantially altered as not to be returnable to its former owner. In such event, the proposed legislation provides a preference for its former owner to purchase from the Government a similar vessel on the same basis as he would have been able to reacquire his original ship.

In summary, S. 1184 merely permits the return to the former owner of a vessel requisitioned for title under section 802 under terms and conditions similar to those prevailing when the Government requisitioned the vessel. Secondly, the bill recognizes the principle enunciated in the Vessel Exchange Act that such restriction should not run with title but rather with the statutory life.

These proposals are simple and we believe eminently fair. They cannot be disadvantageous to the Government. They merely provide the shipowner with equitable treatment when national emergency forces the Government to requisition privately owned vessels.

In view of the tremendous investment being made by owners in the replacement of their present fleets, we believe that the provisions of S. 1184 should be enacted in order to insure equitable treatment and adherence to the parity principle of the act.

Senator BARTLETT. Thank you, Admiral.

Do you have any questions, Senator Butler?

Senator BUTLER. I would like to know the original purpose of the restrictive provisions in section 802. Is Mr. Stakem or somebody here from Maritime that could answer that question?

Maybe, Admiral, do you know the answer?

Admiral WILL. I don't think there are any really restrictive provisions in 802. Well, Senator, actually, I don't know what's behind it. Perhaps the Maritime might be able to answer.

Mr. Ewers, would you know?

Mr. EWERS. It was inherited from a previous statute because of the high prices that vessels had been sold at the outbreak of hostilities.

However, in World War II the Government avoided that by depressing the values of ships to what it considered a reasonable level, and the history of those depression acts is set forth in a Court of Claims decision in the case of the American-Hawaiian Steamship Co. What they did was through the use of the navicerts system, and other restrictions. It reduced the market value of vessels from the high point which they had reached down to what it considered a more reasonable level before exercising the power of requisition, and in the event of new hostilities, I would expect that similar policies would be pursued. But you will find the history of that fully set forth step by step in this *American-Hawaiian Steamship* case in the Court of Claims.

I believe that the situation where vessels had soared to high values in World War I would never be permitted to exist in future hostilities, the same as it was avoided in World War II.

There is one correction I would like to make in the admiral's statement on page 4, where he said that the purchaser must agree that forever after the Government can acquire the vessel at its lowest residual cost.

The usual method of conveyance merely quotes section 802, and we don't know whether or not there is a limitation on that or not; the point has never been adjudicated. We have contended but never had to adjudicate that sections 503 and 506 of the act were specifically limited to the 20-year period of the vessel's useful life. That was impliedly a limitation on section 802. But as I say, we have never had any occasion to adjudicate it and the section is just put into the bill of sale in its exact language and leaves in doubt as to whether it ends at the end of 20 years or runs indefinitely.

I might say in that same connection, however, that in connection with the negotiations to purchase a section 802 vessel from private owners, the banks decline to finance it on a mortgage which contained that provision in it, because of the doubt that existed as to how it would operate and how long it would be effective.

Admiral WILL. I think you might illustrate that specifically.

Mr. EWERS. I think it was one of the same vessels that was referred to in the Burbank letter. A broker came to Moore-McCormack and offered to buy at private sale a C-3 type of vessel. The purchaser, of course, only had a limited amount of money and he had to go to the bank to borrow the remainder, and the bank declined to extend credit to him with respect to vessels that were subject to the 802 impediment, and the private sale failed for that reason.

Senator BARTLETT. Do you have any further questions, Senator?

Mr. EWERS. I would like to illustrate from the Moore-McCormack fleet. We have vessels in that fleet which were built with the aid of construction-differential subsidies and which are subject to section 802. We have sister ships that were purchased under the Merchant Ship Sales Act at substantially the same price, to which the section 802 impediment does not apply. It's very inconsistent.

Senator BUTLER. Well, my purpose was to clarify the record so that if the question was asked on the floor, and it may be asked when this bill comes on for debate, the answer will be ample and clear and concise.

I would like to see the provision eradicated, or I would like to see this bill passed, and I wanted to have the record in such shape that

anybody that would inquire about that point would have a concise answer.

Senator BARTLETT. Admiral, do you know if the industry, the steamship industry at the time section 802 was under consideration, made any representations concerning the language?

Admiral WILL. Mr. Chairman, I would like to ask Mr. Ewers, if I may, because of my short time in this.

Mr. EWERS. We did object to it at that time, but you will recall that the 1936 act was an act with no legal father. It started off with the ideas of Senator Copeland and Chairman Bland. Later Senator Bigson got in the act and a half dozen others, and finally they just took sections out of each other's bills, put them in the 1936 act, and there are a number of places where they are not properly coordinated.

At that time you will remember, the 1936 Act passed by only a few votes. However, the same section was proposed to be inserted in 1946 when the Merchant Ship Sales Act was adopted, under which the vessels were sold to citizens and aliens at knockdown prices, and it was there contended that language similar to section 802 should be attached to all vessels purchased. That was defeated by a substantial margin since there were no such restrictions on any other war-built property.

Senator BUTLER. And it extended only to the 20-year period?

Mr. EWERS. No, sir. In the Merchant Ship Sales Act we haven't any 802 at all. We do have, however, the sections 9 and 37 which prevent the vessel being sold to aliens without permission of the Maritime Commission; but that's not involved in this legislation.

Senator BARTLETT. Well, of course Senator Butler and I are far too young to have intimate recollection of what went on in 1936, but we will take your word for it.

Mr. EWERS. Thank you very much, sir.

Senator BARTLETT. In any case, from the very start, the industry opposed that which later became section 802 with reference to the matters that we are now discussing?

Mr. EWERS. Vigorously we opposed it, for this reason: that the construction-differential subsidy is not paid to us. It is paid directly to the shipyard, and it's supposed to put us on a parity with our foreign competitors, and to the extent that you add 802 as a condition to receiving that aid you destroy that parity. There isn't any similar section in any foreign law that I have ever read.

Mr. BOURBON. Just for the record, Mr. Ewers, would you state what conditions are covered by sections 503 and 506 that are different?

Mr. EWERS. 503 provides that any vessel that is built by the aid of subsidy shall remain documented under the laws of the United States for a period of 20 years, or for the period of any Government mortgage, whichever is the later, because that corresponded with the 20-year statutory life of the vessel which permeates the entire 1936 act.

Section 506 provides generally a prohibition against the vessel engaging in domestic trades except under certain conditions. If those conditions are met and the vessel does engage in the coastwise trade, it must remit to the Government, pro rata, the construction-differential subsidy which would be applicable for that period of time. That, too, provides for that remission being on a 20-year basis.

Now, we have always contended that section 802 was likewise limited to the 20-year statutory life of the vessel, but, unfortunately, in the confusion it forgot to say so.

Mr. BOURBON. That's all I have.

Senator BARTLETT. Thank you, gentlemen.

Admiral Ford, please.

**STATEMENT OF WALTER C. FORD, VICE ADMIRAL, RETIRED,
DEPUTY MARITIME ADMINISTRATOR, ACCOMPANIED BY JAMES
L. PIMPER, GENERAL COUNSEL, MARITIME ADMINISTRATION**

Admiral FORD. Mr. Chairman, Mr. Stakem, the Maritime Administrator had hoped to be here this morning, and his mother died last night—

Senator BARTLETT. We are sorry to hear that.

Admiral FORD (continuing). So I am the substitute.

Senator BARTLETT. You may proceed, Admiral.

Admiral FORD. Section 802 of the Merchant Marine Act, 1936, requires that all construction-differential subsidy contracts entered into under that act shall provide that if the vessel is requisitioned, the owner shall be paid the value thereof but not exceeding the depreciated cost of the vessel to the contracting shipowner, or the scrap value of the vessel, whichever is greater. This requisition price runs with the title to the vessel and applies not only during the 20- or 25-year life of the vessel, but so long as the vessel remains a vessel.

The bill would amend section 802 of the act to provide that (a) the foregoing requisition price shall apply only during the 20- or 25-year life of the vessel, (b) this limitation on the applicability of the requisition price shall apply retroactively to all construction-differential subsidy contracts that have been entered into under the act, and (c) if the vessel is requisitioned, (1) it shall, upon release from Government service, be offered for sale to the former owner at the requisition price paid by the United States, less normal depreciation—4 or 5 percent per annum of the original cost of the vessel to the contracting shipowner—and less additional depreciation of 3 percent per annum of such original cost for Government use, (2) prior to delivery to the former owner, either the vessel shall be restored to at least as good condition—ordinary wear and tear excepted—as when acquired by the United States, or the former owner shall be granted an allowance sufficient to accomplish such restoration, (3) if the vessel was subject to a mortgage to the United States when it was requisitioned, it shall be resold to the former owner "upon the same terms and conditions as those contained in such mortgage," (4) if the vessel was subject to a mortgage insured under title XI—or was eligible for such insurance—when it was requisitioned, the Secretary of Commerce shall insure a mortgage on the vessel in connection with its reacquisition by the former owner, and (5) if the vessel cannot be returned to the former owner on the termination of the emergency, such former owner shall have preference for the purchase of a similar vessel, on the foregoing terms and conditions, as against everyone except the former owner of such similar vessel.

We recommend against favorable consideration of the bill.

We are opposed to removal of the requisition price from construction-differential subsidy vessels at the end of their 20- or 25-year lives. The United States pays, by way of construction-differential subsidy, up to 55 percent of the construction cost of these vessels. The United States has two reasons for making these payments: (1) to provide for the national defense, and (2) to promote commerce. The vessel owner has the entire use of the vessel except during national emergencies which require the requisitioning of the vessel for national defense purposes. When the United States needs to requisition the vessel, we see no reason why it should pay a capital gain to the shipowner for title to a vessel in which it already has an investment. The shipowner is made whole when he is paid his depreciated cost of acquisition.

When the shipowner is ready to replace the vessel, he can trade it in to the United States under section 510 of the Merchant Marine Act, 1936, and he will receive in exchange a credit, for application to his new vessel, in the amount of the fair and reasonable value of the old vessel, as determined by the Secretary of Commerce after considering (1) the scrap value of the vessel in American and foreign markets, (2) the depreciated cost of the vessel based on its 20- or 25-year life, and (3) the market value of the vessel for operation in world trade or in the foreign or domestic trade of the United States.

In the Vessel Exchange Act—Public Law 86-575—enacted July 5, 1960, Congress provided a similar requisition price on vessels traded out of the national defense reserve fleet which would apply only until the traded-out vessels become 20 years old. The purpose of limiting the requisition price in this act to this period evidently was to further the purpose of that act which was to upgrade the unsubsidized fleet. This purpose, in our opinion, has nothing to do with the requisition price on ships of subsidized operators.

With respect to the resale conditions that the bill would impose on the Government's right to requisition construction-differential subsidy vessels, we think (1) that the Government's right to requisition these vessels during a national emergency at the formula price now provided by section 802 should remain unconditional, and (2) that the conditions the bill would impose are inequitable to the United States.

The disposition that should be made of construction-differential subsidy vessels that are requisitioned during a national emergency, and the terms and conditions under which the vessels should be disposed of, can be adequately taken care of in ship sales legislation that would be enacted upon termination of the emergency that required the requisitioning.

The conditions the bill would impose on the Government's right to requisition these vessels are inequitable in several respects. First, not all vessels that are requisitioned should be restored to their original condition. If extensive conversion work was done on the vessel to adapt it to its war use, the cost of restoring the vessel to its original condition might exceed the value of the vessel after restoration. Secondly, if the vessel is to be restored to as good condition as when requisitioned, there is no justification for the additional depreciation of 3 percent per annum that the bill provides for Government use. Thirdly, the Government should not be bound to grant a mortgage on the vessel, or to insure a mortgage on the vessel, without regard to the financial soundness of the project.

For the foregoing reasons, we recommend against favorable consideration of the bill.

The Bureau of the Budget advises there is no objection to the submission of this statement from the standpoint of the administration's program.

Senator BARTLETT. Mr. Bourbon, do you have any questions to put to Admiral Ford?

Mr. BOURBON. Admiral, it has always been understood that the payment of a construction-differential subsidy to a shipyard for the building of a ship put that ship on a parity with its foreign competitors.

Now, in view of the points that have been raised by Admiral Will this morning, do you think that that is absolutely so, that the construction-differential subsidy does put the American shipowner who has a vessel constructed under such subsidy on a parity with his foreign competitors?

Admiral FORD. I think the payment of the construction subsidy is not to place him on a parity but rather to reimburse him the cost in excess of the cost of building the ship in a foreign yard.

Mr. BOURBON. To my understanding of the word "parity" that is what parity means, but—

Admiral FORD. Well, I think we are saying the same thing. I am merely saying we are paying the shipyard the difference in building it abroad and building it in the U.S. yard.

Mr. BOURBON. You say in your statement on page 3 that the United States has two reasons for making these payments—(1) to provide for the national defense, and (2) to promote commerce.

Wouldn't commerce be served just as well if the shipowners would be enabled to shop in the world market and build their ships at the lowest possible price?

Admiral FORD. I think this is probably true. It means that the controlling factor is national defense.

Mr. BOURBON. Then we get back to the fact that the shipowner is paying for something that primarily is not his responsibility, that by being restricted to selling because of this lifetime provision on the ship he may lose, as it has been testified to here, as much as a hundred thousand dollars. Originally, the shipbuilding concern is the one who benefits more completely than the shipowner does.

Admiral FORD. I think so far as the payment of construction subsidy is concerned this is true. The shipyard is the recipient of the construction subsidy.

Mr. BOURBON. And if the shipowners were permitted to go abroad and build their ships wouldn't it serve the purpose of foreign commerce just as much as if the ships were built in this country—forgetting the strategic reasons for keeping the shipyards busy?

Admiral FORD. I think that generally this is true; however, there is an advantage to the shipowner in having the U.S. shipyards to service his ships.

Mr. BOURBON. With regard to your statement that the cost of restoring the vessel to its original condition might exceed the value of the vessel after restoration; couldn't the bill be amended to make some provision for situations such as that whereby a similar vessel might be taken at comparable conditions such as existed before the owner's ship was requisitioned?

Admiral FORD. I think what you are saying is that if the bill were enacted it should have a statement to the effect that we were not required to give the shipowner the same ship where this condition existed.

Mr. BOURBON. I am asking if that might be one way to handle it?

Admiral FORD. I think that probably could take care of that.

Mr. BOURBON. One final point. You say that you think that the question of how to handle the restoration of these ships should be decided at the end of the war.

Well, now, didn't we have quite an example in World War II how coastal and intercoastal shipping, for instance, was practically destroyed because of the fact that during the war a new pattern of transportation was set up and after the war it was a good 2 years before any of the companies got their ships back—which meant that not only were the trucks and the railroads able to build up that new system during the war, but they also had two additional years after the war?

Now, if this bill were in effect wouldn't it make it possible for the ships to go back to their owner very much more promptly, and alleviate the added delay that caused so much trouble after World War II.

Admiral FORD. I am not too familiar with what happened after World War II, but I have with me the general counsel who had considerable experience with the Ship Sales Act, Mr. Pimper, and I would like him to answer that question.

Mr. PIMPER. I am not so sure that the way this bill is drafted would have any effect upon the ship that was requisitioned from an intercoastal or coastwise operator. This applies only to ships with construction subsidy as I read this act.

Mr. BOURBON. But, nevertheless, I mentioned the coastal and intercoastal to show how a trade pattern could be disrupted by a long delay and long absence of service.

Mr. PIMPER. You will recall after the last war priority in reacquiring ships except those where a specific priority was set forth, was given to the intercoastal operators so that they could get the best ships that we had in an effort to reestablish that service. It was not too successful, admittedly.

In the light of the discretion the old Commission had it set up a priority system that gave the intercoastal and the coastwise operators definite priorities as to ships.

Now, as I read this, this bill in effect would give the subsidized operators priority in the reacquisition of ships.

Mr. BOURBON. But priority after 2 years maybe had elapsed after the end of the war?

Mr. PIMPER. Sir?

Mr. BOURBON. I say priorities would be deferred, because of the fact that if we had to draft a bill like this after the war it might be again 2 years before any ships were returned to their owners.

Mr. PIMPER. After the last war, while the war ended as I remember, in September or something of 1945, actually because of the conditions no cargo ships were returned to their owners until March 6, and the bill was enacted on March 8, so you had a bill for the disposal of those ships almost simultaneously with the time you were returning ships.

Mr. BOURBON. Were ships returned before the bill was passed?

Mr. PIMPER. Some few tankers were returned, as I recall, beginning in December of 1945, but the cargo ships did not start to return to them until Yuma I think it was, started releasing cargo ships as of about March 6, and the Ship Sales Act was, what, March 8, I believe it was, 2 days later.

So that there was not any big period of time that elapsed there between the return and the enactment of the statute.

Mr. BOURBON. Well, that might and might not happen again?

Mr. PIMPER. Yes, sir, certainly.

Mr. BOURBON. That is all I have.

Senator BARTLETT. Admiral Ford, I take it that you agree that the beneficiary of the construction subsidy is the owner of the shipyard and not the owner of the vessel?

Admiral FORD. Yes, sir.

Senator BARTLETT. Well, if that is true, then, is it also true that the owner of the vessel under the provisions of section 802 is penalized in comparison with owners of other vessels that do not come within the provisions of that section?

Admiral FORD. I believe what you say is generally true, but—I think that is true.

Senator BARTLETT. That is all.

Do you care to add something, Admiral?

Admiral FORD. Yes, I believe that is true; however, he can also replace that ship with construction subsidy.

Senator BARTLETT. But the effect of the construction subsidy, the purpose of the construction subsidy is to keep in being shipyards for national needs rather than the needs of operators of ships; is that correct—by and large?

Admiral FORD. It is for building ships, that is true, but I think the entire 1936 act is built around the base of the fact that we want an American-built and American-operated merchant marine, and primarily for national defense purposes.

Senator BARTLETT. That was my understanding, too.

Admiral, do you know if the ship operator in Great Britain, for example, is required to have his ships built in Great Britain or can he go abroad?

Admiral FORD. He can go abroad so far as I know.

Senator BARTLETT. And the other leading maritime nations, do you know what their laws are on this subject?

Admiral FORD. I believe most of them can build abroad.

Senator BARTLETT. Thank you very much, sir.

Now you wanted to testify on—excuse me just for a moment. Here is a letter from Mr. Monroe Sullivan, vice president of Pacific American Steamship Association supporting S. 1184.

(The document follows:)

PACIFIC AMERICAN STEAMSHIP ASSOCIATION,
Washington, D.C., April 24, 1961.

Subject: S. 1184, to conform section 802 of the Merchant Marine Act of 1936 with section 510 as amended by Public Law 86-575.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Pacific American Steamship Association represents a large majority of the American-flag dry cargo carriers serving world trade from the Pacific coast. As such, we are interested in this subject legislation.

We support this legislation because it is necessary to give full meaning to amendments made to section 510 in the last Congress and to clearly provide fairness in the handling of transactions arising under the various provisions of the Merchant Marine Act of 1936.

In our desire to not burden the record with repetition of the factual situations involved, we associate ourselves with the testimony of industry witnesses representing the Committee of American Steamship Lines.

It is respectfully requested that this letter be made a part of the hearing record on this bill.

Very truly yours,

J. MONROE SULLIVAN.

Senator BARTLETT. Admiral Ford, we will be glad to hear from you with reference to—which one do you desire to testify on now?

Admiral FORD. I am prepared to testify on either 1183 or 1185.

Senator BARTLETT. Make it 1183, then.

Mr. BOURBON. Admiral, so we could do this more orderly as far as the transcript is concerned, would you agree to stand by while we hear Mr. Starbuck on 1184, and then you could complete your statement?

Admiral FORD. Certainly.

Senator BARTLETT. All right, Mr. Starbuck.

Senator BARTLETT. It will be noted that Mr. Starbuck is accompanied by Mr. Coles. We will be glad to hear from you, Mr. Starbuck.

STATEMENT OF SIDNEY STARBUCK, AMERICAN TRAMP SHIP-OWNERS ASSOCIATION, INC., ACCOMPANIED BY MARVIN J. COLES, ATTORNEY, COUNSEL FOR AMERICAN TRAMP SHIPOWNERS ASSOCIATION

Mr. STARBUCK. Mr. Chairman, my name is Sidney H. Starbuck. I am the executive secretary of the American Tramp Shipowners Association, which is an organization consisting of the majority of operators of U.S.-flag vessels engaged in the so-called tramp trades. As their representative, I have been asked to express the association's opposition to S. 1184 for the reasons set forth below:

Our reasons for opposing this bill are fourfold. First, we believe that it will result in overtonnaging the American tramp market. Second, we believe it not to be in accord with Public Law 86-575 as it does not result in one ship being removed from the tramp market for each new ship added.

Third, as taxpayers, we believe that this legislation will cause the Government to pay higher prices for vessels in the event of war than it is presently required to do under their contracts which granted construction subsidy to American vessels. Fourth, we believe that enactment of this legislation will discourage building of new American ships and encourage continued operation of old tonnage.

Section 802 of the Merchant Marine Act, 1936, requires that every construction subsidy contract executed by the Maritime Administration shall provide that if the United States shall purchase or requisition a ship on which the construction differential subsidy was paid, the owner of the ship shall be paid its value, but in no event shall such payment exceed the actual depreciated construction cost of the vessel, together with the depreciated cost of capital improvements upon the ship, less the depreciated amount of construction differential subsidy which was paid by the Government.

This section further provides that in computing the depreciated value of the vessel, the depreciation shall be computed on the schedule adopted by the Bureau of Internal Revenue for income tax purposes.

Section 802 further specifically provides that this provision concerning the requisition or acquisition price of the vessel shall run with title to the ship and be binding on all subsequent owners thereof.

The bill presently before the committee would amend the existing law to provide that this computation of the price to be paid by the United States on vessels built with a construction subsidy shall apply on vessels delivered prior to January 1, 1946, only for a period of 20 years from the date of such delivery, and on vessels built after January 1, 1946, only for a period of 25 years from the date of delivery by the shipbuilder.

Subsections (c), (d), and (e) of the proposed legislation provide for the repurchase of such ships by their original owners after they have been acquired by the United States, the price formula to be used in reacquiring such vessel, the continuation of mortgage terms on such ships, and the substitution of the preference for like tonnage in the event that the particular vessel cannot be returned to its former owner.

Because of the existing section 802 restrictions which cover vessels built with construction-differential subsidy payments made by the Government, it is difficult for their present owners to sell such ships.

There are few shipowners who will purchase these ships at their market value when their title to them may be taken by the Government in the event of emergency at a depreciated market value bearing no relationship to the price such buyer would pay.

Where ships carrying an 802 clause are traded into the Government for the building of new tonnage, however, the Maritime Administration gives a full price for such vessels without any deduction for the 802 restriction and without any attempt to limit the trade-in allowance to the 802 value. Because of the difficulty of selling these old ships, and because the value which the Maritime Administration gives to these vessels on trade-in is without regard to the 802 restriction price, the owners of such ships are encouraged to trade them in for new American-flag building.

If the proposed legislation were enacted, these old ships carrying 802 provisions could be sold freely, they would continue to be in operation, and the incentive to trade them in for new American tonnage would be largely lost.

Our reason for opposing this legislation is that the American tramp trades are presently overtonnaged: as a result, the rates paid for tramp vessels are exceedingly low because of the excess supply of tramp ships in relation to the cargo available to be moved by them. If these 802 vessels can be freely sold, many will immediately be sold to enter the American tramp trades. The result of this will be further to overtonnage an already overtonnaged American tramp market. On the other hand, we believe that maintenance of the existing 802 requirement by not enacting this bill will require the trade-in of vessels subject to the provision of 802 and, hence, will prevent them from becoming competitive with existing American-flag tramp ships.

May we point out that the title of this bill is "To conform the provisions of section 802 of the Merchant Marine Act, 1936, with those

of section 510 thereof, as amended by Public Law 86-575, approved July 5, 1960, and for other purposes."

Contrary to the title, the result of this bill would be completely contrary to the objectives of Public Law 86-575. That legislation was designed to bring better ships into the American merchant marine and to remove the less efficient by trading them in for the better ships in the Administration reserve fleet.

Under Public Law 86-575, one existing American vessel was removed from operation in return for the better vessel taken from reserve.

Our association supported and supports Public Law 86-575 as being in the interest of building up an American tramp fleet. But the proposed legislation here before the committee would bring another vessel into the tramp market without removing another and less efficient vessel from it.

The same result can be obtained of getting these better vessels into the tramp market by requiring their trade-in to the Government for new construction, and then permitting owners to trade in poorer quality tonnage for these better ships under Public Law 86-575.

Please note that Public Law 86-575 does not cause overtonnage but still encourages use of better ships. The proposed legislation would have exactly the opposite effect. The proposed legislation would bring 802 vessels into competition with existing tramp ships without removing any equivalent tramp ship from the market. While the owners of these 802 vessels could sell them for a higher price, the people that would be hurt would be the present operators of American-flag ships.

We also believe that American shipyards would be hurt by this legislation. Under the existing 802 law, owners of section 802 vessels, who are principally subsidized lines, are encouraged to trade them in for an allowance of credit on new ships. This encourages the building of new American-flag vessels. These vessels could be freely sold on the open market were the 802 restriction to be removed pursuant to the proposed legislation; if so, the incentive to trade-in will be completely lost. We believe that this would result in less construction for American shipyards and hence less work for American shipyard labor.

On their surface, subsections (c), (d), and (e) of the proposed legislation seem fair. But the committee will please note that enactment of these sections would take away much of the effect of the existing 802 provisions by providing that at the end of the Government's need for these ships, their present owners could get the vessel back at an agreed price based on the requisition price depreciated, or could receive a preference in obtaining a similar-type vessel.

These sections thus would eliminate much of the effect of the existing 802 clause. With the elimination of this 802 effect, people would be encouraged to purchase these ships on the grounds that they could not be injured except being denied their use during a period of hostilities. Enactment of these provisions, therefore, would also encourage the purchase of the 802 ships by people who under existing law would not do so, and hence would likewise overtonnage the American tramp market.

The decision on what benefits are required by the American shipping industry must be made by the Congress. In making its deci-

sion, we believe that the Congress will consider not only the desire of people having vessels subject to an 802 clause to sell them, but also will consider the overall shipping picture.

By being permitted to trade their vessels in to the Maritime Administration for new construction without any reduction in price because of the existence of the 802 clause, the owners of these ships will be encouraged to do this rather than that the trade-in and build incentive should be removed by enactment of this legislation.

Further, we do not believe it is in the best interest of the American merchant marine to require that these 20- to 25-year-old ships be continued in operation under American registry.

Lastly, and most important to our association, we do not believe that Congress should encourage continued operation of ships originally built with a construction-differential subsidy in competition with American-flag tramps which do not have operating subsidy and which are having a most difficult time in fighting the battle of economic survival because of their inability to compete with foreign tramps or with subsidized American lines.

Thank you.

Senator BARTLETT. Thank you, Mr. Starbuck.

Do you have any questions, Mr. Bourbon?

Mr. BOURBON. Mr. Starbuck, have any of the ships that have been turned in to the Government been sold to people who could use them otherwise—people who were not subsidized?

VOICE. Can the stenographer read that question back, Mr. Bourbon?

Senator BARTLETT. Can you read that?

(Question read.)

Mr. STARBUCK. The ships cannot be sold foreign, but they have been sold to nonsubsidized operators, some of those ships that have been turned in.

Mr. BOURBON. The ships cannot be sold foreign, but they have been sold to nonsubsidized operators, some of those ships that have been turned in.

Mr. BOURBON. Are they being used in the tramp trades, do you know?

Mr. STARBUCK. Yes, they are.

Mr. BOURBON. Another question, maybe you would not know this, but—we may have to go back to Admiral Will or somebody—are the prices being paid by the Government for ships that are turned back with the 802 restrictions comparable to what they could get in the open market?

Mr. STARBUCK. I could not answer that.

Mr. BOURBON. Mr. Ewers said, "No, that they are not comparable," which somewhat negates what you said about the prices that they could get when they turned them back in.

Mr. COLES. May I answer that, Mr. Bourbon?

Senator BARTLETT. Mr. Coles.

Mr. COLES. I am going to take issue with my brother Ewers. They are almost comparable. The price they are sold under Public Law 86-575 is the fair market value as set by the Maritime Administration and that is set by looking at market values of the domestic ships of that kind, the restrictive foreign value coming up with the medium amount and then selling at that figure.

Now, at the moment some of the American prices are higher than the combination of the mean between the foreign restricted and American, so that the difference may be slight.

My recollection is that the C-3's which are 20 years old have been sold for about \$750,000 under Public Law 86-575, whereas some of them sold in the open market for as high as \$850,000, and possibly higher with credit terms.

Senator BARTLETT. I have no questions, Mr. Starbuck, thank you very much.

Mr. STARBUCK. Thank you.

Senator BARTLETT. We will insert here the report of the Commerce Department on S. 1184.

THE SECRETARY OF COMMERCE,
Washington, April 24, 1961.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of March 3, 1961, for the views of this Department with respect to S. 1184, a bill to conform the provisions of section 802 of the Merchant Marine Act, 1936, with those of section 510 thereof as amended by Public Law 86-575, approved July 5, 1960, and for other purposes.

The Department recommends against favorable consideration of the bill.

Section 802 of the Merchant Marine Act, 1936, requires that all construction-differential subsidy contracts entered into under that act shall provide that if the vessel is requisitioned, the owner shall be paid the value thereof but not exceeding the depreciated cost of the vessel to the contracting shipowner, or the scrap value of the vessel, whichever is greater. This requisition price runs with the title to the vessel and applies not only during the 20- or 25-year life of the vessel, but so long as the vessel remains a vessel.

The bill would amend section 802 of the act to provide that (a) the foregoing requisition price shall apply only during the 20- or 25-year life of the vessel, (b) this limitation on the applicability of the requisition price shall apply retroactively to all construction-differential subsidy contracts that have been entered into under the act, and (c) if the vessel is requisitioned, (1) it shall, upon release from Government service, be offered for sale to the former owner at the requisition price paid by the United States, less normal depreciation (4 or 5 percent per annum of the original cost of the vessel to the contracting shipowner), and less additional depreciation of 3 percent per annum of such original cost for Government use, (2) prior to delivery to the former owner, either the vessel shall be restored to at least as good condition (ordinary wear and tear excepted) as when acquired by the United States, or the former owner shall be granted an allowance sufficient to accomplish such restoration, (3) if the vessel was subject to a mortgage to the United States when it was requisitioned, it shall be resold to the former owner upon the same terms and conditions as those contained in such mortgage, (4) if the vessel was subject to a mortgage insured under title XI (or was eligible for such insurance) when it was requisitioned the Secretary of Commerce shall insure a mortgage on the vessel in connection with its reacquisition by the former owner, and (5) if the vessel cannot be returned to the former owner on the termination of the emergency, such former owner shall have preference for the purchase of a similar vessel, on the foregoing terms and conditions, as against everyone except the former owner of such similar vessel.

We are opposed to removal of the requisition price from construction-differential subsidy vessels at the end of their 20- or 25-year lives. The United States pays, by way of construction-differential subsidy, up to 55 percent of the construction cost of these vessels. The United States has two reasons for making these payments: (1) to provide for the national defense, and (2) to promote commerce. The vessel owner has the entire use of the vessel except during national emergencies which require the requisitioning of the vessel for national defense purposes. When the United States needs to requisition the vessel, we see no reason why it should pay a capital gain to the shipowner for title to a vessel in which it already has an investment. The shipowner is made whole when he is paid his depreciated cost of acquisition.

When the shipowner is ready to replace the vessel, he can trade it in to the United States under section 510 of the Merchant Marine Act, 1936, and he will receive in exchange a credit, for application to his new vessel, in the amount of the fair and reasonable value of the old vessel, as determined by the Secretary of Commerce after considering (1) the scrap value of the vessel in American and foreign markets, (2) the depreciated cost of the vessel based on its 20- or 25-year life, and (3) the market value of the vessel for operation in world trade or in the foreign or domestic trade of the United States.

In the Vessel Exchange Act (P.L. 86-575) enacted July 5, 1960, Congress provided a similar requisition price on vessels traded out of the national defense reserve fleet which would apply only until the traded-out vessels become 20 years old. The purpose of limiting the requisition price in this act to this period evidently was to further the purpose of that act which was to upgrade the unsubsidized fleet. This purpose, in our opinion, has nothing to do with the requisition price on ships of subsidized operators.

With respect to the resale conditions that the bill would impose on the Government's right to requisition construction-differential subsidy vessels, we think (1) that the Government's right to requisition these vessels during a national emergency at the formula price now provided by section 802 should remain unconditional, and (2) that the conditions the bill would impose are inequitable to the United States.

The disposition that should be made of construction-differential subsidy vessels that are requisitioned during a national emergency, and the terms and conditions under which the vessels should be disposed of, can be adequately taken care of in ship sales legislation that would be enacted upon termination of the emergency that required the requisitioning.

The conditions the bill would impose on the Government's right to requisition these vessels are inequitable in several respects. First, not all vessels that are requisitioned should be restored to their original condition. If extensive conversion work was done on the vessel to adapt it to its war use, the cost of restoring the vessel to its original condition might exceed the value of the vessel after restoration. Secondly, if the vessel is to be restored to as good condition as when requisitioned, there is no justification for the additional depreciation of 3 percent per annum that the bill provides for Government use. Thirdly, the Government should not be bound to grant a mortgage on the vessel, or to insure a mortgage on the vessel, without regard to the financial soundness of the project.

For the foregoing reasons, the Department recommends against favorable consideration of the bill.

The Bureau of the Budget advised there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

EDWARD GUDEMAN,
Under Secretary of Commerce.

Senator BARTLETT. Now, Admiral Ford, if you will return. We will hear your statement on S. 1183.

STATEMENT OF ADM. WALTER C. FORD, ACCOMPANIED BY JAMES L. PIMPER, GENERAL COUNSEL, MARITIME ADMINISTRATION

Admiral FORD. Section 502(b) provides that the construction-differential subsidy may equal, but not exceed, "the excess of the bid of the shipbuilder constructing the proposed vessel" (less the cost of national defense features, which shall be paid by the United States) over the fair and reasonable estimate of the "cost of the construction of the proposed vessel" (less the cost of national defense features) in a representative foreign shipyard.

Section 502(f) of the Merchant Marine Act, 1936, (a) authorizes the Federal Maritime Board (under title V) and the Secretary of Commerce (under title VII) to allocate ship construction, reconstruction and reconditioning if certain findings are made with respect to mobilization requirements, and (b) provides that the excess of the

contract price, under the allocated contract, over the lowest responsible bid shall be paid as a national defense cost.

The bill would amend this subsection to provide that the vessel owner shall be reimbursed by the Government for the excess of expenses he incurs for inspection and supervision during construction of the vessel and for delivery of the vessel to its home port, over the expenses for these items that he would have incurred if the lowest responsible bid had been accepted.

The bill would amend this subsection to provide that the vessel owner shall be reimbursed by the Government for the excess of expenses he incurs for inspection and supervision during construction of the vessel and for delivery of the vessel to its home port, over the expenses for these items that he would have incurred if the lowest responsible bid had been accepted. The bill would apply retroactively to all contracts that have been allocated under section 502(f).

The Department is opposed to the retroactive feature of the bill, but has no objection to the prospective feature if the bill is amended to give the Government the benefit of any savings with respect to these costs that come to an operator from allocation.

Contracts for the construction of six ships have thus far been allocated under section 502(f).

Two of these ships were for American President Lines and were allocated to Bethlehem Steel Co. at San Francisco. Since San Francisco is the home port of American President Lines, so additional costs to American President Lines for inspection and delivery were involved in this allocation.

Two of the ships were for American Export Lines and were allocated to the National Steel & Shipbuilding Corp. at San Diego. The invitation for bids involved four ships for American Export Lines, but only two ships were allocated. The lowest responsible bidder was New York Shipbuilding Co. The home port of American Export Lines is New York City. This allocation required American Export Lines to maintain two separate inspection staffs.

We estimate that the additional inspection cost to American Export Lines caused by the allocation of the two ships is approximately \$150,000 and that the additional delivery costs is approximately \$120,000, making a total additional cost for the two ships of approximately \$270,000.

The other two ships that were allocated were for Moore-McCormack Lines. These ships were allocated to Todd Shipyards at San Pedro. The invitation for bids again involved four ships, of which only two were allocated. The lowest responsible bidder was Sun Shipbuilding Co., and the allocation required Moore-McCormack Lines to maintain two separate inspection staffs.

Moore-McCormack Lines' home port is New York City. We estimate that the additional inspection costs to Moore-McCormack Lines caused by the allocation is approximately \$140,000 and that the increased delivery cost is approximately \$120,000, making a total increased cost for the two ships of approximately \$260,000.

With respect to vessel delivery and inspection costs, allocation under section 502(f) can be either beneficial or detrimental to the operator, depending on the location of the yard of the lowest responsible bidder, the yard to which allocation is made, and the home port of the

operator. Allocation was, with respect to these costs, beneficial to American President Lines, and detrimental to American Export Lines and Moore-McCormack Lines.

If the act is to be amended to require the Government to pay whatever additional costs of inspection and delivery an operator incurs from allocation, it should also be amended to give the Government the benefit of whatever savings in these costs result to an operator from allocation.

Although the amounts involved are not large in relation to the total project, we would have no objection if the law were amended to provide this arrangement for future contracts.

We are opposed, however, to any retroactive amendment with respect to these costs. Our contract with American President Lines cannot now be changed without their consent. In view of this, we do not think it is equitable that the contracts with the other two operators should now be changed to the detriment of the Government.

The Bureau of the Budget advises there is no objection to the submission of this statement from the standpoint of the administration's program.

Senator BARTLETT. Do you have any question, Mr. Bourbon?

Mr. BOURBON. Admiral, isn't it a fact that the basic purpose for the allocation is for the strategic purpose of keeping certain shipyards going?

Admiral FORD. That is correct, yes, sir.

Mr. BOURBON. And that is in the interest of national defense?

On that basis does it seem eminently fair to make the shipowners pay an additional cost for something that is strictly due to Government policy? I am asking you if the Government does something in national policy should they make somebody else pay for it?

Admiral FORD. No, I think that this is an expense that should be borne by the Government.

Mr. BOURBON. Of course, the only difficulty that occurs to me about your statement that it should be a two-way street is that if some owner benefits by having the allocation made to a shipyard in his own vicinity there might always be the temptation for Maritime to save the Government some money by shifting these things around.

Admiral FORD. Well, presumably the allocation would be based solely on national defense—

Mr. BOURBON. I am sure of that.

Admiral FORD (continuing). Not on the basis of saving a few dollars for the Government in that particular instance.

Mr. BOURBON. There could be a lot of pressure put by some shipyards under those circumstances to have the contracts, on the basis that the Government could save some money by giving them—

Admiral FORD. It would probably cost the Government in any case, it would merely cost them less.

Mr. BOURBON. But I do understand that you think that in the future when any contracts are allocated strictly on the basis of Government interests, the difference should be paid by the Government?

I believe that is what you said, wasn't it?

Admiral FORD. That is correct. We favor the Government paying the added cost.

Mr. BOURBON. But you oppose making that retroactive?

Admiral FORD. Yes, sir.

Mr. BOURBON. Why?

Admiral FORD. Well, as stated in the statement these are completed contracts in one case, in two cases it happened to be to the detriment of the operator, in another case to the detriment of the Government, but we believe that such legislation should be applicable to future allocations rather than to contracts that have already been signed and completed.

Mr. BOURBON. You have changed contracts before that have been signed and completed, haven't you?

Admiral FORD. Not that I know of, not in this record.

(The following letter was subsequently supplied for the record.)

FEDERAL MARITIME BOARD,
Washington, D.C., May 4, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Subcommittee on Merchant Marine and Fisheries,
Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN. At the hearing on April 24, 1961, on S. 1183, we were asked to submit a statement whether Moore-McCormack Lines' representatives was told when they were asked to make a split award that the Government would pick up any difference in cost to them.

The records of the Federal Maritime Board and Maritime Administrator have been examined. On February 12, 1958, the Federal Maritime Board and the Maritime Administrator approved a maximum engineering allowance eligible for subsidy for both American Export Lines and Moore-McCormack Lines. This approval was based on the engineering costs of constructing four ships in one yard and also based on constructing two ships in two yards for each of the aforementioned operators. The records do not indicate that either American Export Lines or Moore-McCormack Lines had presented their views in writing on the additional allocation costs which would result in building each group of ships in two yards or delivering the ships from the west coast. There are staff recollections, however, that these costs were informally discussed and that the Board had indicated a willingness to permit the operators to pick up cargo in the west coast to assist in covering the cost of delivering the ship to its home port. It was the further recollection that the Federal Maritime Board and Maritime Administrator offered to undertake a larger share of the inspection and engineering work in the second yard in order to reduce the additional costs to the owner. Actually, both owners maintained a normal inspection and engineering staff in these yards.

The record appears clear that there would be additional costs involved under allocation, but there is no indication that the Federal Maritime Board or the Maritime Administrator had committed themselves other than to assist the operators by means then available to the Board and the Administrator.

Sincerely yours,

THOS. E. STAKEM, *Chairman.*

Senator BARTLETT. Thank you, Admiral Ford. Now we will insert the report of the Commerce Department on S. 1183, and that of the Comptroller General and you may proceed with your statement on S. 1185.

THE SECRETARY OF COMMERCE,
Washington, D.C., April 24, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reply to your request of March 3, 1961, for the views of this Department with respect to S. 1183, a bill to amend the Merchant Marine Act, 1936, in order to provide for the reimbursement of certain vessel construction expenses.

Section 502(b) provides that the construction-differential subsidy may equal, but not exceed, "the excess of the bid of the shipbuilder constructing the proposed vessel" (less the cost of national defense features, which shall be paid by the United States) over the fair and reasonable estimate of the "cost of

the construction of the proposed vessel" (less the cost of national defense features) in a representative foreign shipyard.

Section 502(f) of the Merchant Marine Act, 1936, (a) authorizes the Federal Maritime Board (under title V) and the Secretary of Commerce (under title VII) to allocate ship construction, reconstruction, and reconditioning if certain findings are made with respect to mobilization requirements, and (b) provides that the excess of the contract price, under the allocated contract, over the lowest responsible bid shall be paid as a national defense cost.

The bill would amend this subsection to provide that the vessel owner shall be reimbursed by the Government for the excess of expenses he incurs for inspection and supervision during construction of the vessel and for delivery of the vessel to its home port over the expenses for these items that he would have incurred if the lowest responsible bid had been accepted. The bill would apply retroactively to all contracts that have been allocated under section 502(f).

The Department is opposed to the retroactive feature of the bill, but has no objection to the prospective feature if the bill is amended to give the Government the benefit of any savings with respect to these costs that come to an operator from allocation.

Contracts for the construction of six ships have thus far been allocated under section 502(f).

Two of these ships were for American President Lines and were allocated to Bethlehem Steel Co. at San Francisco. Since San Francisco is the home port of American President Lines, no additional costs to American President Lines for inspection and delivery were involved in this allocation.

Two of the ships were for American Export Lines and were allocated to the National Steel & Shipbuilding Corp. at San Diego. The invitation for bids involved four ships for American Export Lines, but only two ships were allocated. The lowest responsible bidder was New York Shipbuilding Co. The home port of American Export Lines is New York City. This allocation required American Export Lines to maintain two separate inspection staffs. We estimate that the additional inspection cost to American Export Lines caused by the allocation of the two ships is approximately \$150,000 and that the additional delivery costs is approximately \$120,000, making a total additional cost for the two ships of approximately \$270,000.

The other two ships that were allocated were for Moore-McCormack Lines. These ships were allocated to Todd Shipyards at San Pedro. The invitation for bids again involved four ships, of which only two were allocated. The lowest responsible bidder was Sun Shipbuilding Co., and the allocation required Moore-McCormack Lines to maintain two separate inspection staffs. Moore-McCormack Lines home port is New York City. We estimate that the additional inspection costs to Moore-McCormack Lines caused by the allocation is approximately \$140,000 and that the increased delivery cost is approximately \$120,000, making a total increased cost for the two ships of approximately \$260,000.

With respect to vessel delivery and inspection costs, allocation under section 502(f) can be either beneficial or detrimental to the operator, depending on the location of the yard of the lowest responsible bidder, the yard to which allocation is made, and the home port of the operator. Allocation was, with respect to these costs, beneficial to American President Lines, and detrimental to American Export Lines and Moore-McCormack Lines.

If the act is to be amended to require the Government to pay whatever additional costs of inspection and delivery an operator incurs from allocation, it should also be amended to give the Government the benefit of whatever savings in these costs result to an operator from allocation. Although the amounts involved are not large in relation to the total project, we would have no objection if the law were amended to provide this arrangement for future contracts.

We are opposed, however, to any retroactive amendment with respect to these costs. Our contract with American President Lines cannot now be changed without their consent. In view of this, we do not think it is equitable that the contracts with the other two operators should now be changed to the detriment of the Government.

The Bureau of the Budget advised there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

EDWARD GUDEMAN,
Under Secretary of Commerce.

COMPTROLLER GENERAL OF THE UNITED STATES,

Washington, April 21, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate.

DEAR MR. CHAIRMAN: Further reference is made to your letter of March 3, 1961, acknowledge on March 6, requesting the comments of the General Accounting Office concerning S. 1183, 87th Congress, 1st session, entitled "A bill to amend the Merchant Marine Act, 1936, in order to provide for the reimbursement of certain vessel construction expenses."

The bill would amend section 502(f) of the Merchant Marine Act, 1936, as amended, to provide that, in the event the construction of a vessel is allocated to other than the lowest bidder, the Federal Maritime Board shall bear the additional expenses of inspection and supervision of the vessel during construction, and delivery of the vessel to its home port. Under the proposed amendment, the additional expenses of inspection, supervision, and delivery will not be considered part of the construction-differential subsidy; however, it is not clear whether such expenses will be attributable to the cost of national defense as is presently provided in section 502(f) with respect to the excess cost of allocation over the lowest responsible bid. We would suggest, therefore, that such expenses be identified in section 502(f) as national defense costs in order that the expenditures by the Government will be recognized in the event the vessel is subsequently repurchased by the Government. In this connection, we would further recommend that the wording of section 802 of the act, which establishes the limitation of the amount to be paid by the Government upon repurchase, be amended to provide for the exclusion of national defense costs in lieu of the existing exclusion of national defense features, in order to embrace not only the expenses of inspection, supervision, and delivery, but also the excess prices occasioned by allocation which is not now specified in section 802.

In our opinion, section 2 of the proposed amendment would apply retroactively to all contracts—both completed and uncompleted—which have been allocated under section 502(f) of the act. We understand that up to the present time there has been an allocation of contracts for the construction of six ships under section 502(f). The proposed amendment provides only for reimbursement to the shipowner for any higher cost of inspection, supervision, and delivery occasioned by allocation to other than the lowest bidder, but fails to provide for an upward adjustment in the purchase price to the owner if an allocation should result in a reduction in the cost of those items to the shipowner. In view thereof, and since the contracts covering the vessels mentioned above cannot be changed without the consent of "the other parties thereto," thus depriving the Government of the benefit of any possible savings which may have resulted to the operator, we do not look with favor upon the retroactive application of the measure. Accordingly, we recommend the deletion of section 2 of the proposed amendment in its entirety. We further recommend that following the word "subsidy," on line 7 of page 2 of the bill, there be removed the period and quotation mark, and inserted in lieu thereof a colon, followed by the sentence: *Provided, however*, that there shall be an upward adjustment in the purchase price to the owner if an allocation should result in a reduction in the cost of such items to the shipowner."

While we recognize that the question whether legislation of this type is desirable is strictly a matter of policy for determination by the Congress, we suggest that the matters hereinabove set forth be given consideration by your committee in its deliberations on the bill.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

**STATEMENT OF ADM. WALTER C. FORD, DEPUTY MARITIME
ADMINISTRATOR, ACCOMPANIED BY JAMES L. PIMPER, GENERAL
COUNSEL, MARITIME ADMINISTRATION**

Admiral FORD. The bill S. 1185 would amend section 607(b) of the Merchant Marine Act, 1936, to authorize holders of operating-dif-

ferential subsidy contracts to pay from their capital reserve funds, with the consent of the Secretary of Commerce, amounts—

contributed toward research, development, and design expenses incident to new and advanced ship design machinery and equipment.

With the amendments hereinafter proposed, the Department recommends favorable consideration of the bill.

Section 607(a) of the 1936 act provides that holders of operating-differential subsidy contracts shall not pay as dividends an amount in excess of 10 percent of capital necessarily employed.

Section 607 (b) and (c) of the act requires each such operator to create, in depositories approved by the Secretary of Commerce, a capital reserve fund and a special reserve fund.

That section also requires each such operator to deposit in his capital reserve fund (1) an amount equal to the annual depreciation charges on subsidized vessels, such charges to be based upon the 20 or 25 year lives of the vessels, or if the vessel has been reconstructed, upon a life determined jointly by the Secretary of Commerce and the Secretary of the Treasury; (2) the proceeds of all insurance and indemnities received on account of the total loss of a subsidized vessel; (3) the proceeds of sale or other disposition of any subsidized vessel; and (4) such additional net profits of the subsidized business—over and above a cumulative return of 10 percent per annum on the contractor's capital necessarily employed—as the Secretary of Commerce determines is necessary to build up a fund for replacement of the contractor's subsidized ships. In addition, the contractor may, with the approval of the Secretary of Commerce, voluntarily deposit in the capital reserve fund any or all of the earnings otherwise available for distribution to stockholders.

Disbursements may be made from the capital reserve fund for the following purposes only: (1) to pay the principal, when due, on all notes secured by mortgages on subsidized vessels; (2) to pay for replacement vessels, or for the reconstruction of vessels, or for additional vessels to be employed on essential trade routes, and (3) to pay, with the consent of the Secretary of Commerce, any sums owing but not yet due on notes secured by mortgages on subsidized vessels.

Section 607(c) requires the contractor to deposit in his special reserve fund all annual profits in excess of 10 percent of capital necessarily employed and in excess of the percentage of profits deposited in the capital reserve fund. In addition, the contractor may, with the approval of the Secretary of Commerce, voluntarily deposit in his special reserve fund any or all of the earnings otherwise available for distribution to stockholders.

Disbursements may be made from the special reserve fund for the following purposes only: (1) to reimburse the contractor's general funds for operating losses; (2) to pay to the United States recapture of operating-differential subsidy as provided in section 606(5); (3) after recapture of operating-differential subsidy and reimbursement of operating losses, to pay, if the Secretary of Commerce consents, all amounts in the fund, in excess of 5 percent of capital necessarily employed, to the contractor for payment of dividends or bonuses; and (4) with the approval of the Secretary of Commerce, to transfer funds from the special reserve fund to the capital reserve fund.

The recapture of operating-differential subsidy referred to above is the obligation of the operator to pay the United States one-half of all profits exceeding an average return for the 10-year recapture period of 10 percent per annum on his capital necessarily employed but not to exceed the amount of operating-differential subsidy paid to him during this period.

The importance of the special reserve fund in protecting the operating-differential subsidy recapture rights of the United States has been substantially diminished by the operation of the Kracke formula which was contained in all annual appropriation acts for the Department of Commerce from 1951 through 1957, and which was made permanent legislation in 1957. Under this formula, payments of operating-differential subsidy which would place the operator in a recapture position are not made, but such amounts are accrued on the books of the Maritime Administration as contingent accounts payable, and at the end of the recapture period are offset against the operator's recapture obligations.

The foregoing provisions of the Merchant Marine Act, 1936, which require the establishment and maintenance of capital and special reserve funds are the very heart of the act, because they are the provisions which assure replacement of the subsidized vessels at the end of their economic lives, and assure a reserve for lean years.

On the other hand, the Department is very much interested in encouraging the subsidized operators to join the United States in research and development work so as to improve the efficiency of their ships. This would substantially promote commerce and national defense and would provide a basis on which the participation of the United States in equalizing the competitive positions of U.S. operators with those of their foreign competitors could ultimately be reduced. It would also assist water carriers in domestic trade.

We think a reasonable balance of these considerations would be provided by an amendment of the Merchant Marine Act, 1936, so as to safeguard the capital and special reserve funds to assure that their original purposes of providing for ship replacement and providing a "rainy-day" reserve would be served; and to authorize use of these funds for research and development purposes only to the extent such funds are not needed to serve these original purposes.

Section 204(b) of the Merchant Marine Act, 1936, authorizes the Secretary of Commerce to make rules and regulations to carry out the powers, duties, and functions vested in him by the act. To carry out our recommendations, we recommend that the bill be amended by inserting in line 7 after the word "consent" the following:

and upon terms and conditions which the Secretary of Commerce shall by regulation prescribe to give priority to the foregoing purposes of the fund (and with respect to any transfer of funds from the special reserve fund, to give priority to the purposes of that fund) and to carry out the purposes of this Act.

With the amendment proposed, the Department recommends favorable consideration of the bill.

The Bureau of the Budget advises there is no objection to the submission of this statement from the standpoint of the Administration's program.

Senator BARTLETT. Mr. Bourbon?

Mr. BOURBON. I have no questions.

Senator BARTLETT. No questions, Admiral; thank you very much.
Admiral FORD. Thank you, sir.

Mr. MAY. Mr. Chairman, the Committee of the American Steamship Lines has a brief statement, only 4½ pages, on S. 1183, and we would like to submit the statement for the record as if read. If the committee could extend us the courtesy of hearing Admiral Will today it would mean that he could get back to New York tonight for important business tomorrow and would not have to stay over.

Senator BARTLETT. All right, we will be glad to hear the statement.

Mr. MAY. I am Edward Albert May, and on behalf of the Committee on American Steamship Lines I would like to state that Admiral Will is testifying on behalf of his own company; in addition, that his statement has been adopted and is completely supported by all of our member lines who endorse this legislation.

Senator BARTLETT. All right.

Mr. EWERS. And might I state for the record that on this occasion I appear as counsel for Moore-McCormack Lines, Inc.

Senator BARTLETT. Return engagement, Admiral.

STATEMENT OF J. M. WILL, PRESIDENT, AMERICAN EXPORT LINES, INC., ACCOMPANIED BY IRA L. EWERS, COUNSEL, MOORE-McCORMACK LINES, INC.

Mr. WILL. I am glad to be back, Mr. Chairman.

I am president of the American Export Lines and I am appearing to present its position on S. 1183.

My company is an American-flag line that has an operating-differential subsidy agreement with the Government. Under that agreement it is obligated to enter into construction contracts with American shipyards to replace its fleet of freight and passenger vessels as they become overage.

Mr. EWERS. Will the committee indulge me a courtesy, Mr. Chairman, before Admiral Ford retires, to ask him if at the time this allocation was made it was understood that any differences would be picked up by the Government and it wasn't until later these uncovered items were discovered?

Mr. PIMPER. What?

Mr. EWERS. It wasn't until we had to document the award that we found out that the language of the statute would not cover the delivery expense of the increased cost of supervision. Is that correct?

Mr. PIMPER. No, sir; that is not—

Admiral FORD. I am not sure that that is correct.

Mr. EWERS. Is it correct that we were told when we were asked to make a split award that the Government would pick up any difference in cost to us? Mr. Morse was then chairman, I admit, but that is distinctly my recollection.

Admiral FORD. I think you would have to ask Mr. Morse because I don't know.

Senator BARTLETT. Admiral, I wonder if it would be agreeable to you to submit a statement bearing on that question?

Admiral FORD. Yes, sir; I would be happy to.

Senator BARTLETT. Thank you.

Admiral Will?

Mr. WILL. Thank you, sir.

Since 1958, we have entered into contracts for the replacement of 12 of our freighters. Four of these have already been delivered; the others are still under construction. We are obligated to enter into construction contracts for the replacement of 18 additional freighters and our 3 passenger vessels. The vessels already contracted for have, and those still to be contracted for would, all come under the construction subsidy provisions of the 1936 Merchant Marine Act. American Export's cost of replacing this fleet is estimated at \$254 million. Other subsidized operators also have vessel replacement obligations and must provide substantial sums of money to take care of them.

S. 1183 would correct what we believe to be a technical defect in the construction subsidy provisions of the 1936 act. It would amend section 502(f) to make it clear that a purchaser of a ship built under the construction subsidy provisions of the act would not have to bear certain costs resulting from the decision of the Government that, for national defense reasons alone, the ship should be built in a yard other than that of the lowest bidder.

One of the basic purposes of the Merchant Marine Act is to place the American shipping lines on a parity with their foreign competitors. As to construction of new ships, this is done by providing that the Government pay the shipyard for that portion of the construction cost in excess of the cost to have a ship built in a foreign yard. It is also provided that the Government pay for the features incorporated into a vessel for maritime defense purposes and which are in excess of those required for commercial operations.

Section 502(f) is a special provision permitting the Secretary of Commerce, with the approval of the President and after specified findings, to order ships being built with construction subsidy to be constructed in a shipyard that needs the work, even if it is not the lowest bidder.

The findings required for such an order boil down to a determination that having the work done in the particular yard is necessary for national defense reasons. An order requiring construction in a yard that was not the lowest bidder naturally involves some additional costs. Section 502(f) specifically provides that the excess price is to be paid by the Maritime Board "as a part of the cost of national defense." This is, of course, only fair since the allocation is not made for the benefit of the buyer, but to help shipyards which the Government considers it is necessary to maintain in a particular strategic area. The additional costs resulting from this allocation over those that would be incurred by the buyer if the work were done at the yard submitting the lowest responsible bid should certainly not be borne by the buyer.

While we believe the intent of section 502(f) is that all excess costs should be paid by the Government, the language, itself, refers only to the excess of the contract price. This may and has been, at least informally, interpreted by Maritime to exclude payments made to persons other than the shipyard. There are, in fact, substantial costs incurred by a purchaser in connection with a construction contract in addition to payments made to the yard. These include costs paid to naval architects and personnel of the purchaser for supervision and inspection in a more distant yard, as well as the added costs involved in moving a delivered vessel from the shipyard to the home

port of the operator to place the ship in operation on its subsidized route.

Each of these items is an additional cost properly chargeable to national defense requirement. Their character is not changed by reason of the fact that some of them are not normally paid to the shipyard.

The provisions of section 502(f) have been invoked by the Federal Maritime Board on at least two occasions and, of course, may be used for future contracts.

I believe Mr. Ford testified they have been invoked in three occasions.

To illustrate the problems raised by this section I would like to outline American Export's experience.

We have entered into new construction contracts on three separate occasions since 1958, each for a group of four ships. For the first of these groups the provisions of section 502(f) were applied.

The lowest bid for these vessels had been made by the New York Shipbuilding Corp. in Camden, N.J., but since the necessary findings were made under section 502(f) the Federal Maritime Board, pursuant to that section, contracted with National Steel and Shipbuilding Corp., San Diego, Calif., for the construction of two of these ships and agreed to pay it the excess of the contract price over the bid of New York Shipbuilding Corp. for these two vessels.

However, our construction contract did not include all of the costs we incurred in the building of these ships. Much additional travel, telephone, and other expense was required to supervise and inspect the work on the vessels in San Diego, compared with what these costs would have been if the ships had been built in the yard of the low bidder in Camden. This is not a serious problem in allocation between yards on Atlantic or gulf coasts but is serious for an Atlantic coast based company with an allocation to the Pacific coast. Nevertheless, it seems likely that the language of section 502(f) will be construed as not specifically authorizing the Board to treat this excess cost as a national defense cost arising from the allocation.

In like manner, the cost of delivering the vessel to our home port has been drastically increased by the allocation of the work to San Diego instead of to Camden. The new vessels had to be brought from San Diego to the east coast before they could be placed on our regular route, and we had to pay the cost of sending crews to California to man the vessels.

The additional costs arising from the increased inspection and supervision expense, and from the increased cost of operation and depreciation on the delivery voyages, are estimated at \$274,000 for the two vessels, or \$137,000 per vessel. This excludes the portion of this cost that would be paid for by the Government as construction subsidy and estimates only the additional cost which Export has had to bear as a result of the allocation of these two ships. It is made up of vessel costs of \$4,000 per day for 11½ days San Diego to Norfolk, plus port charges and Panama Canal tolls of \$9,000; \$77,200 additional cost per vessel for inspection by J. J. Henry & Co., and \$4,800 additional telephone, telegraph, and travel expense of Export's personnel. We feel strongly that these costs should be regarded as a national defense item in the same category as the additional contract price.

S. 1183 would make a technical revision of the statute to enable the Federal Maritime Board to reimburse a ship operator for the extra and out-of-pocket costs that result from a contract allocation made solely for reasons of national defense, without adding any value to the delivered ship. It would eliminate an interpretation disallowing such costs unless they were paid directly to a shipyard. Thus it would maintain the principle that the operator's price is based on the lowest competitive cost which he might obtain in the open market, while the Government pays for national defense features which have no commercial value.

I urge you to consider favorably S. 1183.

Senator BARTLETT. Admiral, this is a very useful and illuminating statement, it will be most helpful to the committee.

Do you have any comment to make regarding the recommendation of the administration that there be no retroactive feature?

Mr. WILL. Yes, sir, I can't see why, if this is good for the future why the people who have been forced to suffer through the lack of this legislation in the past should not be reimbursed for their out-of-pocket costs which had to be incurred through no fault of their own. I see no objection if the wording of the bill needs to be revised to provide that it shall only take care of excess costs incurred by the shipowner, and that such excess costs must be proven.

Senator BARTLETT. Thank you.

Mr. Bourbon?

Mr. BOURBON. Well, doesn't the bill say that very definitely now?

Mr. WILL. I understood from what—

Mr. EWERS. The bill provides that you can only recover proven excess costs. The figures which are contained in the Admiral's statement and my statement are only estimates which will have to be audited by Maritime before they can be paid.

Mr. BOURBON. They compare very closely, though, to Maritime's estimates?

Mr. EWERS. The estimates of Maritime and the estimates of Export and the estimates of Moore-McCormack are all within a range of \$10,000 where \$250,000 are involved.

Mr. WILL. Actually, the estimates of Maritime are very close to our estimates. I don't think there will be any question there.

Mr. BOURBON. Admiral, with regard to 1185—we will go back to that for a moment—what do you think about the Maritime suggestion as to the amendment on that?

Mr. WILL. I am in full agreement, speaking for American Export Lines.

Mr. BOURBON. Do you think your statement now represents the CASL opinion?

Mr. WILL. Yes, I think that I can speak as vice chairman of CASL that we are in favor.

Mr. BOURBON. And it is necessary to preserve the original meaning of the reserve funds? That is what I am talking about.

Mr. WILL. I think I will have to have that one suggestion clarified. I don't believe—

Mr. EWERS. Could we submit a statement on that for the record, Mr. Bourbon?

Mr. BOURBON. I have no objection.

Mr. WILL. I would feel much better, Mr. Chairman, if we could submit a statement. We would have a little chance to study it.

Mr. EWERS. The admiral has been here thinking about our own case and so have I. We just listened to Maritime's amendment for the first time. It seems inoffensive but I think we should have an opportunity to read it over and make any comment CASL has to make on it for the record.

Mr. BOURBON. Would you estimate a statement on Moore-McCormack's experience as to the proposed sales of their vessels in the open market as compared to the trade-ins?

Mr. EWERS. I will be very happy; I can give it to you now if you want it. The C-3 type of vessel is the type of vessel which has been most active in the market. It is suitable for grain tramping. We offered to trade in one to the Maritime Commission. At that time its restricted foreign market was \$650,000, I think. At that time its agreed domestic value was \$900,000. The then chairman of the board, Mr. Morse, offered us \$650,000 for that C-3 on the theory that the restricted foreign market would prevail at all times.

Later on, and in another case in which Moore-McCormack was not interested, I think Chairman Wilson agreed that the difference between the average of the two would be the proper trade-in credit so that that C-3 got \$750,000 offered, which is midway between \$600,000 and \$900,000.

The C-3 which we had offered to trade in was sold in the same market privately with an 802 restriction for \$850,000. Had the vessel not had the 802 restriction when we sold her in the private market we should have been able to realize between \$900,000 and \$1 million for the vessel which is the price at which Burbank offered the Luckenbach C-3's in the same market. That gives you a pretty good picture of the effect of all of these limitations.

Mr. BOURBON. Thank you very much.

Senator BARTLETT. Now, in this statement he made in behalf of Mr. Stakem, Admiral Ford said this:

The Department is opposed to the retroactive feature of the bill but has no objection to the prospective feature if the bill is amended to give the Government the benefit of any savings with respect to these costs that come to an operator from allocation.

What is your view on that feature?

Mr. WILL. I would see no objection to that, Mr. Chairman.

Mr. EWERS. I think the amendment is meaningless because to the extent there is a saving he doesn't have the cost.

Senator BARTLETT. You would have no objection to it, though?

Mr. EWERS. I think it is meaningless language because to the extent that he didn't have to spend as much as he thought he had to spend it just reduces the price of the ship to him.

Mr. BOURBON. Senator, here are three statements from Commerce, reports on the three bills, and I have just been handed one from Treasury that you might like some comment on.

Mr. EWERS. May I ask Mr. Bourbon if he has received a report from the Comptroller General in connection with this amendment of 502(f)?

Mr. BOURBON. No.

Mr. EWERS. May I make a statement now in connection with 502(f)?

Senator BARTLETT. Yes.

Mr. EWERS. I would like to submit for the record as though read the statement prepared by the chairman of our board, Mr. Lee, which substantially confirms the data which Admiral Will has given you and gives our estimates of the increased costs resulting from this allocation.

Senator BARTLETT. That will be incorporated.

(The statement of Rear Adm. Robert C. Lee follows:)

STATEMENT OF REAR ADM. ROBERT C. LEE, CHAIRMAN OF THE BOARD, MOORE-McCORMACK LINES, INC., BEFORE THE SENATE COMMITTEE ON COMMERCE IN SUPPORT OF S. 1183

My name is Robert C. Lee. I am chairman of the board of Moore-McCormack Lines, Inc., and have been associated with this company and its predecessors since 1920. I am here to testify in support of Senate bill S. 1183 which is intended to amend section 502(f) of the Merchant Marine Act of 1936.

Section 502(f) permits allocation of construction work to a shipyard other than the lowest bidder upon findings that the action is necessary for national defense purposes. In February 1958, two cargo vessels to be constructed for us were allocated to Todd Shipyards Corp., San Pedro, Calif., under section 502(f) although the lowest responsive bid for these vessels had been made by the Sun Shipbuilding Corp., Chester, Pa. The Federal Maritime Board has agreed under section 502(f) to absorb as a cost of national defense the excess costs of the ships payable to Todd Shipyards Corp. under the construction contract.

However, the construction contract does not include all of the costs of building the ships. To the shipyard cost must be added the owner's cost of inspection during construction. This additional cost has been substantially increased because of the allocation of two vessels under section 502(f). It became necessary to establish an inspection staff in San Pedro, Calif., in addition to the inspection staff maintained in Chester, Pa. Much additional travel, telephone and other expense is required to supervise and inspect the work in progress at two locations compared with the equivalent costs had the ships been built in the yard of the low bidder (Sun of Chester).

After delivery of the vessels by the shipyard, an additional cost to be absorbed by Moore-McCormack Lines, Inc., because of this allocation award, is the cost of bringing the vessels in ballast from the west coast to the east coast, where these two vessels will be put into service. One of the vessels, SS *Mormaccapre*, was completed and delivered in January 1961, the other SS *Mormacglen*, is scheduled for completion and delivery in May 1961. We tried to obtain cargo for this delivery voyage to reduce the loss but find nothing offering. Final excess costs during construction as a result of this allocation have not been determined, but preliminary costs to December 31, 1960, are:

(a) 1. New construction personnel at San Pedro: Wages, travel, etc-----	\$129, 271. 66
2. Administrative, reproductions, miscellaneous, travel, etc-----	76, 323. 65
Less expected recovery from FMB as construction-----	205, 595. 31
Differential subsidy (contract FMB 72)-----	72, 910. 93
Net additional cost 2 vessels (which is directly attributable to national defense purposes)-----	132, 684. 38
(b) Additional cost of bringing SS <i>Mormaccapre</i> from San Pedro, Calif., to New York, period Jan. 27-Feb. 8, 1961, 13 days:	
Wages of crew, taxes, welfare and pension-----	17, 975. 75
Subsistence of crew-----	1, 495. 00
Stores, supplies, and equipment-----	1, 625. 00
Fuel-----	10, 004. 00
Insurance-----	3, 691. 65
Other vessel expense (including transportation of crew)-----	9, 202. 05
Port expenses-----	1, 016. 79
Canal tolls and miscellaneous-----	7, 859. 14
Vessel depreciation, 13 days at \$608.543-----	7, 911. 06
Total, 1 vessel-----	60, 780. 44
Transportation costs, 2 vessels-----	121, 560. 88

A recapitulation of the preliminary excess costs to Moore-McCormack Lines as a result of the allocation of two vessels under section 502(f) would be:

Excess costs during construction.....	\$133, 000. 00
Transportation costs bringing vessels from west coast to east coast...	121, 000. 00
Total.....	254, 000. 00

Mr. EWERS. I should also like to state that it is my recollection, and in my capacity as counsel for Moore-McCormack I am the one who usually conducts these negotiations, that at the time we were notified we had to split the award Chairman Morse told us that the Government would pick up any difference resulting from the award. Later when we had to document the construction differential and the construction contracts it became obvious that the statute did not permit the Government to pick up the entire difference to Moore-McCormack resulting from the award.

Chairman Morse told me at that time that they would try and find some way of taking care of it, that he had discussed it with the Comptroller General, and that the Comptroller General was kindly disposed to remedying that deficiency. So that this is in effect corrective rather than retroactive.

Also, as far as its being retroactive is concerned the final purchase price on these vessels will not be determined for many months yet. We have just taken delivery of our second Todd ship May 19. It has 6 months guaranteed period after which you can sit down and try and figure out what the ship has cost you. I am sure that the same situation prevails with respect to Export. Their final purchase price has not been determined and at that time, of course, it is determined how much more the Government owes and how much more the operator owes.

But I want to say here and now that I have a distinct recollection that at the time we were informed that we must make a split award the Government promised to pick up any difference resulting to the operator from the split award. It was not until later that we awakened on the fact that the statute apparently didn't cover increased inspection costs and increased costs of delivery. That was discussed at that time with Chairman Morse and it is my recollection he said he had discussed it with the Comptroller General and the Comptroller General would go along with it.

Mr. BOURBON. We just don't have his report but I will make sure we get it.

Mr. LEE. If you would like to swear me I will give my statement under oath; unless somebody is willing to make a contrary statement under oath I think it should be accepted.

Senator BARTLETT. Admiral Ford promised to submit a written statement with respect to this.

(The report from the Comptroller General follows:)

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., April 21, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: Further reference is made to your letter of March 3, 1961, acknowledged on March 6, requesting the comments of the General Accounting Office concerning S. 1183, 87th Congress, 1st session, entitled "A bill to amend the Merchant Marine Act, 1936, in order to provide for the reimbursement of certain vessel construction expenses."

The bill would amend section 502(f) of the Merchant Marine Act, 1936, as amended, to provide that, in the event the construction of a vessel is allocated to other than the lowest bidder, the Federal Maritime Board shall bear the additional expenses of inspection and supervision of the vessel during construction, and delivery of the vessel to its home port. Under the proposed amendment, the additional expenses of inspection, supervision, and delivery will not be considered part of the construction-differential subsidy; however, it is not clear whether such expenses will be attributable to the cost of national defense as is presently provided in section 502(f) with respect to the excess cost of allocation over the lowest responsible bid. We would suggest, therefore, that such expenses be identified in section 502(f) as national defense costs in order that the expenditures by the Government will be recognized in the event the vessel is subsequently repurchased by the Government. In this connection, we would further recommend that the wording of section 802 of the act, which establishes the limitation of the amount to be paid by the Government upon repurchase, be amended to provide for the exclusion of national defense costs in lieu of the existing exclusion of national defense features, in order to embrace not only the expenses of inspection, supervision, and delivery, but also the excess price occasioned by allocation which is not now specified in section 802.

In our opinion, section 2 of the proposed amendment would apply retroactively to all contracts—both completed and uncompleted—which have been allocated under section 502(f) of the act. We understand that up to the present time there has been an allocation of contracts for the construction of six ships under section 502(f). The proposed amendment provides only for reimbursement to the shipowner for any higher cost of inspection, supervision, and delivery occasioned by allocation to other than the lowest bidder, but fails to provide for an upward adjustment in the purchase price to the owner if an allocation should result in a reduction in the cost of those items to the shipowner. In view thereof, and since the contracts covering the vessels mentioned above cannot be changed without the consent of the other parties thereto, thus depriving the Government of the benefit of any possible savings which may have resulted to the operator, we do not look with favor upon the retroactive application of the measure. Accordingly, we recommend the deletion of section 2 of the proposed amendment in its entirety. We further recommend that following the word "subsidy," on line 7 of page 2 of the bill, there be removed the period and quotation mark, and inserted in lieu thereof a colon, followed by the sentence: "*Provided, however,* That there shall be an upward adjustment in the purchase price to the owner if an allocation should result in a reduction in the cost of such items to the shipowner."

While we recognize that the question whether legislation of this type is desirable is strictly a matter of policy for determination by the Congress, we suggest that the matters hereinabove set forth be given consideration by your committee in its deliberations on the bill.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

(Subsequently, the American Merchant Marine Institute, Inc., sent in a letter favoring enactment of S. 1183:)

AMERICAN MERCHANT MARINE INSTITUTE, INC.,
Washington, D.C., April 24 1961.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington D.C.

MY DEAR SENATOR MAGNUSON: The American Merchant Marine Institute, Inc., a trade association representing the preponderance of American-flag shipping, favors enactment of S. 1183 which is being considered by your committee.

Passage of S. 1183 is necessary to correct what is undoubtedly a technical defect in the construction subsidy provisions of the Merchant Marine Act of 1936. Section 502(f) is a special provision which permits the Secretary of Commerce, with the approval of the President, and after certain findings, to order ships being built with construction subsidy to be constructed in a shipyard that needs the work, regardless of the fact that it is not the lowest bidder. It provides that the excess price, which inevitably results, shall be paid by the Maritime Board as a part of the cost of national defense. The additional costs should not, under these circumstances, be borne by the buyer.

The language of section 502(f) refers only to the excess of the contract price. S. 1183 would amend this subsection to provide that the vessel owner shall be reimbursed by the Government for the excess of expenses he incurs for inspection and supervision during construction of the vessel and for delivery of the vessel to its home port over the costs he would have incurred if the lowest responsible bid had been accepted. Such costs should be regarded as a national defense item in the same category as the additional contract price.

These extra and out-of-pocket costs that result from a contract allocation made solely for national defense reasons add no value to the delivered ship so far as the owner is concerned. The authority of the Federal Maritime Board to reimburse a ship operator for such costs should be made clear. For this reason we urge your favorable action on S. 1183.

We ask that this letter be made a part of the written record on this bill.

Yours very truly,

ALVIN SHAPIRO.

Senator BARTLETT. Here is a letter from the Treasury Department on all three bills and that letter will be made a part of the record.

Special reference is made in the letter to S. 1183 and it is said:

Although the subject matter of this bill is primarily within the purview of the Department of Commerce we do wish to point out that the bill is silent as regards the tax treatment which the reimbursed expenses would receive in the hands of the recipient. In the absence of a provision to the contrary, such reimbursement might well have to be included in the gross income of the recipient under present law. If a different tax treatment is intended such as an offset against construction costs which would be reflected in an adjustment to the cost basis of the vessel, it would be desirable to so specify. However, because of the retroactive feature of the bill such an alternative tax treatment would raise complex administrative problems in recomputing cost basis and depreciation allowances for prior years.

(The Treasury Department letter follows:)

OFFICE OF THE SECRETARY OF THE TREASURY,
Washington, D.C., April 21, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in response to your request for this Department's views on S. 1183, S. 1184, and S. 1185, three bills to amend the Merchant Marine Act of 1936.

S. 1183 would amend section 502 of the Merchant Marine Act of 1936 (46 U.S.C. 1152), to provide for the reimbursement of certain expenses incurred for inspection and supervision of vessels during construction and delivery of vessels to home ports. Although the subject matter of this bill is primarily within the purview of the Department of Commerce, we do wish to point out that the bill is silent as regards the tax treatment which the reimbursed expenses would receive in the hands of the recipient. In the absence of a provision to the contrary, such reimbursement might well have to be included in the gross income of the recipient under present law. If a different tax treatment is intended, such as an offset against construction cost which would be reflected in an adjustment to the cost basis of the vessel, it would be desirable to so specify. However, because of the retroactive feature of the bill, such an alternative tax treatment would raise complex administrative problems in recomputing cost basis and depreciation allowances for prior years.

S. 1184 would conform the provisions of section 802 of the Merchant Marine Act of 1936 with those of section 510 thereof as amended by Public Law 86-575. This bill does not appear to have any significant tax aspects.

S. 1185 would authorize withdrawals from the tax-free capital reserve funds maintained pursuant to section 607(b) of the Merchant Marine Act of 1936 (46 U.S.C. 1177), of amounts contributed toward research, development, and design expenses incident to new and advanced design machinery and equipment. Under section 607(h) of the act, earnings withdrawn from the reserve fund are taxable as if earned during the year of withdrawal. This bill, therefore, does not appear to have any special tax consequences.

Subject to the foregoing comments, the Treasury Department defers to the opinion of the Department of Commerce on the merits of S. 1183, S. 1184, and S. 1185.

We have been advised by the Bureau of the Budget that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

HENRY H. FOWLER,

Acting Secretary of the Treasury.

Senator BARTLETT. Those four communications will be incorporated in the record.

Thank you, gentlemen.

The committee will stand in recess until 10 o'clock tomorrow.

(Thereupon, at 12:20 p.m., the committee was adjourned, to reconvene at 10 a.m., Tuesday, April 25, 1961.)

MERCHANT MARINE LEGISLATION

TUESDAY, APRIL 25, 1961

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee was called to order at 11 a.m., by the Honorable John Marshall Butler, in room 5110, New Senate Office Building, Washington, D.C.

Senator BUTLER. The subcommittee will come to order.

We will hold a hearing this morning on S. 1185. A copy of the bill will be made a part of the record at this point.

[S. 1185, 87th Cong., 1st sess.]

A BILL To amend the Merchant Marine Act, 1936, in order to authorize the expenditure from certain capital reserve funds of certain amounts for research, development, and design expenses.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 607(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(b)) is amended by inserting before the period at the end thereof a comma and the following: "and may also pay from such fund, with such consent, amounts contributed toward research, development, and design expenses incident to new and advanced ship design machinery and equipment".

Senator BUTLER. Our first witness will be Mr. Burke Piper of the Grace Line.

Mr. Piper, will you please come forward.

Mr. PIPER. I have some other witnesses from CASL, would you like them all up here?

Senator BUTLER. We are very happy to have them come up, Mr. Adams and Mr. May.

Mr. May, will you make your statement first, please.

STATEMENT OF ALBERT EDWARD MAY, ACTING EXECUTIVE DIRECTOR OF THE COMMITTEE OF AMERICAN STEAMSHIP LINES

Mr. MAY. Thank you, Mr. Chairman. I am Albert Edward May, the acting executive director of the Committee of American Steamship Lines. The 15-member companies of our committee support and urge the passage of S. 1185. The testimony this morning of the Committee of American Steamship Lines on this bill will be presented by Mr. Burke G. Piper, vice president, Grace Lines, Inc., chairman of the Finance Committee of the Committee of American Steamship Lines; Harrison R. Glennon, Jr., vice president, Moore-McCormack Lines, Inc., chairman of the Research Subcommittee of the Committee

of American Steamship Lines; and the third witness on behalf of this bill will be Mr. Howard C. Adams, vice president of the Pacific Far East Lines.

Senator BUTLER. Are you ready to proceed, Mr. Piper?

Mr. PIPER. Yes, sir.

Senator BUTLER. Go right ahead.

**STATEMENT OF BURKE G. PIPER, VICE PRESIDENT AND TREASURER
OF GRACE LINES, INC., CHAIRMAN OF THE FINANCE COMMITTEE
OF THE COMMITTEE OF AMERICAN STEAMSHIP LINES**

Mr. PIPER. My name is Burke G. Piper and I am vice president and treasurer of Grace Lines, Inc. I am appearing today in support of S.1185 as chairman of the Finance Committee of the Committee of American Steamship Lines (CASL), an organization comprised of the American-flag steamship companies holding operating-differential subsidy contracts with the U.S. Government. Accompanying me today are Harrison E. Glennon, Jr., vice president of Moore-McCormack Lines and chairman of the Research Subcommittee of the Committee of American Steamship Lines, and Howard C. Adams, vice president of Pacific Far East Lines, Inc., both of whom will also testify on behalf of CASL in support of the bill.

S. 1185 as introduced, authorizes the use of capital reserve funds for research, development, and design costs. CASL has a proposed addition to the bill, which Mr. Adams will discuss, that would authorize the use of capital reserve funds for the acquisition of containers.

Both the Government and the shipping industry are already embarked on a research and development program of considerable magnitude dedicated to improving the competitive position of the U.S. Merchant Marine. The language in S. 1185 corresponds to that in the appropriation to the Maritime Administration for research and development, and would enable the use of capital reserve funds by the operators, with the consent of the Maritime Administrator, for the same purposes as the research appropriation of the Maritime Administration. This will enable the industry to cooperate to the fullest extent with the Government in maintaining a modern, efficient, and effective Merchant Marine, responsive to the economic and defense needs of the country.

This program undoubtedly will continue over a number of years and involve the expenditure of considerable sums of money. At the present time reserve funds can be used only for design work directly related to a ship that is actually built. Initial experimental design work that is not directly related to a ship actually constructed or general developmental design work on ships or propulsion units, as well as all research and development work on cargo-handling methods and equipment, must now be financed from an operator's general funds.

The amount of general funds available to an operator generally are limited, particularly at the present time when the shipping industry is in the midst of an economic slump. The National Academy of Sciences recognized this problem in its recent report to the Maritime Administration of a proposed program for Maritime Administra-

tion research, when it recommended that the subsidized operators be permitted—

to withdraw part of their construction reserve funds in order to finance research and development work prior to the design and construction of the ship.

The proposed legislation will correct this situation and enable the operating lines to mobilize all of their financial resources in order to cooperate fully with the Government in the research and development work necessary to maintain a vigorous and growing merchant marine.

The problem of financing the cost of acquiring containers from limited general funds is also a growing problem facing the industry. The addition to S. 1185, proposed by CASL, which Mr. Adams will discuss more fully, would ease this situation by making capital reserve funds also available for this purpose.

In summary, S. 1185, as amended, does not involve the expenditure of any funds by the Government but, instead, would permit the industry urgently needed flexibility in the use of its own funds in two major areas—that is, research and development work and acquisition of containers. For this reason CASL requests the expeditious enactment of this important legislation.

Now, I have one other point that I would like to bring out that wasn't in the statement.

I understand that a letter from the Treasury Department dated April 21, 1961, was introduced in the hearings yesterday which states in part, and I quote from it:

S. 1185 would authorize withdrawals from the tax recap reserve funds maintained pursuant to section 607(b) of the Merchant Marine Act of 1936 of amounts contributed toward research, development, and design expenses incident to new and advanced design, machinery, and equipment. Under 607(h) of the act, earnings withdrawn from the reserve fund are taxable as if earned during the year of withdrawal.

We agree that this is technically correct; however, we believe it should be pointed out that the treatment of withdrawals from reserve funds is covered by a series of closing agreements between the operators and Internal Revenue and the expenditures for research and development work would be subject also to these well-established procedures.

Senator BUTLER. In other words, you believe that under the existing Treasury regulation they would be tax exempt upon withdrawal?

Mr. PIPER. It would depend upon the situation, but they would be subject to the present regulations if they are tax exempt or tax deferred, or whatever, as the expenditures now are from the reserve funds.

Senator BUTLER. I assume that you will not answer this question: I don't really want an answer at this time because I know that we will hear more about the subject later, but you are familiar with the speech that the Secretary of Commerce made yesterday; are you not?

Mr. PIPER. No, sir; I am not. I didn't see it.

Senator BUTLER. About the merchant marine. Well, we'll discuss that a little later. I guess we will hear more about it.

Mr. PIPER. Would you like for the other gentlemen to read their prepared statements?

Senator BUTLER. Yes. Proceed.

**STATEMENT OF HARRISON R. GLENNON, JR., VICE PRESIDENT,
ENGINEERING, MOORE-McCORMACK LINES, INC.**

Mr. GLENNON. My name is Harrison R. Glennon, Jr., and I am vice president, engineering, of Moore-McCormack Lines, Inc. I am appearing as chairman of the Research Subcommittee of the Committee of American Steamship Lines, in support of S. 1185.

Member companies of the Committee of American Steamship Lines have in the past spent appreciable sums in the development of new ship designs or in the redesign of existing ships demanded by changing trade requirements. Frequently designs are scrapped or altered drastically before the optimum is reached and many projects are discontinued completely because of changing concepts or for other reasons. As a consequence, the financial burden imposed on the operator has been considerable.

Whereas developmental work in the past has been costly, future research and development outlays will, no doubt, be of even greater magnitude. The Maritime Administration has recently initiated a vast and comprehensive program designed to improve the operating efficiency of the American merchant marine. Embodied in the program are numerous ship design or hardware development studies which it is hoped will ultimately be translated into vessels or vessel components. The scope of the program is far reaching, including transportation system analysis, labor-management relations, new hull design concepts, sophisticated ship-propulsion systems, and material-handling projects. Complementing the broader studies are a multitude of hardware development projects covering such items as integrated powerplants, advanced navigational systems, and improved methods of ship control. As the program moves forward a great many of these items will be tested on board vessels of our member lines.

Independent of, but complementary to, the Maritime Administration's research and development program, CASL companies have in the past, and will in the future, carry out extensive experimental and developmental work. In the field of cargo handling and terminal operation, various member lines have spent large sums, most noteworthy in the study of containerization and unitization of cargo. Other companies have operated experimental powerplants, controllable-pitch propellers, and cargo cranes, to name but a few. Seakeeping has also been an important subject and at least one member company, in cooperation with the Maritime Administration, is currently engaged in recording the response of radically differential hull forms to varying sea conditions. Now on the threshold of important technological advances of all kinds, it is certain that the need for experimentation and development, and its cost, will increase.

The Committee of American Steamship Lines is most anxious to cooperate to the fullest in promoting greater efficiency in the American merchant marine. It is mindful, however, that considerable funds will be required for this design and developmental work which could impose a hardship on many of our lines if financed solely from their general funds. The proposed legislation, therefore, is most necessary to ease this strain. It is recommended that favorable consideration be given to S. 1185.

Senator BUTLER. Thank you very much, Mr. Glennon.
Mr. Adams?

**STATEMENT OF HOWARD C. ADAMS, VICE PRESIDENT, PACIFIC FAR
EAST LINES, INC.**

Mr. ADAMS. My name is Howard C. Adams. I am vice president of the Pacific Far East Lines, Inc., and I am appearing in behalf of the CASL vessel replacement committee.

It is proposed, Mr. Chairman, that S. 1185 be amended to permit the contractor to make disbursements from his capital reserve fund for the purchase of cargo containers approved by the Maritime Administrator for use in connection with any of the contractors' subsidized vessels.

The high capital cost of replacement tonnage to be used in the essential trade routes of the foreign commerce of the United States has placed additional pressure on the operator to exhaust all methods whereby operating costs can be reduced to a minimum consistent with adequacy of service. Technical research, scientific development, and containerization are all areas in which increased operating efficiencies may be anticipated. Increased efficiencies in these projects should enhance the utility of the vessel which, in turn, should increase the possibilities of subsidy recapture by the Government. In many trade routes approximately 50 percent of vessel operating costs are chargeable to cargo handling. The average container accommodates approximately 20 to 30 measurement tons of cargo which can be handled in a single lift, as compared to the 1-to-2 ton skid or pallet handled in the conventional manner. Obviously, vessel turnaround time can be greatly reduced if the amount of container cargo on the vessel can be increased.

The shipper also receives advantages in containerization through reduction in transit time, elimination of pilferage and greater physical protection of his cargo.

Progress has been made recently in the standardization of containers for shipboard use. Uniformity in production of the container has provided some relief in cost. However, the average price of the oversea container in the 8 foot by 8 foot by 20 foot size is in the neighborhood of \$2,000 to \$2,500 per container. Considering the mariner vessel can accommodate 50 to 100 containers in addition to a quantity of general cargo and bulk cargo, the container cost per vessel ranges from \$100,000 to \$200,000. Many operators do not have sufficient free funds to meet this financial need. It is believed that containerization would be accelerated if the contractor could have the authority to use funds from his capital reserve funds for these purposes. It would appear that this use is as fitting and proper as the use of capital reserve funds for the construction of new vessels. Inasmuch as depreciation of these funds would be replenished over the life of the equipment which at present is estimated to be 6 to 10 years, no permanent depletion of funds would occur. We feel containerization has become, and will continue to be, an integral part of effective ocean transportation.

We, therefore, respectfully request that this committee consider adding a paragraph to S. 1185 which will accomplish the above-mentioned purposes. This paragraph would read as follows:

The contractor may also, with the consent of the Maritime Administrator, make disbursements from the capital reserve fund for the purchase of cargo containers approved by the Administrator for use in connection with any of the contractor's subsidized vessels, or for the payment of the principal of any indebtedness incurred for the purchase of such cargo containers. Such cargo containers shall be treated as vessels for purposes of deposits and withdrawals from the capital reserve fund under this section 607, and the regulations and closing agreements relating thereto, except that the annual deposit of depreciation charges on such cargo containers shall be an amount equal to the total annual depreciation charges taken into account in the determination of "net earnings" under paragraph (d) (1) of this section 607.

Senator BUTLER. Thank you ever so much, Mr. Adams.

I have given some thought to this container problem. As a matter of fact, I have a bill now pending that would let it be subject to the mortgage insurance provisions of the act. It has been suggested, I think, that they have a differential subsidy and be considered a part of the vessel in the initial construction. There has never been such a bill introduced that I know of.

What effect would this have on the reserve fund? What would it cost? Do you know?

Mr. ADAMS. The cost per operator, of course, would vary, but we have anticipated that a mariner vessel would average about 100 containers per vessel, that would be about \$200,000 per vessel cost. That cost, as I mentioned, would be withdrawn from the reserve fund and would be replenished by depreciation and that rate would depend upon the Internal Revenue. We estimate that area to be somewhere between 6 to 10 years.

Senator BUTLER. And your suggested amendment would repay the principal of indebtedness incurred prior to the passage of this act by any operator for containers?

Mr. ADAMS. Yes, sir; that's right.

Senator BUTLER. How much would that cost? Can you estimate the cost of that?

Mr. ADAMS. Mr. Chairman, could I refer that question to Mr. Piper?

Senator BUTLER. Well, it could be put in the record later, but I think somebody is going to want to know that and the answer should be here.

Mr. PIPER. We could put it in the record, get the information from the various lines. In the case of Grace Line we don't have any debt outstanding, we used our own funds——

Senator BUTLER. You used your general funds for the purchase of containers?

Mr. PIPER. Yes.

Senator BUTLER. This language is: " * * or for the payment of the principal of any indebtedness," so you wouldn't get reimbursed for that under that, would you?

Mr. PIPER. We anticipated that we could, from the first phrase, "make disbursements from the capital reserve fund for the purchase of containers approved by the Administrator." We purchased \$3 million worth.

Senator BUTLER. This is to reimburse you for that payment, but under this language you wouldn't be reimbursed, I don't think.

Mr. PIPER. We would like language that would make it possible for us to be reimbursed for those containers.

Mr. ADAMS. We assume, Mr. Chairman, that the payment of indebtedness for the purpose of purchasing those would cover that.

Senator BUTLER. If they didn't incur any indebtedness and paid for it out of cash, you have no outstanding indebtedness on your books, and accordingly you may not get paid.

Mr. ADAMS. May we submit for the record at a later date, sir, the information with regard to that?

Senator BUTLER. Yes, sir; I feel somebody is going to ask the question and they would like to know what that would cost. These are withdrawals from the reserve funds.

Mr. ADAMS. We can give you an estimate of the accrual of the total cost that would affect the reserve fund.

Senator BUTLER. Yes. Off the record.

(Discussion off the record.)

Senator BUTLER. On the record. Are there any further witnesses?

Mr. BOURBON. I would like to ask a question.

Senator BUTLER. Help yourself.

Mr. BOURBON. Mr. Adams, you suggest an amendment and along with that amendment we get a separate page that says, "Proposed revision of S. 1185," and there is an amendment on there that differs from the amendment that you have in your statement.

Mr. ADAMS. I'm not familiar with the amendment you have there, Mr. Bourbon, but the amendment that has been approved by CASL is the amendment which I read, sir.

Mr. BOURBON. The last four lines of it would be different.

Mr. ADAMS. This is a working copy which was used by the committee initially, Mr. Bourbon, but has been amended by this later edition.

Mr. BOURBON. This has nothing to do with it now?

Mr. ADAMS. No, sir; this is the final draft that I read.

Mr. BOURBON. Inasmuch as you are going ahead with this experimentation on containers, what is the outlook as far as labor is concerned? Are you going to have each time to pay them a lot of money to permit you to use these containers like you are doing on the west coast?

Mr. ADAMS. I can only speak for the west coast. We believe that the payment which has been made and the recognition for the need for automation has been a good investment for the operator. The cost is high; on the other hand, it is difficult to fully appreciate the cost to the operator of having a ship of the cost of a mariner of, say, \$6 or \$7 million net cost to him, turning around in 6 to 8 days in port when it should turn in 3 to 4 days in port. Therefore, I think it is in labor's interest and management's interest to turn these ships rapidly in order that they can be profitable in their operation. I think labor on the west coast has seen fit to cooperate to this extent.

Mr. BOURBON. You had some difficulty, didn't you, with the Teamsters. How did that work out?

Mr. ADAMS. That has not yet been settled, sir. It was a Teamster local in the bay area that did not fully subscribe to some of the other agreements and that matter is to be resolved some time in July.

Mr. BOURBON. Maybe we will have to ask Mr. Piper this, but in the last settlement or the last arrangement you made with your people in New York, was the question of containerization held up for a future decision?

Mr. PIPER. Well, it went to arbitration and an agreement has been reached on the basis on which containers will be handled. There will be some payments depending, it varies depending upon the number of containers in the ship.

Mr. BOURBON. Is Mr. Gleason a party to that? I think he was the one who opposed it before.

Mr. PIPER. Yes, sir; he's in the union, ILE. But we have an arrangement for the handling of the containers in the United States on the east coast; our problem has been in the foreign countries.

Mr. ADAMS. Mr. Chairman, in connection with the container amendment which we would like to request, may we have the authority to keep the record open to submit an amendment to make it conform to the questions here and whatever we think is necessary for the future?

Senator BUTLER. Yes, sir.

Mr. ADAMS. Thank you.

Senator BUTLER. And I assume that the statement that you have made in connection with the depreciation of the funds being replenished over the life of the equipment would also apply to any containers heretofore bought by Grace or any other company?

Mr. PIPER. Yes, sir.

Senator BUTLER. You could make that conform.

Are there any further witnesses?

Mr. BOURBON. Will that retroactive phase be spelled out in your proposed amendment?

Mr. ADAMS. Yes, sir.

Mr. BOURBON. No further questions.

As far as I know that is all.

Senator BUTLER. Over what period of time have you been buying these containers?

Mr. PIPER. We only made one purchase for the two C-2 ships that we converted, container ships. We purchased them a year and a half ago.

Senator BUTLER. And you say they are laid up?

Mr. PIPER. Yes, sir; they are over in Baltimore. As you pay your toll at the tunnel you can see them.

Mr. BOURBON. Isn't there a chance of using those on any other route?

Mr. PIPER. It's possible we could. We feel, though, that we are very close to coming to an arrangement whereby we can get them in service on the route that they are intended for. We also feel that if we would lose the fight in one of these countries that you could have repercussions in other countries. In other words, we have to make the thing work and establish a principle or we are in trouble in other places.

Senator BUTLER. What is your capital investment in these containers?

Mr. PIPER. \$3 million.

Senator BUTLER. Anything further? If not, I will insert the report of the Department of Commerce on S. 1185 at this point, and a letter from the Merchant Marine Institute Inc., favoring enactment of S. 1185, and adjourn these hearings.

THE SECRETARY OF COMMERCE,
Washington, April 24, 1961.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request of March 7, 1961, for the views of this Department with respect to S. 1185, a bill to amend the Merchant Marine Act, 1936, in order to authorize the expenditure from certain capital reserve funds of certain amounts for research, development, and design expenses.

The bill would amend section 607(b) of the Merchant Marine Act, 1936, to authorize holders of operating-differential subsidy contracts to pay from their capital reserve funds, with the consent of the Secretary of Commerce, amounts "contributed toward research, development, and design expenses incident to new and advanced ship design machinery and equipment."

With the amendments hereinafter proposed, the Department recommends favorable consideration of the bill.

Section 607(a) of the 1936 act provides that holders of operating-differential subsidy contracts shall not pay as dividends an amount in excess of 10 percent of capital necessarily employed.

Section 607(b) and (c) of the act requires each such operator to create, in depositories approved by the Secretary of Commerce, a capital reserve fund and a special reserve fund.

That section also requires each such operator to deposit in his capital reserve fund (1) an amount equal to the annual depreciation charges on subsidized vessels, such charges to be based upon the 20 or 25 year lives of the vessels, or if the vessel has been reconstructed, upon a life determined jointly by the Secretary of Commerce and the Secretary of the Treasury; (2) the proceeds of all insurance and indemnities received on account of the total loss of a subsidized vessel; (3) the proceeds of sale or other disposition of any subsidized vessel; and (4) such additional net profits of the subsidized business (over and above a cumulative return of 10 percent per annum on the contractor's capital necessarily employed) as the Secretary of Commerce determines is necessary to build up a fund for replacement of the contractor's subsidized ships. In addition, the contractor may, with the approval of the Secretary of Commerce, voluntarily deposit in the capital reserve fund any or all of the earnings otherwise available for distribution to stockholders.

Disbursements may be made from the capital reserve fund for the following purposes only: (1) to pay the principal, when due, on all notes secured by mortgages on subsidized vessels; (2) to pay for replacement vessels, or for the reconstruction of vessels, or for additional vessels to be employed on essential trade routes, and (3) to pay, with the consent of the Secretary of Commerce, any sums owing but not yet due on notes secured by mortgages on subsidized vessels.

Section 607(c) requires the contractor to deposit in his special reserve fund all annual profits in excess of 10 percent of capital necessarily employed and in excess of the percentage of profits deposited in the capital reserve fund. In addition, the contractor may, with the approval of the Secretary of Commerce, voluntarily deposit in his special reserve fund any or all of the earnings otherwise available for distribution to stockholders.

Disbursements may be made from the special reserve fund for the following purposes only: (1) to reimburse the contractor's general funds for operating losses; (2) to pay to the United States recapture of operating-differential subsidy as provided in section 606(5); (3) after recapture of operating-differential subsidy and reimbursement of operating losses, to pay, if the Secretary of Commerce consents, all amounts in the fund, in excess of 5 percent of capital necessarily employed, to the contractor for payment of dividends or bonuses; and (4) with the approval of the Secretary of Commerce, to transfer funds from the special reserve fund to the capital reserve fund.

The recapture of operating-differential subsidy referred to above is the obligation of the operator to pay the United States one-half of all profits exceed-

ing an average return for the 10-year recapture period of 10 percent per annum on his capital necessarily employed but not to exceed the amount of operating-differential subsidy paid to him during this period.

The importance of the special reserve fund in protecting the operating-differential subsidy recapture rights of the United States has been substantially diminished by the operation of the Kracke formula which was contained in all annual appropriation acts for the Department of Commerce from 1951 through 1957, and which was made permanent legislation in 1957. Under this formula, payments of operating-differential subsidy which would place the operator in a recapture position are not made, but such amounts are accrued on the books of the Maritime Administration as contingent accounts payable, and at the end of the recapture period are offset against the operator's recapture obligations.

The foregoing provisions of the Merchant Marine Act, 1936, which require the establishment and maintenance of capital and special reserve funds are the very heart of the act, because they are the provisions which assure replacement of the subsidized vessels at the end of their economic lives, and assure a reserve for lean years.

On the other hand, the Department is very much interested in encouraging the subsidized operators to join the United States in research and development work so as to improve the efficiency of their ships. This would substantially promote commerce and national defense and would provide a basis on which the participation of the United States in equalizing the competitive positions of U.S. operators with those of their foreign competitors could ultimately be reduced. It would also assist water carriers in domestic trade.

We think a reasonable balance of these considerations would be provided by an amendment of the Merchant Marine Act, 1936, so as to safeguard the capital and special reserve funds to assure that their original purposes of providing for ship replacement and providing a "rainy day" reserve would be served; and to authorize use of these funds for research and development purposes only to the extent such funds are not needed to serve these original purposes.

Section 204(b) of the Merchant Marine Act, 1936, authorizes the Secretary of Commerce to make rules and regulations to carry out the powers, duties and functions vested in him by the act. To carry out our recommendations, we recommend that the bill be amended by inserting in line 7 after the word "consent" the following: "and upon terms and conditions which the Secretary of Commerce shall, by regulation, prescribe to give priority to the foregoing purposes of the fund (and with respect to any transfer of funds from the special reserve fund, to give priority to the purposes of that fund) and to carry out the purposes of this Act."

With the amendment proposed, the Department recommends favorable consideration of the bill.

The Bureau of the Budget advised there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

EDWARD GUDEMAN,
Under Secretary of Commerce.

AMERICAN MERCHANT MARINE INSTITUTE, INC.,
Washington, D.C., April 24, 1961.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

MY DEAR SENATOR MAGNUSON: The American Merchant Marine Institute, Inc., a trade association representing the preponderance of American-flag shipping, favors enactment of S. 1185 which is being considered by your committee.

This bill would amend section 607(b) of the Merchant Marine Act of 1936 by adding language which would authorize expenditure from the contractor's capital reserve funds of amounts contributed toward research, development, and design expenses incident to new and advanced ship design machinery and equipment.

Section 607(b) of the act requires each operator who holds an operating-differential subsidy contract to create, in depositories approved by the Secretary of Commerce, a capital reserve fund. Reserve funds cannot now be used for initial experimental design work that is not directly related to a ship actually constructed or general developmental design work on ships or propulsion units. Such expenditures must be financed from an operator's general fund.

At the present time the shipping industry is suffering an economic depression, and the amount of general funds available to an operator are, in most instances, quite limited. Even so, the development of new ship designs and the redesign of existing ships demanded by trade requirements are imperative. Research and development costs are high, and place financial burdens on ship operators.

Enactment of S. 1185 would permit the operating lines to make use of money in their capital reserve fund and cooperate with the Government in the program it has recently undertaken to improve the operating efficiency of the American merchant marine. This is necessary in order to maintain a merchant marine capable of carrying out its historic role.

We urge favorable action on this proposed legislation, and ask that this letter be made a part of the written record on this bill.

ALVIN SHAPIRO.

Yours very truly,

Senator BUTLER. Thank you very much, gentlemen.
(Thereupon, at 11:25 a.m., the subcommittee was adjourned.)

MERCHANT MARINE LEGISLATION

WEDNESDAY, MAY 10, 1961

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 5110, New Senate Office Building, the Honorable Clair Engle, presiding.

Senator ENGLE. The subcommittee will be in order.

The subcommittee will take testimony this morning on the following three bills:

S. 1456—To authorize an additional Assistant Secretary of Commerce.

S. 1690—To amend title VI, Merchant Marine Act, 1936, to increase certain limitations in payments on account of operating-differential subsidy under such title.

S. 1627—To admit certain vessels to American registry and to permit their use in coastwise trade.

The bills will be taken up in the order as read, beginning with S. 1456, to authorize an additional Assistant Secretary of Commerce. The Honorable Edward Gudeman, Under Secretary of Commerce, is the one witness listed to testify on this bill.

S. 1456 would authorize an additional Assistant Secretary of Commerce to handle the mushrooming role of science and technology within the Department.

This new Assistant Secretary would provide vital assistance to the Secretary of Commerce in:

(1) The coordination and evaluation of existing programs of the Department in the fields of science and technology;

(2) The expansion of such programs where deemed desirable to meet our national needs;

(3) The development and implementation of new research and development programs in furtherance of the Department's objectives; and

(4) Representing the Department on top policy level scientific committees and groups, including the Federal Council for Science and Technology.

Creation of the new position also is a major recommendation of the Special Advisory Committee of the National Academy of Sciences, and the Bureau of the Budget has advised they would interpose no objection if the legislation is approved by the Congress.

(The bill follows.)

[S. 1456, 87th Cong., 1st sess.]

A BILL To authorize an additional Assistant Secretary of Commerce

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of Commerce, in addition to the Assistant Secretaries now provided by law, one additional Assistant Secretary of Commerce who shall be appointed by the President by and with the advice and consent of the Senate, shall receive compensation at the rate prescribed by law for Assistant Secretaries of Commerce, and shall perform such duties as the Secretary of Commerce shall prescribe.

Senator ENGLE, Under Secretary of Commerce Edward Gudeman is here this morning to represent the Department of Commerce in this matter.

Mr. Secretary we are very glad to have you here and to receive your statement. You may proceed.

STATEMENT OF HON. EDWARD GUDEMAN, UNDER SECRETARY OF COMMERCE

Mr. GUDEMANN. Mr. Chairman and members of the subcommittee, thank you for this opportunity of appearing before you today to give you our views concerning proposed legislation to authorize an additional Assistant Secretary of Commerce. We urge enactment of S. 1456, a bill for this purpose.

Included within the Department of Commerce, and importantly related to our basic mission of fostering and promoting industry, commerce, and transportation are such outstanding scientific agencies as the National Bureau of Standards, the Weather Bureau, and the Coast and Geodetic Survey. Also contributing to the scientific and technical needs of our expanding economy are such agencies as the Patent Office and the Office of Technical Services. In addition, the fulfillment of the responsibilities of the Bureau of Public Roads and the Maritime Administration requires extensive research and development activities in a number of scientific and technical fields. These agencies and the activities they conduct are of immeasurable importance not only to our economy but to our national defense and the general welfare of our people as well. The scientific and technical functions conducted within the Department of Commerce are important links in the overall scientific efforts being conducted by other agencies of our Government in the areas of national defense, atomic energy, space technology, oceanography, meteorology, and others. The scope and importance of these functions and the part which agencies of the Department of Commerce must assume are constantly increasing.

The statutory responsibilities of the Department of Commerce to promote commerce and industry require that careful attention be given to all of the important factors essential to the growth of commerce and industry. At our present stage of economic and technologic growth the major opportunities for expanding our economy are in the application of the advances of science and engineering. The opportunities for new markets due to an expanding population or newly opened geographical areas are limited when compared to the opportunities based on technology. For example, the majority of the products that our economy is now involved in making and distributing

were unheard of at the time the Department was established nearly 60 years ago. Virtually all of these new products are the consequence of scientific advances and of technology based on these advances. In addition, a substantial portion of the growth of our economic system arises from increases in productivity. Here also we find that most important advances in productivity, that is, the ability to make products more efficiently, are based on scientific and technological achievements.

It is interesting to note that the two technical phases of economic growth are closely interdependent. For example, increases in productivity through automation without corresponding new product developments to take up the slack in the labor force can lead to serious economic dislocations. Conversely, manpower to make new products would be difficult to find unless there were concurrent increases in productivity. Hence, national policy for the promotion of commerce should be abreast of the influence of science upon changes in our technological economy.

Because science and technology are so intimately related to the growth of commerce and industry, it appears essential that the immediate staff of the Secretary of Commerce be constituted to give broad and knowledgeable attention to scientific matters. It is difficult to see how an adequate policy for the promotion of commerce and industry can be effected without extensive concern with its relation to and dependence on scientific and technologic developments. Attention to such matters would, of course, be a major responsibility of an additional Secretary of Commerce.

Knowledgeable supervision of the scientific programs in the Department of Commerce, sympathetic appreciation of the problems associated with these programs, and adequate planning for new technical programs would be important additional responsibilities for the Assistant Secretary. The highly specialized nature of scientific activities is such that policy supervision of such activities would be greatly facilitated if the individual having such responsibility had some training and experience in one or more technical disciplines.

Inasmuch as more than half of the Commerce bureaus presently have significant scientific programs, and since extensions of these programs are needed, a large part of the Department's total program is presently not represented in terms of a background of interest and experience in the Office of the Secretary.

The interrelatedness of many of the farflung scientific activities of the Federal Government is such that it is more and more becoming necessary to provide means for coordinating such activities on an interdepartmental basis. The most important recent effort to do this was the establishment of the Federal Council for Science and Technology. The Federal Council cannot really be effective in the coordination of Federal programs at high policy levels unless the individuals involved in this coordination are experienced and skilled in dealing with scientific problems. Therefore it seems essential that, on the immediate staff of the Secretary of Commerce, there be a highly placed expert to represent and speak for the total scientific program of the Department. He could speak knowingly on the desirability of use of existing facilities and competence. Although participation in the work of the Federal Council can be of appreciable importance

in itself, an Assistant Secretary of Commerce with sole responsibility for science and technology could be effective in many other inter-governmental operations where a total scientific viewpoint of the Department of Commerce is desired. Such activities would involve relationships with the Bureau of the Budget, the Department of Defense, the Congress, and perhaps, on appropriate occasions, the general public.

The Secretary of Commerce, in 1958, requested the President of the National Academy of Sciences, Dr. Detlev W. Bronk, to appoint a committee to undertake an evaluation of the functions and operations of the Department of Commerce to insure that the Department is fulfilling its responsibilities in the interest of science and technological progress.

Dr. Bronk appointed a committee of 10 scientists and engineers to make this evaluation and that group prepared a comprehensive report as requested, which was transmitted to the Secretary of Commerce in March of 1960.

This study has provided the Department with an objective starting point for planning ways by which we may carry out our responsibilities in the scientific area best to foster, promote, and develop the business and commerce in this competitive space era.

We are all keenly aware of the need for and rewarding results of expanded research devoted to building military strength. Because the competition which the free world faces is not only a continuing contest of military strength but also of economic strength, it behooves us, in the language of the report of the Academy, "to give more balanced attention than heretofore to the contribution of science and technology to all sectors of man's endeavors and living." Advances in these fields by the free world may very well provide the decisive factor in the battle for men's minds.

In the general section of the report of the Academy the following recommendation was made:

(1) The Office of Assistant Secretary of Commerce for Science and Technology be established. The Assistant Secretary shall have professional competence in science and technology and administrative experience.

We accept this recommendation and are adopting it as a major step in our plan of action. We urge enactment of S. 1456 to provide the authority needed for the establishment of this necessary position of Assistant Secretary.

Thank you.

Senator ENGLE. Thank you very much for your statement, Mr. Secretary.

The Chair is advised that there is no further testimony on this bill and that there is no opposition to the bill. The bill will, therefore, be reported to the full committee for such action as it desires to take.

We thank you Mr. Secretary for appearing.

Mr. GUDEMAN. Thank you, sir.

(The following comments were received from the Government agencies:)

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., April 13, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense on S. 1456, 87th Congress, a bill to authorize an additional Assistant Secretary of Commerce.

The purpose of this bill is stated in the title. According to the transmittal letter from the Secretary of Commerce, the additional Assistant Secretary of Commerce would "serve as the principal adviser to the Secretary on all scientific and technological matters of concern to the Department" to assure that the "important scientific and technical functions and responsibilities of the Department of Commerce are effectively directed by the Secretary assisted by an officer of high rank."

The Department of Defense has no objection to this legislation.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

CYRUS R. VANCE.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, April 6, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: By letter dated March 29, 1961, acknowledged March 31, you requested our comments on S. 1456 which, if enacted, would authorize an additional Assistant Secretary of Commerce.

Our Office has no special information as to the need for such a measure and, therefore, makes no comment with respect to the enactment of S. 1456.

Sincerely yours,

FRANK H. WEITZEL,
Assistant Comptroller General of the United States.

Senator ENGLE. We will now hear Mr. Stakem on S. 1627, a bill to admit certain vessels to American registry and to permit their use in the coastwise trade.

(Bill follows:)

[S. 1627, 87th Cong., 1st sess.]

A BILL To admit certain vessels to American registry and to permit their use in the coastwise trade.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law to the contrary, any vessel of not less than twelve thousand five hundred gross tons which was built in the United States and completed subsequent to January 1, 1950, for a citizen of the United States, or a corporation wholly owned by such a citizen, and placed under foreign registry, may be documented as a vessel of the United States by such citizen at any time within two years after the enactment of this Act, and upon such documentation the vessel shall be entitled to engage in the coastwise trade of the United States so long as it is owned by a citizen of the United States, as defined in section 2 of the Shipping Act, 1916, as amended.

STATEMENT OF THOMAS E. STAKEM, ADMINISTRATOR, FEDERAL MARITIME ADMINISTRATION, GAO BUILDING, WASHINGTON, D.C.

Mr. STAKEM. Mr. Chairman, section 27 of the Merchant Marine Act, 1920, provides that no vessel that is built in the United States and is placed under foreign registry shall thereafter acquire the right to engage in the coastwise trade.

The bill, S. 1627, provides that notwithstanding the provisions of any other law, any vessel which (1) is of not less than 12,500 gross tons, (2) was built in the United States and completed after January 1, 1950, (3) was built for a citizen of the United States or for a corporation owned by a citizen of the United States and (4) was placed under foreign registry, may be documented under the laws of the United States, with coastwise privileges by such citizen, within 2 years after enactment of the bill.

Thirty-nine vessels, all tankers, would be made eligible by the bill for admission to the coastwise trade. Because admission of these tankers would (1) cause the layup of tankers now operating in the trade, (2) further depress charter rates, (3) diminish prospects for shipbuilding, and (4) cause additional unemployment for seamen, we recommend against enactment of the bill.

We have agreements with the owners of the 39 tankers that would be made eligible by the bill, that these ships will be made available to the United States in the event of emergency. With regard to 33 of the ships, that agreement was made as a condition of our consent under section 37 of the Shipping Act, 1916, to the building of the ships for foreign-flag documentation. The other six ships built before the Presidential proclamation of December 16, 1950, brought section 37 of the 1916 act into effect. The commitment to make these vessels available to the United States in an emergency was made as a condition of our granting war risk insurance binders with respect to the vessels.

The 39 tankers that would be made eligible for coastwise privileges under the bill have a gross tonnage ranging from 16,553 gross tons, for the smallest, to 37,203 gross tons for the largest. Their deadweight tonnage—that is, total lifting capacity—ranges from 28,260 for the smallest to 60,000 for the largest. The total deadweight tonnage of these tankers is approximately 1,500,000 tons. This is roughly one-third of the tanker deadweight tonnage now engaged in the coastwise trade. The average deadweight tonnage of the tankers that would be eligible is approximately 38,000 tons.

As of April 1 of this year there were 246 tankers, aggregating about 5 million deadweight tons, engaged in the coastwise trade. The average deadweight tonnage of these ships is approximately 20,000 tons. Of the 246 ships, 162 were T-2 size—approximately 16,000 deadweight tons. In addition there were, as of that date, 34 tankers with coastwise privileges—aggregating about 540,000 deadweight tons—in permanent layup. All of the laid-up tankers were T-2 or other war-built tankers, and the average deadweight tonnage of these ships is approximately 16,000 tons.

In 1959, approximately 165 million tons of cargo were carried in domestic trade in tankers. We have calculated for that year the

tanker rate which a T-2 tanker—approximately 16,000 deadweight tons—and a 32,600 deadweight-ton tanker must obtain to break even. Using fully distributed costs, but no element for profit, we calculated that a T-2 tanker must obtain \$2.747 per cargo ton, equivalent to ATRS minus 3.6 percent. The average rate actually obtained by T-2 tankers for that year—I am speaking of 1959—was \$2.40 per cargo ton—equivalent to ATRS minus 15.8 percent.

A 36,600 deadweight-ton tanker would need to obtain a rate of \$2.59 per cargo ton, equivalent to ATRS minus 9.1 percent, to break even. The average rate such vessels actually obtained during that year was \$2.31 per ton, equivalent to ATRS minus 18.9 percent.

A large tanker does not need to obtain as high a charter rate as a T-2 does in order to break even. Though some of the 1,500,000 deadweight tons of shipping that would be eligible for documentation under the bill may not be able to operate fully loaded in the coastwise trade, because they would have too much draft, it is clear, nevertheless, that the documentation of this much tonnage with coastwise privileges would cause the layup of substantial tonnage now operating in the coastwise trade.

Since the T-2 tankers need higher rates than the larger tankers, they would probably be the vessels that would be laid up. The manning on a T-2 is 40, and on a 32,600 deadweight-ton tanker the manning is 46. The carrying capacity of the 32,600-ton tanker is substantially double that of the T-2, and it is manned with only 6 more men. The layup of T-2 tankers would substantially reduce employment.

The effect of admitting so much additional tonnage to the coastwise trade would be to further depress charter rates. Since these tankers are relatively new, their admission would also have an unfavorable effect on prospects for shipbuilding.

We have insured under title XI of the 1936 act mortgages on 25 tankers, aggregating 858,850 deadweight tons, in the original principal amount of \$229,294,355. The unpaid balances on these mortgages is now \$215,182,747. We have commitments, in addition, to insure the mortgages on four as yet undelivered tankers, aggregating 326,000 deadweight tons, in the principal amount of \$78,884,227.

With the exception of a few that have long-term charters, these tankers have been working at noncompensatory rates as much as 70 percent below ATRS. With respect to five of these tankers we have made advances to the owners in the total amount of \$1,046,223.56 to enable them to cure defaults in payment of principal so that we would not be required to pay the entire amount of the insured mortgages. With respect to these five we have also consented to 2-year deferrals in payment of principal installments. We have consented to deferrals also with regard to two other tankers.

It would be much better to have the tankers that would be eligible under the bill for redocumentation, with coastwise privileges, actually documented under the American flag than to have our present arrangement for making these vessels available to the United States in an emergency. Because of the depressing effect this would have upon charter rates and upon prospects for shipbuilding, and because it would cause the layup of tankers now operating in the coastwise trade, however, we recommend against favorable consideration of the bill.

The Bureau of the Budget advises that there is no objection to the

submission of this statement from the standpoint of the administration's program.

Mr. Chairman, you have here for the use of the committee, if it so desired, a list of the 39 tankers that would be eligible for redocumentation if S. 1627 were enacted; if it would be useful.

Senator ENGLE. Mr. Stakem, what you are saying is that if this arrangement were permitted it would break the people now in the business, is that it?

Mr. STAKEM. Yes. We think it will cause the layup of ships that are now operating in the domestic trade, and we certainly see that it will detract from early replacement of these war-built ships that are now operating.

Senator ENGLE. I observe in your statement that you say that it would be better to have the tankers that would be eligible under the bill for redocumentation with coastwise privileges documented under the American flag than to have our present arrangements for making these vessels available to the United States in an emergency.

Mr. STAKEM. I am drawing the distinction there, Mr. Chairman, between a ship that is actually under the American flag and therefore available, as against a ship that is under a foreign flag and available by way of agreement.

Senator ENGLE. In other words you prefer to have it the other way because of the depressing effect, as you say, upon charter rates and upon the prospects of shipbuilding. Because it would cause the layup of tankers now operating in the coastwise trade you recommend against the bill?

Mr. STAKEM. Yes. I think in essence I am saying that if we bring the ships back under the American flag for use in the offshore trades, this would be the highly desirable result.

Senator ENGLE. Why is that better?

Mr. STAKEM. Only on the question of availability in the event of a national emergency.

Mr. GRINSTEIN. Do you believe that these vessels would have a greater defense value under the American flag than under a foreign flag?

Mr. STAKEM. I think they would be more readily available, Mr. Grinstein.

Mr. GRINSTEIN. Does that reflect adversely on the concept of effective control that the Department of Defense said they have over foreign-flag vessels?

Mr. STAKEM. I think it is a matter of degree. We are hoping that all of the vessels that are available to us by agreement are actually available. I think you will agree that if the ship is actually flying the American flag it is just one little bit more available than if only by agreement.

Mr. GRINSTEIN. So that a vessel under an American flag is more available than one under a foreign flag for defense purposes.

Mr. STAKEM. I would think so.

Mr. GRINSTEIN. I noticed in this list that there are three tankers from the Texas Co. listed. Is it correct that the Texas Co. has entered a contract to build five tankers in an American yard?

Mr. STAKEM. I understand that the Texas Co. has a building arrangement with Bethlehem Steel.

Mr. GRINSTEIN. Would it be your opinion that the fact that they can get three tankers might have an adverse effect on whether they would go ahead with the building commitment?

Mr. STAKEM. I would have to examine the Texas situation specifically before I could give you a real good answer to that.

Mr. GRINSTEIN. Prior to a title XI commitment by the Maritime Administration, I believe they conduct an economic feasibility study, do they not?

Mr. STAKEM. Yes, they do.

Mr. GRINSTEIN. If a bill such as the one before the committee today were to pass, would this require some rethinking or revisions in the economic feasibility of the title XI tankers?

Mr. STAKEM. I think that you could not do anything with the economic findings that had been made, that is, the basis for the present Government commitment insurance. I rather like to put this in this vein: That each project would have to be checked out on the basis of its own merits and economic feasibility.

Mr. GRINSTEIN. Let's put it this way: It would seem possible, would it not, that any oil or tanker company would not have full security in its economic feasibility study in whatever determination it makes prior to going ahead with the building commitment if the precedent in this bill were adopted.

Mr. STAKEM. I should think that the more overtonnaging that you have in the domestic market would make just that much less employment that would be available to title XI ships; and could affect, I should think, the economic feasibility study.

Mr. GRINSTEIN. But if a bill like this were adopted it would seem to establish a precedent that there would be exceptions to the Jones Act. If you were to have a precedent like that wouldn't it reflect on the quality or the extent that you could rely on an economic feasibility study or any other determination?

In other words at any time you might have an exception to the Jones Act, more ships come in and consequently less carriage is available to your own ships.

Mr. STAKEM. I should think it would, yes.

Senator ENGLE. Thank you very much Mr. Chairman. We appreciate your appearance.

Mr. STAKEM. Thank you, Mr. Chairman.

(List of ships follows:)

Ships of 12,500 gross tons and over constructed in U.S. shipyards, 1950-60, for companies controlled by U.S. citizens, and registered under foreign flags¹

Name and type ² of ship	Gross tons	Deadweight tons	Year built	Owner	U.S. parent company or individuals
A. N. Kemp.....	16,533	28,264	1950	California Transport Corp.	Standard Oil Co. of California.
Andros Hills.....	18,735	29,371	1953	Rio Venturado Cia. Nav., S.A.	Orion group (Goulandris family).
Andros Island.....	18,735	29,371	1953	do.	Do.
Andros Sea.....	18,735	29,371	1953	Santander Cia. Nav., S.A.	Do.
Atholl McBean.....	16,533	28,074	1950	California Transport Corp.	Standard Oil Co. of California.
Brighton.....	16,533	28,074	1959	Texas Co., Inc.	Ludwig, D. K.
Bulktrader.....	16,380	30,004	1950	Universe Tankships, Inc.	Barber Oil Corp.
Capitana.....	28,434	46,000	1960	Hercules Tankers Corp.	Do.
Capitolia.....	28,435	46,000	1959	do.	Do.
Capulonix.....	28,435	47,000	1959	do.	Do.
Chevron Transporter.....	16,533	28,264	1950	California Transport Corp.	Standard Oil Co. of California.
Chryssi.....	18,732	29,371	1953	Santander Cia. Nav., S.A.	Orion group (Goulandris family).
Cities Service Valley Forge.....	22,595	38,911	1954	Grand Bassa Tankers, Inc.	Cities Service Oil Co.
Cradle of Liberty.....	22,610	38,937	1954	do.	Do.
Esso Santos.....	17,328	26,765	1950	Panama Transport Co.	Standard Oil Co. of New Jersey.
Falaika.....	17,861	28,336	1952	Afran Transport Corp.	Gulf Oil Corp.
Gage Lund.....	16,533	28,264	1952	California Transport Corp.	Standard Oil Co. of California.
John P. G.....	18,717	29,371	1954	Bilboa Cia. Nav., S.A.	Orion group (Goulandris family).
La Cruz.....	17,861	28,336	1952	Afran Transport Co.	Gulf Oil Corp.
Lake Palourde.....	37,203	60,615	1959	Baracuda Tanker Corp.	20 U.S. citizen stockholders (individuals).
Las Piedras.....	18,611	29,307	1953	Afran Transport Co.	Gulf Oil Corp.
Liberty Bell.....	22,610	38,937	1954	Grand Bassa Tankers, Inc.	Cities Service Oil Co.
Lovella.....	18,426	29,292	1959	Tanker Owners, S.A.	Barber Oil Corp.
Margarita.....	18,762	29,292	1954	Afran Transport Co.	Gulf Oil Corp.
Master Peter.....	18,763	29,371	1954	Bilboa Cia. Nav., S.A.	Orion group (Goulandris family).
Patro.....	28,410	46,191	1959	Hercules Tankers Corp.	Barber Oil Corp.
Phil Pigott.....	16,533	28,264	1951	California Transport Corp.	Standard Oil Co. of California.
Philidora.....	29,742	45,500	1959	Somerset Shipping Co.	Kurz, Chas. Co., Inc.
Philine.....	29,742	45,500	1959	do.	Do.
Philippia.....	29,742	45,500	1959	do.	Do.
Robert Watt Miller.....	16,533	28,074	1951	California Transport Corp.	Standard Oil Co. of California.
San Tome.....	17,902	28,336	1950	Afran Transport Co.	Gulf Oil Corp.
Sansinea.....	37,203	60,000	1958	Baracuda Tanker Corp.	20 U.S. citizen stockholders (individuals).
Statute of Liberty.....	22,610	38,911	1954	Grand Bassa Tankers, Inc.	Cities Service Oil Co.
Texaso Maine.....	26,544	45,942	1959	Texas Co., Inc.	Texas Co., Inc.
Torrey Canyon.....	37,203	60,615	1959	Baracuda Tanker Corp.	20 U.S. citizen stockholders (individuals).
Trinidad.....	26,530	45,942	1958	Texaso (Panama) Inc.	Texas Co., Inc.
Waneta.....	18,767	29,186	1962	Mobil Tankers Co., S.A.	Socony-Mobil Oil Co., Inc.
Wapello.....	18,722	30,117	1953	do.	Do.

¹ Forgoing ships were for registry under Liberian and Panamanian flags.

² All ships are tankers.

Senator ENGLE. We have already heard the testimony of Mr. Stakem. The bill was introduced by request by the present chairman as a bill which was fairly noncontroversial. From the looks of this witness list it turned out not to be so noncontroversial.

The next witness is Mr. Lawrence C. Ford, president of the California Shipping Co.

Mr. Ford, your statement has been read and if you desire you may read it into the record or we will place it into the record as if read. The Chair would like to get right to the nub of the case if we can as soon as we can.

STATEMENT OF LAWRENCE C. FORD, PRESIDENT, CALIFORNIA SHIPPING CO., SAN FRANCISCO, CALIF.

Mr. FORD. We will place it in the record.

Senator ENGLE. Without objection the statement will be made a part of the record at this point as if read.

Do you have exhibits?

Mr. FORD. Yes, we have a list of them.

Senator ENGLE. Without objection the entire statement, including the attachment 1 will be made a part of the record.

(Complete statement and attachment 1 follows:)

**STATEMENT OF LAWRENCE C. FORD, PRESIDENT, CALIFORNIA SHIPPING CO.,
IN SUPPORT OF S. 1627**

My name is Lawrence C. Ford. I am president of California Shipping Co., which is a wholly owned subsidiary of Standard Oil Co. of California, and appear in support of S. 1627. California Shipping Co. is a Nevada corporation which acts as managing agent for Standard Oil Co.'s fleet of American-flag oceangoing vessels, for the vessels of California Tanker Co., a domestic subsidiary of Standard Oil Co. of California, and for California Transport Corp., a Liberian corporation which owns the six vessels which I will refer to later, and which is also a wholly owned subsidiary of Standard Oil Co. of California. For the committee's information, Standard Oil Co. of California owns 16 American-flag oceangoing vessels, and California Tanker Co. owns three American-flag oceangoing vessels. In addition to the six vessels just mentioned, California Transport Corp. owns four vessels, built outside the United States and registered under foreign flag which would not be eligible for documentation under United States flag under the proposed legislation. All of the vessels were acquired for the transportation of petroleum and its products for the Standard Oil Co. of California and its subsidiary companies.

It is the policy of our parent corporation to own and operate sufficient vessels under the American flag to transport approximately all its domestic cargoes and to own sufficient vessels under foreign flags to transport approximately 50 percent of its foreign requirements. It has been found necessary, as between American- and foreign-flag tankers, to employ foreign-flag tankers for the carriage of crude oil and petroleum products from foreign countries in order to be on a competitive basis with other oil companies. Without such a fleet of owned foreign-flag vessels our parent company would be required to charter additional foreign-flag vessels to remain competitive with other oil companies.

In 1950-52 six vessels, each of approximately 28,000 deadweight tons, were built for California Transport Corp. in the Sparrows Point Shipyard of Bethlehem Shipbuilding Corp. I have attached hereto, as attachment 1, for the record, a list of these vessels and their principal characteristics. The vessels were constructed in accordance with American Bureau of Shipping rules and regulations and to meet Coast Guard requirements for American-flag vessels. They have been so maintained throughout their life and presently are classed with the American Bureau of Shipping.

I would like to point out to this committee that at the time these vessels were completed the parent company through purchase and building had sufficient American-flag vessels to adequately provide for its domestic business, and these

six vessels were documented under the flag of Liberia and placed in the service of carrying crude petroleum to the United States.

These vessels were built in U.S. shipyards without any "trade out" privileges and without any other type of financial aid or assistance from the Government. We call your attention to the fact that in placing these vessels under Liberian flag, our parent company was acting in complete accord with the policy and views of the U.S. Government as expressed from time to time through the Maritime Administration and the Department of Defense. (See "Review of Vessel Transfer Activities," issued by U.S. Department of Commerce, Maritime Administration, March 1957; see also "The Role of the U.S. Merchant Marine in National Security," referred to as the "Project Walrus Report.")

Why are we supporting this bill? Since these vessels were completed and placed in service, the United States has imposed restrictions on the importation of foreign crude. This reduced the proportion of foreign crude to be transported and increased the proportion of domestic crude to be transported, resulting in a shortage of our owned U.S.-flag vessels and a surplus of our owned foreign-flag vessels. The vessels are thus needed by us in the domestic trade to take care of (a) the increased requirements due to import restrictions which have accelerated the normal increment of tanker requirements in the domestic trade, and (b) the need to transport domestic crude from new fields on the Kenai Peninsula in Alaska.

A review of the domestic tanker tonnage requirements from 1951 through 1958 indicates, except for the abnormal condition caused by the Suez crisis, a steady increase of $2\frac{1}{2}$ to 3 percent per year in tonnage moving by tankships. The increase as a result of the import restrictions caused a total domestic movement in 1958 of 143,242,000 tons compared to 151,882,000 tons in 1959 (Department of Commerce published statistics). Considering the normal increment on top of this increased tonnage, it is obvious that additional ships are required. I might point out that the Joint Committee for American-Flag Tankers in their statement of December 20, 1959, to the Director of the Office of Civil and Defense Mobilization, indicated a basis of 5 percent increase in U.S. consumption of petroleum products per year. Now, of course, some of these petroleum products will move by other means than tank vessels. However, based upon a mere 3 percent increment per year, it is reasonable to assume that in 1963 over 171 million tons will be available as tanker cargo. This is an additional 20 million tons over the 1959 level. In 1959 there were approximately 263 tankers in the domestic trade. It is difficult to evaluate these vessels in terms of the tonnage because of the various sizes and speeds of the vessels and the duration of the voyages. However, if 20 vessels were added to the American fleet, this would mean that the additional vessels would have to transport 1 million tons of cargo capacity per year by 1963 to handle the projected increase in consumption. Assuming the vessels would carry 30,000 tons per voyage and the average voyage was 13 days, this would give roughly 26 voyages per year per vessel, or 780,000 tons per year per vessel. Even with the addition of 20 more vessels to the domestic fleet, there would be a shortage of tanker capacity in 1963. I might point out that the above figures contemplate that all of the presently employable T-2's will continue in operation. This is obviously too much to expect in view of the age of the T-2 vessels, which averages about 17 years.

I am sure that your committee will hear comments in connection with the so-called overtonnaged situation of the U.S. tanker fleet and that undoubtedly this bill would contribute to that condition. In anticipation of these comments, in March of this year we had a survey made of the American tanker market. There were approximately 245 tankers under American flag. The difference in tonnage between the 1959 and 1960 figures represents the new large buildings not suitable for our own domestic trade, some of which are now operating in the grain trade. Of the 245 vessels, 24 were laid up. Now it is apparent that many of these vessels were laid up for reasons other than lack of employment. The average age of the vessels was 17 years. Seventeen of the vessels have been laid up for over 18 months, undoubtedly because class and repair problems were so extensive as to prevent their being taken out of layup and put into operation this winter when tanker rates went to ATRS plus 60 percent. Thus, we believe, it is not a question of an overtonnaged domestic market so much as it is a matter of (a) T-2 tankers whose condition requires excessive expenditures for classification and repairs in relation to the projected return on these old vessels, and (b) large new vessels which are not presently adaptable for use in many domestic areas. With regard to certain tank vessels, particularly those large vessels built after the Suez crisis and under title XI of the Merchant

Marine Act, 1936, as amended, we must point out that they are, generally speaking, too large for our domestic trade. Moreover, we believe they are too large for many areas of the domestic trade, at the present time. This statement is supported by the testimony of a representative of one of the companies which built tankers under title XI when he ascribed the unemployment of the large title XI tankers to, among other things, "inadequate port facilities to handle the new ships of large size." (P. 113 of hearings on S. 3018 before the Subcommittee on Merchant Marine and Fisheries of the Senate Committee on Interstate and Foreign Commerce, Feb. 25, 1960.)

The same witness also testified: "This type of vessel is best suited for the offshore trade rather than for the domestic trades." In this case the representative was referring to the 32,600 deadweight ton tanker which is the smallest of the new buildings under title XI (see hearings on S. 3018, *supra* at 114).

Our vessels were built to the standards of the American Bureau of Shipping and the U.S. Coast Guard. While we cannot speak for other owners of vessels covered by the proposed legislation, we can state unequivocally that our company's practice has always been to maintain these vessels in the highest standard of safety, seaworthiness, and other requirements of the American Bureau of Shipping.

Our company now plans to transfer some of these ships if the proposed legislation is enacted, without affecting any of our present American-flag tonnage. The value at which we transfer the ships will be subject to the approval of the International Revenue Service for tax purposes; thus, it will be the Internal Revenue Service that has the final decision as to the value. The proposed bill would also serve as an incentive to other U.S. citizens qualified under the proposed law to document under the American flag, large, modern, tank vessels. The enactment of this legislation would result in increased employment for American seamen, in our case about 40 seafarers on each vessel. Repairs and maintenance on the vessels would be performed in American shipyards. Sub-sistence and supplies for the vessels would be purchased from American sources in American ports and many other industries and services, such as manufacturers serving or connected with the maritime industry, would be benefited. Furthermore, the addition of these vessels to the American-flag fleet would augment the amount of modern tanker tonnage under the American flag. The Defense Department has, on numerous occasions, stated that an increase in such tonnage is desirable.

Now, how will this proposed legislation change the existing law and why should it be enacted? In 1935, after hearings on various similar bills in 1934, Public Law 191, 74th Congress, was enacted. Except for Public Law 191, these six vessels would have been entitled to documentation under the American flag with coastwise privileges. Public Law 191 was designed solely to prevent re-documentation of old vessels which had been sold or documented foreign and would not be of any value in building a strong American merchant fleet. The proposed legislation would not be contrary to Public Law 191 because the vessels covered by the proposed bill are large, modern vessels which would be a very desirable addition to the American merchant fleet.

I should also point out the proposed bill does not affect the present law, which prohibits the re-documentation of vessels which, after documentation under American flag were transferred to foreign ownership for documentation under foreign flag. Moreover, it does not change the existing situation with regard to vessels built in U.S. shipyards by aliens or alien-controlled corporations.

We appreciate this opportunity to appear before your committee and respectfully solicit your favorable action on S. 1627.

ATTACHMENT 1

California Transport Corp. vessels

Name of vessel	Deadweight tonnage	Capacity (barrels)	Date of construction
A. N. Kemp.....	28,000	236,600	1950
Gage Lund.....	28,000	236,600	1952
Atholl McBean.....	28,000	236,600	1950
Robert Watt Miller.....	28,000	236,600	1951
Chevron Transporter.....	28,000	236,600	1950
Paul Pigott.....	28,000	236,600	1951

Senator ENGLE. Mr. Ford, you heard the statement of Mr. Stakem. What he said in effect is that if this legislation were enacted it would break everybody in the coastwise business. And more specifically, he said it would cause layup of tankers now operating in the trade, further depress charter rates, diminish prospects for shipbuilding, and cause additional unemployment for seamen.

As I take it, is that the essence of the case?

Mr. FORD. Yes.

Senator ENGLE. We won't pass legislation that will break everybody in the coastwise trade. Can you dispel the cogency of that argument?

Mr. FORD. I will try to.

As far as my own company is concerned, Mr. Chairman, we have plans at the present time to transfer two of these ships back, if this legislation is passed, by the end of this year. And those ships will be supplemental tonnage. We figure that we will have need for those ships in addition to the present requirements that we have; so that they will not affect in any way the existing vessels that we have in our fleet.

Senator ENGLE. What you are saying is that you won't use them all, that these will not replace other ships?

Mr. FORD. That is right. We are probably not as pessimistic about the future of the American tanker fleet as Mr. Stakem's statement might indicate. Certainly there is a continuing need. As pointed out in the statement; there is a continuing increase in the domestic petroleum requirements, that normal increase which even at a level of 3 percent per year will require a continuing number of ships coming into the service. Certainly the Government imposition of controls on the import of crude oil—and it is indicated that those controls are going to continue—has added impetus to the need for ships.

It is my opinion right now that the American domestic tanker fleet, so far as supply and demand is concerned, is in a fairly delicate balance.

It doesn't take much in the way of tonnage one way or another to make a boom market or a bust market. I think that we have to take into account the seasonal factors involved in this thing, too.

It is important, in my opinion, that the American tanker fleet be adequate to meet all the demands that might be called upon throughout the entire year.

Senator ENGLE. I notice that you say that it is not a question of overtonnage in the domestic market so much as it is a matter—on page 7 of your statement—

(a) T-2 tankers, whose condition requires excessive expenditures for classification and repairs in relation to the projected return on these old vessels, and
(b) large new vessels which are not presently adaptable for use in many domestic areas.

I take it from that that you believe that these vessels which would be permitted to fly the American flag would not require excessive expenditures for classification and repairs, and would be adaptable for use in domestic areas. Is that correct?

Mr. FORD. That is correct, sir, yes.

So far as the ships that we operate, they are maintained in the same high standards as our American-flag ships are maintained. They are

carried in the highest classification of the American Bureau of Shipping. While the inspection of the U.S. Coast Guard is not available to foreign-flag ships, I am quite confident that our vessels could pass the Coast Guard inspection right now, today, with no difficulty whatsoever. They are good, modern well-maintained ships.

One thing there, I think, Mr. Chairman, on the ships that are in layup, now I think Mr. Stakem termed that it be a permanent layup in his statement. All are T-2 tankers. They are all 17 years old. The time is coming very soon, in the next 2 or 3 years, when your T-2 tankers will just be out of business.

Senator ENGLE. I observed Mr. Stakem said that 39 vessels, all tankers, would be made eligible by the bill for admission to the coastwise trade. Do you agree with that statement?

Mr. FORD. I don't know that exactly, sir; no.

Senator ENGLE. How many of these vessels would your company take?

Mr. FORD. There are certain of those 39 vessels I believe that are committed on long-term bareboat charter. Those ships certainly would not be free to be documented.

There are a number of those ships that certainly for the type of trade that we have out on the Pacific coast would be just too big. There is a limit to the size of the ship that we can accommodate in the peculiar trade that we have on the coast.

Senator ENGLE. How many vessels would your company take over if this bill were enacted?

Mr. FORD. Present plans are to transfer two back, as I said earlier. Those would be supplemental tonnage. According to the provision of the bill permitting us to transfer the ships back within 2 years after enactment, if our requirements and the circumstances were such during that 2-year period that we could justifiably move others back in, we would look at it at that time and do it.

But I repeat right now, we need two of those ships, and those would be our plans.

Senator ENGLE. If you bring these ships under the American flag, does that leave you in the position to build new ships in foreign yards for foreign trade as distinguished from building new ships in American yards for domestic purposes?

Mr. FORD. No, sir, we do not have any plans, nor would we with the enactment of this legislation formulate plans, for foreign construction.

This legislation would not change that situation in any way.

Senator ENGLE. Do you have some questions, Mr. Bourbon?

Mr. BOURBON. Mr. Ford, the statement prepared by the Shipbuilders Council of America lists 63 vessels that they say would be entitled to admission to American-flag documentation if this bill were enacted. Could you give us any idea, or do you happen to know whether anybody with any concern, besides California Shipping, is interested in bringing these ships back under this bill?

Mr. FORD. No, sir, I do not. I question that 63 figure.

Senator ENGLE. They give a list of them in their statement.

Mr. FORD. On that 63-ships list there are alien-owned vessels.

Mr. BOURBON. They admit that they don't know the ownership.

Mr. FORD. That is probably the difference.

Senator ENGLE. Do you think that admitting this additional tonnage to the coastwise trade would depress the charter rates?

Mr. FORD. No, I don't. Over a period of time with your T-2's going out, the increase in your consumption, the continued imposition of import controls, I feel more optimistic about the American tanker situation than was indicated earlier.

Mr. BOURBON. In what trade would you use these two ships that you propose to bring in?

Mr. FORD. We would use them in the Pacific. We have a new trade that is increasing out there. We have production of crude oil, new production of crude in Alaska. We would use the ships part time in that trade moving crude out of the new Alaska field in the Kenai Peninsula to California, and in our normal coastwise trade to the Hawaiian Islands up and down the Pacific coast.

Mr. BOURBON. In your normal coastwise trade?

Mr. FORD. That is correct.

Mr. BOURBON. Do you have any T-2's?

Mr. FORD. Yes, we do. We have six T-2's on the Pacific coast and then the California Tanker Co., which is a wholly owned subsidiary, has three T-2's operating on the coast back here.

Mr. BOURBON. You said that the three T-2's, all of them, would have to go out of commission sometime pretty soon. Do you think that if you retired some of your T-2's you would want to bring in some more of these vessels?

Mr. FORD. Yes, I think so, if the T-2's that we have ran out of breath, we could conceivably want to bring another ship back.

Mr. BOURBON. Have any of those T-2's been extended by the addition of new mid-bodies?

Mr. FORD. No, we have not. On some of our T-2's, the ones in our clean-oil service, we have coated the internal cargo tanks with an internal protective coating to reduce corrosion.

I would think that on the T-2 end of the thing that—the average age now is about 17 years—starting when they are 20 years old, 3 or 4 years from now, they are going to be moving out of the picture in fairly substantial numbers.

Mr. BOURBON. When that happens, instead of increasing new jobs by bringing in these ships, you would actually be reducing jobs because you would be bringing in bigger ships which would carry more oil per crew member.

Mr. FORD. No. These ships, I would say, would fill the bill on the increase of consumption, too. I will have to say this, that certainly it is evident that the larger the ship the more efficient a carrier it is. That is a point. These ships would provide for the American merchant marine large, fast, efficient and modern tankers. In other words I think that the introduction of these ships into the American merchant marine would definitely upgrade it.

We have a limit, if I might add, on the Pacific coast, I would like to emphasize the peculiarity out there. You have the bar ports, you have the Columbia River, Alaska ports, and restricted ports in the Hawaiian Islands. So that the number of these large ships that can be used out there is limited. We are still going to have to have some of the specialized drugstore-type product carriers that we now have.

Mr. GRINSTEIN. These vessels were originally built in American yards. Why didn't you place them under the American flag?

Mr. FORD. These particular ships of ours?

Mr. GRINSTEIN. Yes. I think we are referring to six tankers in the Liberian Corporation.

Mr. FORD. That is right. At the time we built those ships we had adequate tonnage in our American-flag fleet to handle or requirements. The ships at the time of construction were placed under the Liberian flag to permit them to engage in international trade, foreign trade.

Mr. GRINSTEIN. At the time that these vessels were built, were the American building costs higher than foreign building costs?

Mr. FORD. Yes, sir, they were.

Mr. GRINSTEIN. Why weren't they built in a——

Mr. FORD. That was a matter of availability of ways. These were built shortly after the war. Your foreign yards were damaged during the war, or were overly occupied in rebuilding the fleets that had been destroyed during the war.

In others words there was no other place that you could build these ships to get them in use. It is a fortunate thing, I think, that we did, because these six ships, when they were delivered, were immediately placed in service for the Government in connection with the Korean war and I would say performed yeoman service in delivering fuel to the Navy during that crisis.

Mr. GRINSTEIN. At the time these vessels were constructed was the world market price higher for a tanker than the American market?

Mr. FORD. Do you mean on a charter basis?

Mr. GRINSTEIN. No, sales price. Selling price. Market price.

Mr. FORD. I don't think so. I am not sure of what the relative market price was at that time.

Mr. GRINSTEIN. But at the present time the American market would be higher than the foreign market.

Mr. FORD. That is correct, yes, sir. There is more value to a ship with coastwise privileges.

Mr. GRINSTEIN. Do you have any idea of the price the American corporation, which I take it is California Shipping Co., would pay the Liberian company?

Mr. FORD. Standard Oil Co. of California would be the purchaser.

Mr. GRINSTEIN. Would Standard Oil of California be the purchasing corporation or would the subsidiary?

Mr. FORD. No, Standard Oil of California.

Mr. GRINSTEIN. Do you have any idea what price Standard Oil of California would pay the Liberian company?

Mr. FORD. Yes. That would be determined, it would be subject to the approval of the Internal Revenue Service, the transfer price of the ships would in effect be determined by the——

Mr. GRINSTEIN. By the tax consequences?

Mr. FORD. By the Treasury Department.

Mr. GRINSTEIN. Have you explored this with the Treasury Department?

Mr. FORD. No, sir, we have not.

Mr. GRINSTEIN. Do you have any idea what the American market for these tankers would be now?

Mr. FORD. No, I do not.

Mr. GRINSTEIN. Or the replacement cost of these tankers in American yards?

Mr. FORD. Yes. That would run I think right now pretty close to \$9 million.

Mr. GRINSTEIN. And what about the construction cost in a foreign yard? What would that be?

Mr. FORD. That varies with the country.

Mr. GRINSTEIN. Say Japan?

Mr. FORD. I would say probably in Japan it would be \$160 a ton. That would be \$4.5 million or \$5 million, somewhere in that area.

Mr. GRINSTEIN. Is the proposed operation of the tankers which you would bring in roughly parallel the operation of the tankers now owned by Standard Oil of California?

Mr. FORD. They would be in the same approximately trade, yes.

Mr. GRINSTEIN. These vessels, are they owned directly by Standard Oil of California, or a subsidiary?

Mr. FORD. The six ships that were referred to are owned by the subsidiary, California Transport Corp.

Mr. GRINSTEIN. What about the ships presently in the American operations?

Mr. FORD. Sixteen of them are owned presently by Standard of California and three of them by California Tanker Co.

Mr. GRINSTEIN. Would these vessels be transferred to Standard of—

Mr. FORD. To Standard Oil of California.

Mr. GRINSTEIN. So that there wouldn't be a separate division or subsidiary owning the vessels, it would be the parent company.

Mr. FORD. It would be the parent company, that is right.

Mr. GRINSTEIN. Do you keep a separate profit-and-loss statement for California Tanker Co.?

Mr. FORD. No, sir. The operation of the ships that are owned by California Tanker as well as by Standard of California are not on a profit-and-loss basis.

Mr. GRINSTEIN. Over, say, the past year, could you say—would you have the information whether or not the American-flag tankers owned by the Standard Oil of California operated at a profit or a loss?

Mr. FORD. No, sir. We are not in the transportation business. We simply provide a service for the movement of products for the parent company and its operating subsidiaries. It is charged out at cost to the marketing department or the manufacturing department of the corporation. There is no profit or loss involved in the thing at all.

Mr. GRINSTEIN. In other words the cost of shipping is just charged to another division.

Mr. FORD. That is correct.

Mr. GRINSTEIN. How do you compute your rates? How would rates be computed?

Mr. FORD. Do you mean in the operation of the domestic ships?

Mr. GRINSTEIN. Yes. In the operation of your domestic ships would your rates be based on the cost fully distributed out of pocket or what have you?

Mr. FORD. No. It is a full cost but distributed against products. That is what it is. It is spread out among the using departments of the Standard Oil Co.

In other words we do not have a rate of "X" dollars from here to there and that sort of thing. The costs are distributed back to the manufacturing or to the marketing department and there applied against the total cost of the products. It is a transportation charge that they accumulate as far as pipeline, tanker, truck, all that sort of thing.

Mr. GRINSTEIN. Do you charter the tankers out to other oil companies?

Mr. FORD. On rare occasions.

Mr. GRINSTEIN. When you do charter them out, are the rates the same as the rates you charge the consuming division or the retailing division?

Mr. FORD. No, they are chartered out at the market.

Mr. GRINSTEIN. At the market?

Mr. FORD. That is correct. That is a rare circumstance.

Mr. GRINSTEIN. More often than not these are proprietary carriers? carriers?

Mr. FORD. Ninety-nine-plus percent of the time they are proprietary carriers.

Mr. GRINSTEIN. Would you have any objection if an amendment were put in the bill restricting the operations of these vessels for a 3-year period to proprietary carriers?

Mr. FORD. No, sir; none whatever. We have a number of operating companies in the Standard Oil Co. of California, and I would assume that "proprietary" would include those. They are all wholly owned—Western Operations, Inc., California Co., and those. It is all Standard Oil.

Mr. GRINSTEIN. In the operations of your tankships, Standard Oil of California is really not concerned then whether they operate at a profit or loss?

Mr. FORD. No; because there is no basis for profit or loss. Of course they are extremely interested in whether they operate at a high or a low cost.

Mr. GRINSTEIN. Whether they operate at what?

Mr. FORD. A high cost or a low cost. In other words, when the total charge for transportation goes against products it is desirable at that time that the lowest possible costs are assessed.

In other words the ships are an integral part of the corporation.

Mr. GRINSTEIN. And to the extent there is a loss, then simply in the operation of the vessels this would be offset against whatever gains they would have in the sales of oil or various other products?

Mr. FORD. It is just a matter of total cost.

Mr. GRINSTEIN. I have no further questions.

Senator ENGLE. Thank you very much, Mr. Ford, for your statement.

Mr. FORD. Thank you, Mr. Chairman.

Senator ENGLE. The next witness is Mr. Morris Weisberger, secretary-treasurer, Sailors' Union of the Pacific, 450 Harrison Street, San Francisco, Calif.

Mr. Weisberger you have a rather short statement. Will you proceed to read it.

**STATEMENT OF MORRIS WEISBERGER, SECRETARY-TREASURER,
SAILORS' UNION OF THE PACIFIC, SAN FRANCISCO, CALIF.**

Mr. WEISBERGER. Yes, sir; I do. I am not in the shipping business. I am in the business of supplying men for American ships.

Mr. name is Morris Weisberger, I am secretary-treasurer of the Sailors' Union of the Pacific, which is affiliated with the Seafarers' International Union of North America. The headquarters of the SUP is in San Francisco, Calif., and, with our affiliates, we man all American-flag vessels serving the Pacific coast. In the American-flag west coast tanker field the SUP represents all of the unlicensed personnel. I am appearing in behalf of the SUP, and urge your early and favorable action on the bill, S. 1627, which would authorize transfer to American registry of certain tankers now operating under foreign flags, and would permit them to engage in coastwise and inter-coastal trade. We are supporting the move of Standard Oil of California to bring under the American flag from two to six ships now under Liberian flag.

The SUP has had a collective-bargaining agreement with Standard Oil shipping companies for 22 years. If this bill is passed we expect to have an agreement covering the crews which will work on these ships. That means more jobs for west coast seamen. This is one of our prime interests in the matter.

The American maritime industry is sick, and it is getting sicker. The west coast shipping industry is particularly hard hit. Four years ago, the SUP had under contract 350 ships; today, we have less than 200 ships. More than 50 percent of the available manpower on the west coast is unemployed. The main problem of the shipping industry is foreign-flag competition, with low wages and poor working conditions. According to our information, things are going to get worse in the shipping industry before they get better. The most hopeful sign we have seen lately on the west coast is the attempt of Standard Oil of California to bring ships back under the American flag. They tell us that if this bill is passed, they will bring back two ships before the end of this year. Two ships mean about 60 jobs for west coast unemployed seamen. Standard Oil tells us that, if present conditions continued, in a short time, under this bill, they may bring six ships under the American flag which are now under the Liberian flag. Six ships would mean 180 jobs for unemployed seamen. That is why the SUP supports this bill, and will support every effort by anybody to bring more ships under the American flag.

We have been informed of some of the companies which will oppose this bill. We are not very much impressed with their interest in American-flag shipping. So far as we know, all of them have operated ships under foreign flags. Most of them are now operating ships under foreign flags. Their interest in American-flag shipping is secondary. They have proved that their main interest is not in building up the American shipping industry, but in making fast profits under any flag that is most convenient to them.

The American shipping industry has been studied to death. Many books have been filled with the problems of the industry. Here is one bill which would really help the shipping industry, help seamen and their families.

I am sure that this committee has been informed many times regarding the bad conditions existing in our maritime industry. It is unnecessary for me to repeat facts and figures to prove this point. I am sure that other witnesses appearing here today will discuss the pending bill in complete detail, and it is not the job of a union leader to go into the technical complications. For years, American maritime unions have fought against the runaway flag gimmick. We will continue that fight. We believe this bill is a step in the right direction. We hope it will head a movement of foreign-flag ships back into the American merchant marine. If this happens, it will improve employment in shipping and allied industries, and it will provide employment opportunities for American seamen which are badly needed. We therefore urge you to support this bill.

Senator ENGLE. Mr. Weisberger, there is no subject that has more constantly been before us, that is, the legislators from California, than the problem of employment out there, whether in defense industry, the building of ships on the Pacific coast, or the increasing of our trade relationships which make it possible for our people to keep busy and the men of your union to get work.

I note that you refer to the fact that the American maritime industry is sick and that it is getting sicker; and that the west-coast shipping industry is particularly hard hit.

In the light of that statement what do you think would happen if we brought more ships into the coastwise trade? Mr. Stakem was up here and said if we did it would bust everybody in the coastwise trade, it would depress charter rates, it would lay up ships presently operating and it would decrease rather than increase the amount of domestic shipbuilding.

Do you have any comment on that?

Mr. WEISBERGER. Yes, I do. I think that right now we have no coastwise trade other than the tanker industry; that between the various Scandinavian countries that are moving ships in and running from Vancouver and up in Canada into the United States that formerly employed American ships and other Scandinavian ships that are competing with our west coast shipping to South America and to Central America and bringing their bananas that used to be brought in by American ships, we would like to see American ships out there instead of these ships. Certainly my interest is in the American merchant marine and not in any other foreign-flag operation. This foreign-flag operation has increased to such a degree that we are now practically without any ships in the coastwise trade other than the tanker industry.

Senator ENGLE. My information is that only American-flag ships can work the coastwise trade, is that correct?

Mr. GRINSTEIN. Yes.

Mr. WEISBERGER. But the American ships that used to carry the cargo, like paper from the north, from Canada, were driven out or were underbid by foreign-flag ships, and the amount of trade between the American ports on the Pacific coast has dwindled. It is not only because of foreign-flag competition but as the coast has built up and more factories have been established and so forth, and of course we have other competition of our own kind, the barge lines and so forth, we are afraid if ships are not brought back, such as these ships, they

will find other means of transportation, such as pipelines, barges, or other types, some gimmick that some of the steamship companies are using right now.

Senator ENGLE. We certainly appreciate your very fine statement.

I am sure we are interested in getting American coastal ships in our foreign trade if we can do it.

Mr. WEISBERGER. At the rate they are turning in these ships, as late as this morning in the New York Times, if we are going off this type of exchange of 14 ships for 1 ship, trading off 14 ships for foreign flag and get back 1 ship, in other words give up 450 jobs to get back 40 jobs on a fast supertanker, it wouldn't pay in the long haul. We would have unemployment. So any move of any nature that would bring ships back to the American flag should be made. We have tried to organize some of these foreign-flag ships and of course I would like to close in saying that we would like to talk about the ones we win, but we don't like to talk about the ones we lose, and we have lost a good number of them.

Senator ENGLE. Thank you very much. I appreciate you appearing here.

Mr. WEISBERGER. Thank you.

Senator ENGLE. Mr. Leslie C. Krusen, general counsel of the Keystone Shipping Co., 21 South 12th Street, Philadelphia, Pa.

Mr. Krusen, it is necessary to adjourn this committee at 12 o'clock because of another engagement. Can you summarize your statement? I understand that you have an appointment in Philadelphia or elsewhere.

STATEMENT OF LESLIE C. KRUSEN, GENERAL COUNSEL, KEYSTONE SHIPPING CO., PHILADELPHIA, PA.

Mr. KRUSEN. Yes, sir, I would like to complete today. I think I can do that.

Will my statement be printed in the record in full?

Senator ENGLE. Without objection the statement will be made a part of the record, as if read, and you may proceed to summarize it.

(Statement follows:)

STATEMENT ON BEHALF OF CHAS. KURZ CO., INC., AND KEYSTONE SHIPPING CO., IN OPPOSITION TO S. 1627

My name is Leslie C. Krusen and my address is 21 South 12th Street, Philadelphia 7, Pa.

I am vice president and general counsel for Chas. Kurz & Co., Inc., and counsel for Keystone Shipping Co. These companies own and operate U.S.-flag tankers. Their sole business is the transportation of liquid products in bulk, as contract carriers. They have no interest in the ownership, production, processing, or sale of the products which they carry. They have been established independent operators in the U.S. coastwise trade since 1927.

We oppose passage of S. 1627 for the following reasons:

1. *It would permit entry into the coastwise trade of at least 30 large tankers now under foreign flag, and this would completely demoralize an already distressed coastwise tanker market*

At the present time there are 345 privately owned U.S.-flag tankers having coastwise trading privileges. Of these 140 are T-2 tankers; speed 14½ knots; gross tonnage about 10,000; dead weight tonnage about 16,300. As of May 1, 1961, as nearly as we can determine, 33 U.S.-flag tankers are laid up.

Tanker rates are quoted on the market in terms of "American Tanker Rate Schedule." The basic rate covers a voyage from Port Arthur to New York and is quoted as "ATRS flat" (\$2.85 per ton).

As of May 1, 1961, the market rate for U.S.-flag tankers, Port Arthur to New York was ATRS minus 27½ percent clean; and ATRS minus 30 percent dirty. At these rates the owner of a T-2 tanker on such a voyage, which would occupy about 14 days, would lose about \$13,000 for the round trip. A T-2 tanker could ordinarily make from 24 to 25 such voyages a year.

This distressed market has continued for several years, and while rates have not always been as low as at the present, the average has been well below the point at which a T-2 tanker could earn its depreciation and operating expenses. We estimate that a T-2 tanker must receive about ATRS plus 11 percent to earn depreciation and operating costs.

So far as we can determine, there were at least 30 tankers built in American shipyards since 1950 for citizens of the United States, or corporations controlled by such citizens, and placed under foreign flag. These ships range upwards in size from about 16,000 gross tons (about 28,000 deadweight tons) and have speed in excess of that of a T-2. Because of their superior size and speed, the smallest of these vessels would be able to transport, in any given period, about twice the amount of cargo that a T-2 tanker could transport. These vessels would compete for business which is inadequate to employ the present fleet.

If we assume that only half of these vessels would be redocumented and injected into the U.S. coastwise trade, the effect would be to complete the demoralization of rates and to prevent any recovery in the foreseeable future.

We have planned our operations, including the replacement of vessels, on our estimate of the tanker market trend without allowance for such a catastrophe as the sudden admission of previously ineligible vessels. The effect of this on the business of independent operators such as ourselves will be disastrous.

2. The effect of the bill would be to deprive American officers and seamen of jobs

It has been said that if these vessels are documented under U.S. flag they will create additional jobs for American seamen. Nothing could be farther from the truth. Of course, they would then have to employ American seamen. However, since there is not enough business to employ the present coastwise vessels, the competition of these additional vessels would displace the smaller and less economical, which would have to be laid up or scrapped. Each returned tanker would employ about 44 men and would displace two T-2 tankers, each of which would employ about 40 men. Consequently labor would stand to lose 36 jobs for every such vessel. If all of the 30 eligible vessels were to be readmitted, they would provide employment for about 1,320 men, but would throw about 2,400 men out of their present jobs, or a net loss of about 1,100 jobs.

It has been said that a number of these vessels belong to major oil companies, which would employ them in their own trade, the inference being that this would not interfere with independent operators. It is obvious, however, that regardless of whose produces are carried, when new units are injected into an overtonnaged market an equivalent carrying capacity in vessels must be displaced.

It should be noted that under present law if American-built foreign-flag vessels are transferred to citizen ownership, they may be readmitted to American flag and registry and enjoy all the advantages thereof, except that they are by law and as a matter of policy excluded from coastwise trade. It is the attempt to obtain coastwise rights, and not the redocumentation, that is objectionable.

3. The effect of the bill would be to depress shipbuilding

At the present time coastwise tanker operators are concerned about the possibility of orderly replacement of their T2's and other smaller tankers; some of them have been jumboized, i.e., rebuilt to a greater tonnage; others will undoubtedly be replaced by U.S. new buildings if conditions warrant. Admission to coastwise trade of these large ships will make it unnecessary to replace, in American shipyards, an equivalent number of vessels during the next 10 or 15 years. In addition it will greatly decrease the probabilities—certainly in respect of independent operators—that present ships will be jumboized. Independent operators do not have the capital to build new vessels or rebuild existing vessels and cannot finance them if they cannot assure prospective lenders that the vessels can be employed at profitable rates which will amortize the cost.

If shipbuilding is depressed, the effect will be felt in the steel, machinery, electrical, and other industries. If trained workers have to be laid off, they will find

employment in other industries, and if there is a sudden demand for ships because of some national emergency, the program will be retarded by the necessity for having to train new workers. Depression in the shipbuilding industry likewise retards the study and application of technical advances in design and construction.

Proponents of the bill have indicated that if these vessels are admitted to coastwise privileges, they will provide repair work for the shipyards. Actually, since most of these vessels operate to and from ports in the United States, they probably make some part of their repairs in U.S. yards at the present time. In any event the amount of repairs will not exceed those which are required to be made at the present time to the ships which they will displace, and which will have to laid up.

4. If redocumentation of these vessels would have any effect on defense, it would be harmful

It has been stated on behalf of this bill that it will add modern large vessels for defense. Actually the eligible vessels are now owned by American-controlled foreign corporations, and hence will be available for defense if they remain under their present flags. We believe that each such owner, as a condition to placing an American-built vessel under foreign flag and to obtaining war risk insurance from the U.S. Maritime Administration, has been required to sign an agreement that the vessels will be made available to the United States in the event of emergency upon the same terms and conditions that a vessel documented under U.S. flag would be made available. Accordingly, the United States already controls these vessels and no benefit will accrue from having them admitted to coastwise trade.

In addition, since the effect of their entry into coastwise trade will be to postpone and discourage shipbuilding and the maintenance of existing units, the ultimate effect will be to lessen over the next 10 or 15 years the number of such vessels available for defense.

5. Passage of legislation of this type establishes a harmful precedent

It has long been the policy of the United States to restrict the coastwise trade to vessels built in the United States and owned by citizens of the United States. That this is a wise policy has been demonstrated at the outbreak of each war when virtually the only merchant vessels available to the Armed Forces have been vessels built for coastwise trade and those operating under construction and operating subsidy. Congress wisely determined that if vessels, although built in the United States, are put under foreign flag, they may not have their coastwise privileges restored if they are subsequently returned to U.S. flag. The reasoning and wisdom behind this is obvious. If operators are permitted to place their vessels under foreign flag when it best suits them, and return them to coastwise trade when the conditions under foreign flag are less favorable, they will continuously disrupt the coastwise trade and will discourage the maintenance and replacement of vessels by coastwise operators. In other words, Congress foresaw the harmful results of exactly what is proposed to be done here.

Passage of legislation of this type sets a bad precedent. If the request of the proponents of this bill is granted, it will be difficult to find a reason for refusing the next applicant. Although each proposed relaxation of the coastwise restriction may be small in itself, the cumulative effect is to erode the entire policy until nothing remains. Actually we are strongly opposed to any such legislation, whether or not it has an immediate effect on our operations.

6. This is special privilege legislation in its worst form

On this subject the bill speaks for itself. It would admit only vessels of a specific size—obviously the size owned by its proponents—built since a specific date, and would hold the privilege open only until the proponents' purposes can be accomplished. We can assume that thereafter they will be opposed to such legislation. Accordingly, we submit that in addition to the harm that passage of such legislation would do to the policy of coastwise restriction, it would establish the unfortunate precedent of permitting an individual or limited group of individuals to use legislation to accomplish their own purposes to the exclusion of others.

For the foregoing reasons we urge this committee to report unfavorably on the passage of this bill.

Respectfully submitted.

PHILADELPHIA, PA.

LESLIE C. KRUSEN.

Mr. KRUSEN. At the outset I want to correct something which has apparently got into the record. Mr. Bourbon showed me a telegram from the Pacific-American Tanker Association stating that the Keystone Shipping Co., which is one of the companies for which I am appearing, is in favor of this bill.

Keystone Shipping Co. is a member of that association, all right, and it couldn't prevent what the majority decides to do, but as you will see from my appearance here, we are not in favor of the bill, and that is an erroneous statement. I don't know how that arose.

The companies that I appear for are what are known as independent tanker owners and operators. We charter ships to oil companies, the major oil companies and independents; in fact, anybody who wants tanker transportation in bulk.

Our objection to bringing back these ships as we view it is a matter of business survival. We have been in the business for a great many years. The coastwise business has always been preserved for American-built and American-operated ships, and the restrictions are wise restrictions, because they prevent operators from jumping back and forth from one business to another whenever it best suits their interests.

Summing up my arguments, our first point is that the administration of these vessels to coastwise trade has got to be felt somewhere. If we assume, as one witness said, that only two tankers are to be brought in, that means that they will have requirements for two less vessels for operation, and that would probably mean four of the prevailing type now operated in the coastwise trade.

If they bring in these ships they won't have to replace ships. They could charter in ships if they needed the tonnage and that would help the independent operators.

I want to add one thing to what Mr. Stakem said about the depressed market. This depressed market has continued for about 3½ years. I don't have the exact dates. There has only been one very short period of time during that period when we could make operating expenses and some of our depreciation, except, of course, on some few long-term charter parties that were made a long time ago.

We can't see anything more than a gradual improvement, and that depends on the fact that the present tonnage is replaced in American yards rather than additional ships brought in.

At the present time the last market quotation we had was ATRS minus 27½. We estimate that at that rate a T-2 tanker loses \$13,000 on a round coastwise voyage which takes about 14 days. It is quite obvious that ships cannot operate at a loss. Something has to happen, or your independent tanker owners and operators will simply go out of business.

We have planned to replace our vessels, if we can, in an orderly way, and we hope that the market will improve. But if any substantial number of these ships come back—and bear in mind we are not talking about 2 ships, we are talking of upward of 30 potential returnees—it is just going to throw this market out of balance for a long period of time.

We are prepared to meet the competition of newly built vessels because they will be built as they are required. We hope to be able to build some of them ourselves.

My second point I have partly covered, and that is that if these vessels are brought back there won't be any need to build new vessels for a substantial period of time, because these are relatively new vessels. Therefore, it is going to have a depressing effect on the shipbuilding industry, and that extends right on through the allied businesses such as steel, machinery, marine architecture. There is a whole host of things covered by that.

My third point has to do with the effect on labor. I heard Mr. Weisberger testify. But I think that we must not confuse the question of employment with the question of business. It doesn't do you any good to bring back a whole lot of U.S. flagships if you have to lay up U.S. flagships. These are vessels that we are talking about, large vessels, that would transport at least two times the amount of cargo the T-2 tanker would transport. We estimate that each one of these ships would carry about 44 to 45 men. Our T-2 tankers carry about 40 men. So it is simple arithmetic: if you bring in a ship that will displace two smaller ships, you have to hire 44 men, that is true, but you have to discharge 80 men when you lay up those ships.

If I can digress for a moment, the ships that are laid up today, I think there has been an inference that they are laid up because they are not in operating condition. I think that is true in some cases. But what hasn't been said is that if the market were any good and we could repair these vessels we would bring them out very fast.

It also has not been said that tankers, in order to try to survive, have been forced into the grain trade where they don't belong at all, and they are carrying grain to India and Korea and various other places and at rates that keep them in operation but do not always let them break even. Sometimes we break even, but most of the time we lose a little bit on it. But it is better to operate than to lay up.

My fourth point has been covered by Mr. Stakem, but I would like to emphasize. All of these vessels that were built in the United States and placed under foreign flag, the owners had to agree that they would make them available in time of emergency on the same terms that an American vessel would be made available, and they had to agree not to transfer any interest in them without the permission of the Maritime Administration. Therefore we feel that they are under effective control.

I don't think, therefore, that it would have any substantial good effect on defense and, on the contrary, if it delays a shipbuilding program it will have a harmful effect on defense.

Finally, we feel that there ought not be special legislation of this type every time it will benefit somebody to break the coastwise rule. We think the coastwise rule was a wise move on the part of Congress because it gives people assurance that they can build vessels and they will be able to employ them without foreign competition. We are not talking here about 2 vessels coming in this year, and maybe some other vessels coming in later; we are talking about somewhere between 30 and 39 vessels that could potentially come into this trade.

We are also talking about setting a precedent. If you grant this to one person, why couldn't you grant it to the owners of all T-2 tankers? And why wouldn't it be available to cargo people at some other time?

We think that we ought to have an assurance that this sort of thing won't be done.

Every time we have had a war—the last two wars, and the Korean war—the only vessels that have been available to this Government have been subsidized vessels and the coastwise vessels, mostly tankers so far as coastwise is concerned.

I also want to say, getting back to the market, that the major oil companies, who I think would own the majority of these ships that might be eligible, charter out their vessels when they are long on tonnage. They have a considerable effect on the type of market. By the same token they charter in vessels when they are short on tonnage. Actually, that is all the independent tankers such as ourselves have to rely on. We provide tonnage for the majors when they are short, and for the smaller oil companies that don't have their own transportation.

I heard a comment a while ago from an operator in the back of the room, and he said that if any of the oil companies were short, he has a couple of ships right now that he would be glad to charter out to them at a very fair rate.

I think that, with my statement, concludes what I have to say. I could talk for a long time, but I realize you are pressed for time. I will be happy to answer any questions.

Mr. GRINSTEIN. What kind of tankers do you have in the Charles Kurz Co.?

Mr. KRUSEN. Charles Kurz & Co. has several T-2 tankers, several jumboized T-2 tankers, a small chemical carrier, and a large tanker that is under long-term charter to a major oil company.

Mr. GRINSTEIN. You have three ships eligible for return, *Philidora*, *Philine*, and *Philippia*. Why wouldn't you bring those three back to replace your T-2 tonnage?

Mr. KRUSEN. In the first place, those ships do not belong to Charles Kurz & Co. And they do not belong to the stockholders of Charles Kurz & Co., although some of the stockholders of Charles Kurz & Co. are the stockholders of that company. We would not bring those ships back—and I am a stockholder in the company you are talking about—

Mr. GRINSTEIN. Somerset?

Mr. KRUSEN. Somerset. Those ships were built to be operated on long-term charter to Shell Oil—one of the Shell companies. They were never intended to operate anywhere near the United States, except possibly on occasion. Their normal operation would be from Great Britain to oil ports probably in the Far East. We have no control under that because they are under bareboat.

I want to say, too, that we had another ship in a subsidiary. Charles Kurz & Co. presently has no foreign-flag ships. Neither has Keystone Shipping Co. We had a ship called *Maeco*. We brought it back to United States flag without making any request for coastwise privileges, in the hopes that we could at least earn its cost in depreciation. We can't do that.

Senator ENGLE. We very much appreciate your statement, Mr. Krusen.

Mr. KRUSEN. Thank you.

Senator ENGLE. The subcommittee will stand in recess until 2:30, when Mr. Bartlett will be here to preside.

(Whereupon, at 12 noon, the subcommittee was recessed, to reconvene at 2:30 p.m., same day.)

AFTERNOON SESSION

Senator BARTLETT. The committee will be in order.

It is the understanding of the acting chairman that Mr. Starbuck has a statement which he can present in a minute or two. The committee will be glad to hear Mr. Starbuck now on S. 1627.

Whenever you are ready, Mr. Starbuck.

STATEMENT OF SIDNEY STARBUCK, AMERICAN TRAMP SHIP-OWNERS ASSOCIATION, NEW YORK, N.Y.

Mr. STARBUCK. Mr. Chairman, my name is Sidney H. Starbuck. I am executive secretary of the American Tramp Shipowners Association, Inc. On their behalf, I wish to express our opposition to S. 1627.

Under the provisions of this bill, tankers which were built in American yards for foreign registry could be redocumented under American registry and regain coastwise privileges. This would change the existing law which now provides that vessels which have been documented under foreign flag cannot engage in our domestic trades. Our reason for opposing this legislation is because of the unfavorable impact it will have upon American-flag tramp vessels.

The American-flag tramp vessels are today almost completely dependent upon the carriage of agricultural surplus commodities under the so-called "50-50" statute. In seeking these cargoes, the American tramp ships are in competition with the American-flag tanker vessels which also carry substantial amounts of these grain cargoes. To the extent the tanker vessels are driven out of the oil carriage into the grain trades, they to that same extent provide additional competition to the already overtonnaged American-flag tramp industry. The rates in the American-flag tramp trades are now so low that we cannot operate under break-even conditions. With the large number of additional tankers which would come under American registry if this bill were to be enacted, it appears obvious that additional tanker ships will be driven out of the oil market into the grain trades. As a result, tramp rates would be still further depressed and we would have additional American-flag tramp companies going into bankruptcy.

There is presently not enough oil to be carried in American tankers. As a result, the surplus American tankers go into grain trade. The minute this bill is enacted, the vessels brought back to American registry will either enter the oil trades or go into the grain trades. Existing depressed rates in the grain trades will be further depressed. While this bill will therefore benefit certain oil companies and tankers owners, it will be severely detrimental to the interest of the American tramp industry. Accordingly, we urge that this bill be reported unfavorably.

Senator BARTLETT. All right, Mr. Starbuck.

Thank you. Your views will receive the earnest consideration of the committee.

Mr. STARBUCK. Thank you.

Senator BARTLETT. Are there any other prospective witnesses who want to become actual right now by short statements?

I was only thinking that if there are such in the room they might be able to deliver their statements now and they wouldn't be held longer.

Come forward please.

**STATEMENT OF M. A. MATHIASSEN, PRESIDENT, MATHIASSEN'S
TANKER INDUSTRIES, PHILADELPHIA, PA.**

Mr. MATHIASSEN. My name is M. A. Mathiasen, of the Mathiasen Tanker Industry, Philadelphia.

This company owns directly or in association with related companies operating in the U.S. coastwise trade, a fleet of tankers of approximately 100,000 deadweight tons.

We are unalterably opposed to the above bill in that it is pure class legislation and of a rather vicious kind in that it will wreck completely the coastwise trading ability of independent American-flag tanker owners.

The bill, if passed, will help those who least of all need any help in the coastwise trade and will definitely ruin the independent owners who have invested probably every dollar available to them in American-flag vessels. If the floodgate is opened by this bill, there are at least 30 tankers that would be eligible for return from foreign flag to American flag and coastwise privileges. There has been a surplus of American-flag tankers for coastwise trade for at least 4 years operating at a substandard rate structure which, in most instances, does not meet cost of operation. In other words, private operators of American-flag tankers are in desperate straits as it is and they only need this type of legislation to pass to complete the economic havoc which would be wrought.

I would assume that the American shipyards would also be interested in this type of legislation inasmuch as it would, in all probability, prevent building for the next 10 or more years of any American-flag tonnage.

Senator BARTLETT. Thank you, sir.

Mr. Hood, vice president of the Shipbuilders Council of America.

**STATEMENT OF E. M. HOOD, VICE PRESIDENT, SHIPBUILDERS
COUNCIL OF AMERICA, WASHINGTON, D.C.**

Mr. Hood. Thank you, Mr. Chairman.

My name is Edwin Murray Hood. I am vice president of the Shipbuilders Council of America, a national trade association of the shipbuilding and ship repairing industries.

The purpose of S. 1627 is to waive a present restriction of the coastwise shipping laws so as to permit any vessel of not less than 12,500 gross tons built in the United States and completed after January 1, 1950, for a citizen and placed under foreign registry, to be documented by such citizen at any time within 2 years after enact-

ment of the bill, as a vessel of the United States entitled to engage without restriction in the coastwise trade of the United States. The Shipbuilders Council of America views the bill as a most objectionable change in existing law and is opposed to its enactment in any form.

In connection with the bill the council has developed from its own records a list of the 63 vessels, each of over 12,500 gross tons and totaling 1,387,807 gross tons, built by private American shipyards and delivered after January 1, 1950, for foreign-flag registry. The listing is broken down by years. A separate summary gives the figures by years for the entire period. All ships on the list are tankers.

May I respectfully suggest that this tabulation be included in the record as an appendix to my statement?

Senator BARTLETT. It will be incorporated as a part of your statement.

Mr. HOOD. These 63 ships would now be entitled to admission to American-flag documentation with full coastwise trade privileges except for a provision of law enacted in 1935 amending the coastwise laws. This 1935 amendment is the provision which would be waived by S. 1627. With regard to the list, the council does not have information with respect to the citizenship of the present foreign-flag operators of these ships.

Therefore, it does not know how many of the 63 tankers could be documented under the American flag with full coastwise trade privileges if S. 1627 is enacted. However, it understands the number is substantial. A figure of 30 has been mentioned, and this morning as many as 39 have been mentioned. This would mean the bill would affect 600,000 gross tons of ships figuring 20,000 gross tons per ship. There may be more.

S. 1627 is broadly worded in that it speaks of vessels of over 12,500 gross tons built after January 1, 1950. Actually, however, its only application would be to tankers as that is the only type ship of this size built in American private yards for foreign registry since such date. Thus, for present purposes, consideration can be narrowed to the effect the bill would have on tanker construction for coastwise operation in U.S. shipyards.

According to a recent feature article in the public press, 7 out of every 10 vessels in the American-flag tanker fleet will become overage in the next 4 years. It seems also that almost two-thirds of the tankers in the privately owned fleet are of World War II vintage or older. It is also pertinent to note that more than three-fourths of the almost 7 million tons in the U.S.-flag tankers fleet are engaged in the protected domestic trades.

The situation overall appears to be such that some kind of a tanker program for American-flag operation in our coastwise trade must materialize soon. Confirmation of this is seen in the placement with Bethlehem Sparrows Point in March of this year of a contract for five 16,000-gross-ton tankers by Texaco for delivery beginning late 1962 and running through 1965.

The council finds recent reports most heartening and is inclined to the view that, barring some depressing influence, such as enactment of S. 1627, additional new tanker construction orders for coastwise operation may be in the offing. In fact, introduction of S. 1627 might be

viewed as an indication of a rise in demand for such tanker tonnage eligible for the coastwise trade.

The council's basic objections to S. 1627 are that, to the detriment of the shipyards, the bill would permit certain coastwise tanker operators to satisfy their needs merely by a change in present law rather than by undertaking new construction. And if S. 1627 is approved, whether or not its terms are availed of by the American owners of such foreign-flag tonnage, the mere availability of these additional hundreds of thousands of tons of tankers for coastwise trade will be a factor which could not be ignored by any operator contemplating new construction. Enactment of the bill would immediately increase the visible tonnage eligible for the trade by some six or seven hundred thousands of gross tons. It is obvious that it would have a harmful effect on shipbuilding and the council is convinced it will be of no benefit to any segment of maritime industry except the few tanker operators presently possessing such tonnage.

The existing law which forecloses American-built foreign-flag vessels from admittance to American documentation for the coastwise trade is the first proviso of section 27 of the Shipping Act 1920. This proviso was added by the act of July 2, 1935, 49 Stat. 442, 46 U.S. Code, Shipping, section 883.

The proviso reads:

Provided, That no vessel having at any time acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in, or documented under the laws of the United States, and later sold foreign in whole or in part, or placed under foreign registry, shall hereafter acquire the right to engage in the coastwise trade.

Mr. Chairman, it is interesting to note that congressional hearings which led to the enactment of that amendment started 27 years ago today on May 10, 1934.

The provision was enacted by the 74th Congress in 1935 with strong support at the time by the National Council of American Shipbuilders—predecessor to the Shipbuilders Council of America—certain tanker owners, and the Department of Commerce, because of a condition not unlike that which exists today. A need for new tanker construction for the coastwise trade was developing.

As the committee knows, the national policy of restricting the coastwise trade to American ships dates back to the First Congress. Since 1817 this trade has been restricted to American-built ships with minor exceptions. The purpose, of course, has been to assure American shipyards of one source of potential orders. In more recent years the purpose has also been to assure immediate availability of ships for national emergencies.

There have been some minor exceptions allowed by Congress in recent years because of special considerations such as the Alaskan trade in which operators are somewhat limited, and in the hydrofoil situation, where Congress felt an exception would stimulate greater interest in that type vessel in this country. Other exemptions have been made as war measures and are not pertinent here.

By law, the only way an interested operator can acquire tonnage for the coastwise trade is either by construction of a new ship or by purchase of an existing American-built American-flag ship and fixing her up, if necessary, in an American shipyard.

Last June, in reemphasizing this policy, Congress decided as a further restriction to protect our shipyards, that coastwise ship operators should not be allowed to import foreign components of hull and superstructure for incorporation in their otherwise American-built ships under penalty of loss of domestic trade rights for such ships. The council does not have any information as to whether any of the ships that would be covered within S. 1627 have been rebuilt during their time under foreign registry. But, it does note that S. 1627 would not take care of this situation in any event, and, in fact, would appear to allow foreign rebuilding just before the vessel was transferred to United States documentation. However, this phase of the legislation is deemed to be comparatively unimportant. The council is opposed to the enactment of S. 1627 in any form.

The proposed measure would be most harmful to shipbuilding and its harm would be felt most directly by American labor engaged in ship construction in our shipyards.

The council has noted certain claims made for the bill by its sponsor in the House that it would benefit several segments of the American maritime industry. The council does not agree that it will be of any benefit except to those few ship operators presently owning U.S.-built foreign-flag tankers as defined in the bill.

The council does not feel enactment of the bill will increase the number of jobs available for American seamen. If an owner brings in one of his foreign-flag tankers for operation in the coastwise trade it would merely be in place of an existing ship. In all probability it would be a larger vessel in deadweight carrying capacity, but with no larger crew, so there would be no net gain in jobs available. It is an economic fact that there is just so much coastwise tanker trade and S. 1627 will not increase that total trade. Bringing in one ship will just retire another, and if the ships brought in are larger than those retired there could well be a net loss rather than a gain in seafaring employment. At the same time the need for building a new ship would be eliminated and with it the employment of many men in the shipyards.

Similarly, enactment of the bill would not provide any additional repair and maintenance work for American shipyards. As noted above, the tankers which would be brought in from under foreign flag to American flag would merely replace a present tanker. The net size of the tanker fleet in active operation would be the same.

Also, it is questionable whether enactment of S. 1627 would increase tanker tonnage available to the United States in time of emergency. By changing from foreign-flag registry to American documentation, the vessel would not become any more available to the Government. All vessels built since 1950, the cutoff date in the bill, are subject to U.S. control pursuant to section 37 of the Shipping Act of 1916. In fact, its documentation would reduce by one vessel the total overall fleet of tankers in active operation.

It is apparent that if S. 1627 were enacted further inroads on the national policy of restricting our domestic trade to our own vessels built in American yards would soon follow. This bill is contrary to the frequently declared intentions of the Congress. It would be most dangerous and would serve as a precedent for consideration of even more damaging proposals. The committee is most strongly urged not to approve S. 1627.

Thank you, Mr. Chairman.

(Tabulations referred to in Mr. Hood's statement follow.)

Summary of merchant vessels built in U.S. shipyards for foreign flag, 1950-60

Year built	Number	Gross tons
1950	16	276, 479
1951	2	32, 142
1952	4	70, 559
1953	6	112, 270
1954	11	230, 789
1955	1	18, 790
1956	0	0
1957	3	63, 766
1958	7	181, 522
1959	11	345, 443
1960	2	56, 037
Total	63	1, 387, 807

Merchant vessels built in U.S. shipyards for foreign flag, 1950-60

Year delivered	Name of vessel	Type	Gross tonnage	Flag
1950	Capsa.....	Tanker.....	17, 896	Panama. ¹
	Sovac Comet.....	do.....	17, 597	Do.
	San Tome.....	do.....	17, 902	Liberia.
	Sovac Daylight.....	do.....	17, 597	Panama.
	Olympic Flame.....	do.....	17, 722	Honduras. ²
	Capulus.....	do.....	17, 896	Panama. ¹
	Sovac Radiant.....	do.....	17, 597	Do.
	Caperata.....	do.....	17, 896	Do.
	Olympic Thunder.....	do.....	17, 722	Honduras. ²
	Esso Santos.....	do.....	17, 061	Panama.
	Bulktrader.....	do.....	15, 586	Liberia.
	Caprella.....	do.....	17, 896	Panama. ¹
	T. S. Petersen.....	do.....	16, 073	Liberia.
	Caprinus.....	do.....	17, 896	Panama. ¹
	Atholl McBean.....	do.....	16, 071	Liberia.
	A. N. Kemp.....	do.....	16, 071	Do.
	1950 total, 16 vessels of 276,479 gross tons.			
1951	Paul Pigott.....	do.....	16, 071	Do.
	Robert Watt Miller.....	do.....	16, 071	Do.
1952	1951 total, 2 vessels of 32,142 gross tons.			
	Gage Lund.....	do.....	16, 071	Do.
	Falaika.....	do.....	17, 861	Do.
	La Cruz.....	do.....	17, 861	Do.
	Waneta.....	do.....	18, 766	Panama.
1953	1952 total, 4 vessels of 70,559 gross tons.			
	Las Piedras.....	do.....	18, 611	Liberia.
	Chryssi.....	do.....	18, 732	Panama.
	Wapello.....	do.....	18, 722	Do.
	Andros Island.....	do.....	18, 735	Do.
	Andros Sea.....	do.....	18, 735	Do.
	Andros Hills.....	do.....	18, 735	Do.
	1953 total, 6 vessels of 112,270 gross tons.			
1954	George Livanos.....	do.....	18, 790	Do.
	John P. G.....	do.....	18, 717	Do.
	Eugenie Livanos.....	do.....	18, 736	Liberia.
	W. Alton Jones.....	do.....	22, 595	Do.
	Margarita.....	do.....	18, 762	Do.
	World Glory.....	do.....	27, 812	Do.
	Statue of Liberty.....	do.....	22, 610	Do.
	Athina Livanos.....	do.....	18, 784	Do.
	Master Peter.....	do.....	18, 763	Panama.
	Cradle of Liberty.....	do.....	22, 610	Liberia.
	Liberty Bell.....	do.....	22, 610	Do.
	1954 total, 11 vessels of 230,789 gross tons.			
1955	Olympic Sun.....	do.....	18, 790	Do.
1957	World Beauty.....	do.....	27, 902	Do.
	World Bond.....	do.....	20, 019	Do.
	Adoration.....	do.....	15, 845	Do.
1958	1957 total, 3 vessels of 63,766 gross tons.			
	Trinidad.....	do.....	26, 530	Panama.
	Arietta S. Livanos.....	do.....	23, 626	Liberia.
	World Banner.....	do.....	20, 546	Do.
	Olympic Eagle.....	do.....	27, 602	Do.
	G. S. Livanos.....	do.....	23, 626	Do.
	Sansinena.....	do.....	32, 000	Do.
	Olympic Falcon.....	do.....	27, 602	Do.
1959	1958 total, 7 vessels of 181,532 gross tons.			
	Brighton.....	do.....	26, 544	Panama.
	Torrey Canyon.....	do.....	37, 203	Liberia.
	Philine.....	do.....	29, 742	Do.
	Patro.....	do.....	28, 450	Do.
	Princess Sophie.....	do.....	43, 373	Greece.
	Maine.....	do.....	26, 544	Panama.
	Lake Palourde.....	do.....	37, 203	Liberia.
	Philippia.....	do.....	29, 742	Do.
	Capulonix.....	do.....	28, 450	Do.
	Philidora.....	do.....	29, 742	Do.
	Lovellia.....	do.....	28, 450	Do.
1960	1959 total, 11 vessels of 345,443 gross tons.			
	Capiluna.....	do.....	27, 602	Do.
	Capisteria.....	do.....	28, 435	Do.
	1960 total, 2 vessels of 56,037 gross tons.			

¹ Registry subsequently transferred from Panama to flag of West Germany.² Registry subsequently transferred from Honduras to flag of Liberia.

Senator BARTLETT. Why is that cutoff date of 1950 in the bill?

Mr. HOOD. I really don't know why that arbitrary date was selected.

Senator BARTLETT. You have stated not once but twice that the Shipbuilders Council of America is opposed to this bill in any form.

Mr. HOOD. Yes, sir.

Senator BARTLETT. Nevertheless, I will ask you this question: If it were amended to cover only a given and simultaneous number of vessels, would you continue to oppose it?

Mr. HOOD. Yes, Mr. Chairman, we would, because we feel that this would create a precedent which would lead, perhaps, to similar special proposals in the future.

Senator BARTLETT. Mr. Hood, do you know how long it takes, on the average, to build a 20,000-ton tanker?

Mr. HOOD. I would say a year and a half to 2 years.

Senator BARTLETT. Do you know how much employment that building furnishes in the shipyard itself?

Mr. HOOD. Not precisely, Mr. Chairman, but I will be happy to develop that and furnish it for the record.

Senator BARTLETT. Would it be, do you imagine, in the scores or hundreds?

Mr. HOOD. In the hundreds, yes.

Senator BARTLETT. I wish you would do that.

Mr. HOOD. All right, sir.

(Subsequently, Mr. Hood supplied the figures requested, as follows:)

MAY 17, 1961.

Hon. E. L. BARTLETT,
U.S. Senate, Washington, D.C.

DEAR SENATOR: At the hearing of the Merchant Marine and Fisheries Subcommittee of the Senate Committee on Commerce in connection with S. 1627 last Wednesday, you asked me, "How many men would be engaged in a shipyard in the construction of a T-2 tanker during the period of construction," and I promised to provide this information for the record.

I believe the question can best be answered in this way: Construction of a T-2 tanker in a U.S. shipyard involves approximately 1 million man-hours of direct labor and 600,000 man-hours of indirect labor. This is the equivalent of about 500 man-years of direct labor and 300 man-years of indirect labor, or a total of 800 man-years in a shipyard. These figures might vary depending upon the extent to which the shipyard itself manufactures any machinery components for the tanker. In addition, the man-years of employment which are involved in the manufacture of equipment purchased by the shipyard from outside sources must be considered. Since construction of a T-2 tanker requires approximately 600 days, it will be evident that for every tanker prospect eliminated, now or in the future, by the enactment of S. 1627 in any form, there will be no work in U.S. shipyards for approximately 400 men per year for a 2-year period—workers who otherwise would be gainfully employed if the tanker in prospect were to be built.

It is unlikely that any tanker operator, now or in the future, would undertake to build a new tanker as small as a T-2; the economics of tanker operations would more probably dictate the construction of a tanker in the 25,000-50,000-ton range. A tanker of this size would require substantially more direct and indirect labor, and the number of workers unemployed for the lack of such a contract would be much greater.

Should you desire any further information as to the potential impact of this proposal upon the shipbuilding and ship repairing industries, I hope you will feel free to call on us.

Sincerely,

E. M. Hood, *Vice President.*

Senator BARTLETT If 30 ships were to be brought in under this bill, a figure which you have mentioned, of 600,000 gross tons, that would be about only 11 percent, as I calculate, of the total tanker tonnage in the coastwise trade now. Do you believe that percentage would have a very harmful effect on the existing operator?

Mr. HOOD. Yes, Mr. Chairman, in terms of any potential new tanker replacement programs developing in the coming months or years.

Senator BARTLETT. Mr. Bourbon?

Mr. BOURBON. No questions.

Senator BARTLETT. Mr. Grinstein?

Mr. GRINSTEIN. No questions.

Senator BARTLETT. Thank you, sir.

Mr. HOOD. Thank you, Mr. Chairman.

STATEMENT OF JOSEPH KAHN, PRESIDENT, COMMITTEE OF AMERICAN TANKER OWNERS, INC., NEW YORK, N.Y., ACCOMPANIED BY CHARLES POTTER AND MARVIN COLES

Mr. KAHN. Mr. Chairman, if you notice my statement is rather lengthy. I thought that if it please the Chair, I would request that the statement be submitted in toto in the record and that I be given permission to stress a few of the important points that I want to make in the statement, or I would be pleased to read the statement.

Senator BARTLETT. Your suggestion will be accepted. We will be delighted to have you pick out some of the highlights and call them to our attention. I am sure that there is no chance for you to go astray while speaking extemporaneously because you are flanked by eminent counsel on either side.

Mr. KAHN. Thank you, sir. I feel confident with my eminent counsel also.

Senator BARTLETT. Your statement will be printed in full.

You may proceed.

(Full statement follows:)

STATEMENT BY JOSEPH KAHN, PRESIDENT, COMMITTEE OF AMERICAN TANKER OWNERS, INC. ON S. 1627

Mr. Chairman, my name is Joseph Kahn. I am president of the Committee of American Tanker Owners, Inc., an organization consisting of companies owning large American-flag tanker vessels built with mortgages guaranteed by the Government pursuant to title XI of the Merchant Marine Act, 1936, as amended. As representative of the committee, I appear in opposition to S. 1627.

The bill presently before the committee provides that any vessel of not less than 12,500 gross tons which was built in the United States after January 1, 1950, for a citizen of the United States, or for a foreign corporation wholly owned by such a citizen of the United States, and which has been placed under foreign registry, can nevertheless be documented as a vessel of the United States and upon such documentation be entitled to engage in the coastwise trade of the United States. The effect of this amendment would be to abrogate the long-established provision of section 27 of the Merchant Marine Act, 1920, that no vessel having at any time acquired the lawful right to engage in the American coastwise trades by virtue of having been built in the United States and later sold foreign or placed under foreign registry shall thereafter acquire the right to engage in the coastwise trade. We are informed that the coverage of this bill would encompass more than 30 modern tankers built in American yards for foreign registry. We are further informed that the principal proponent of this legislation is the Standard Oil Co. of California, which wishes to document under the American flag with coastwise privileges six modern tankers which they had constructed for foreign registry.

We respectfully submit to this committee and to the Congress that enactment of this bill would wreak havoc with the existing independently owned American-flag tanker fleet. Not only would it bankrupt existing American independent tanker companies, but it would substantially lessen the work available to American shipyards over the next several years. Equally important, it would seriously injure the program of the Maritime Administration and be of huge and unnecessary cost to the taxpayers in that the Administration would be required to pay many, many millions on its guarantees on title XI tankers.

In order that the implications of this proposed legislation may be understood, may I briefly outline to the committee the nature of the tanker market. At the outset we must recognize that the American-flag tanker market and the foreign-flag tanker market are completely separate. Because of their high operating costs, American-flag tankers cannot operate in the world market and carry only a small fraction of the oil actually imported into the United States. On the other hand, foreign-flag tankers cannot carry American domestic movements of oil because of the fact that they are precluded from operating in the coastwise trades by that section of the Merchant Marine Act, 1920, which this bill would in large part repeal. Having been registered under foreign flag and hence not eligible to participate in the coastwise trades under existing law, the vessels of Standard Oil of California which would be covered by this bill cannot now operate in the American market. The pending legislation, if enacted, would let these ships leave the foreign market and permit them to compete with the existing American tanker fleet in the American domestic market.

In the domestic American tanker market, a large portion of the ships are owned by independent shipowners. These obtain their business by charters to the oil companies. Unlike in the foreign trade, most American-flag tankers are chartered to the oil companies for relatively short periods of time. The rates at which these charters are made depend completely on the relative balance between the demand for tankers to move the oil and the available supply of such tankers. During the past several years there has been a large oversupply of American-flag tankers. As a result, the rates paid for such tankers have been exceedingly low. Because of the oversupply and the resultant low rates, many of the title XI tankers have been unable to meet their mortgage commitments as they accrue and it has been necessary for the Government either to give them advances of principal payments or to permit deferments to be made by the banks in order to prevent foreclosures and to avoid the Government having to pay on its guarantees. Because of the lack of oil cargoes, many of these large tankers have been forced to go into the grain-carrying business—in the grain trades as well—however, rates are not sufficient to permit these vessels to pay their mortgage obligations. If this bill were enacted and the tankers which it covers were to be redocumented under American registry, this already precarious market would be completely destroyed and foreclosures and Government payment on mortgage guarantees would be inevitable.

May I point out to the committee that there are and have been over the past several months a substantial number of American-flag tankers in layup. This results from the fact that the amount of oil to be moved is less than the capacity of the American tanker fleet to move it. As a result, for every ship which would be redocumented under the American flag as a result of enactment of this bill there would be an equal amount of presently operating American-flag tanker tonnage which would be placed into layup. Enactment of the bill would be of advantage to Standard Oil of California and a few other owners of these foreign-flag ships, but such enactment would be disastrous to independent owners of existing American-flag tankers.

We who built title XI tankers did so with an eye on the future American market. We realized that the T-2 and other war-built tankers would soon be coming to the end of their useful life and that several years from now there would be adequate demand for the new American tankers. We relied on the long-established existing laws which barred foreign-flag tankers from participating in the American coastwise trades, which is the only real market for American tankers. May I suggest to the committee that it would be patently unfair to change the existing law by enactment of this bill so as to give an advantage to a few owners who originally chose foreign registry for their ships at the expense of those who built American-flag vessels for American-flag operation.

The oil consumed in the United States moves from the place of its original production to the place of consumption by three principal methods. A sub-

stantial volume of such oil is imported. With the exception of about 3 percent of these imports, all of this moves by foreign-flag tankers. A large proportion moves by pipeline and other over-the-land routes. Such movement of domestic oil from the points of its consumption is apparently cheaper than movement by tankers plus the inland freight required. The principal business for American-flag tankers is the movement of oil in our coastwise trades. The major part of this trade is from the gulf coast to the east coast of the United States. There is, however, some movement to California and some coastwise movement. If the Alaska drilling continues to develop, there should be additional movement from Alaska to the west coast.

The total amount of oil moved on American-flag tankers is limited by the amount of oil requiring movement. It is in no way limited by the availability of tankers. More tankers do not mean that one more drop of oil moves. At the present time, there is a large oversupply of American-flag tankers. These are either in layup or forced into the grain trades. Until such time as the T-2 tankers go out of the market because of physical obsolescence this oversupply will continue. Even with a predicted 3 percent per annum increase in oil consumption, and with a small part of such increase going to the American tanker fleet, there are still available enough tankers for the foreseeable future. As a result, for every ship redocumented under this bill another one or more American-flag tankers presently in operation will be required to go into layup. Thus, the redocumentation of vessels under this bill would mean no extra jobs for American seamen. Because the cargo is owned in the case of Standard Oil of California, it would be moved in their own redocumented tankers. As a result, an equivalent tonnage of privately owned American-flag tankers now engaged in the coastwise trades would be forced into layup. The impact into layup will be particularly severe on the large new American-flag tankers because of their high capital costs and the fact that many are basically of the same type as the Standard Oil of California tankers.

Enactment of the pending bill would also have a disastrous effect upon American shipyards. May I invite the committee's attention to the fact that the maintenance of an adequate American shipbuilding industry is just as important as the maintenance of an American-flag fleet. It is important that the existing shipyards be maintained at a level of operation which will insure the employment of sufficient skilled personnel so that, in the event of national emergency, this skilled labor force will be readily available for national purposes. For reasons which I shall discuss in a moment, I would estimate that if this bill is enacted, almost all of the over 30 vessels which it would cover would be brought back to American registry. For every vessel so brought back to American registry, one fewer tanker will be built in an American shipyard.

In past years, tanker construction has been a mainstay of the American yards. These tankers have been built in American yards only because the domestic oil trades were limited to American built tankers. Because of the oversupply of tankers, there have been no new contracts for American building of tankers since 1957. Within the past few weeks, however, Texaco has placed a contract for five ships of basically the same class as those of Standard Oil of California which would be covered by this bill. As the T-2's go out of service, they will have to be replaced by new American construction unless this bill passes. But if this bill passes over 30 American-flag tankers will not be built in American yards. If this bill does not pass, it is obvious that within the next several years these over 30 tankers, plus any additional which are required, will be constructed. The importance of this work to the already depressed American shipyards and to the employment of American labor in such shipyards is quite obvious.

May we also invite the committee's attention to the fact that enactment of this bill would be very detrimental to the Maritime Administration's program as well as to the taxpayers' purse. The Administration is committed to the maintenance of a sound shipyard industry. Under present appropriations, they are authorized to build only 14 subsidized ships per year. If this bill were to be enacted, the Maritime Administration would either have to obtain appropriations to build additional vessels or be content to see the American shipyards fall to a still lower level than that existing at present.

The Maritime Administrator is also the insurer of mortgages in excess of \$200 million on tankers built pursuant to title XI of the Merchant Marine Act, 1936, as amended. As I have previously stated, most of these tankers have had serious financial difficulties and have been able to keep in operation only through certain

financial deferments or advances. Rates are so low that these tankers have been unable to earn the principal payments on their mortgages. Rates in the grain trade are similarly so low that they are unable to earn the principal payments on their mortgages. If you bring in an additional 6 or 30 tankers into the American market, the effect will be twofold. First, rates will be further depressed; second, the number of vessels which can find employment will be reduced in equal tonnage to those brought in. The result will be that vessels such as that owned by my company, and the other title XI ships which have high capital cost bases, will be forced into layup. As an alternative, they will be forced into obtaining still less profitable employment. This will mean without any question that the Maritime Administration will be called upon to meet their guarantees to the lending institutions upon mortgage defaults by these tanker owning companies. The amount of these guarantees are in excess of \$200 million. Certainly the benefit which will be gained by Standard Oil of California and other oil companies under this bill does not justify penalizing the taxpayer to this extent.

This is especially true when we consider the background of these ships. After Korea and during the Suez crisis, there was a tremendous shortage of foreign-flag tankers. As a result, so many orders were placed in foreign shipyards that additional orders could not be placed unless the owners were willing to wait 3 or more years for delivery. As a result, certain companies came to the American shipyards where prices were roughly half again as much as in foreign yards. But in the American yards, such ships could be delivered within 18 to 24 months. As a result, some companies ordered tankers in American yards for foreign registry despite the higher cost because they felt they could make up that extra cost by getting the ships quickly and by having the use of these vessels during a period of tanker shortage and extremely high rates. While I use Standard Oil of California only as an example, may I point out that they had the benefit of these tankers with quick delivery, during a high market, that they operated them under foreign flag with low-cost foreign crews, that they were able to avoid paying the then prevailing high charter rates, and that they operated these vessels without the payment of any taxes upon their earnings.

Now, however, the situation has changed. There is a huge surplus of foreign-flag tankers and rates in the foreign market are exceedingly depressed. As a result, these vessels of Standard Oil of California are of relatively little value under foreign flag. As an example, similar type vessels are available for sale in the foreign market for approximately \$2 million each. To replace these vessels in the American market would cost approximately \$10 million apiece. Obviously, Standard Oil of California has a use for these vessels or they would not seek to redocument them under American flag. Their alternative is to build new vessels at a cost of about \$10 million apiece or bring back six of these vessels having a market value of \$2 million each. The committee will readily see that the windfall to Standard of California if this bill were to be enacted would be in the neighborhood of \$8 million per ship or approximately \$43 million for the six ships. While I hold no brief against Standard of California and recognize it as a fine company, I do not believe that they should be permitted such a windfall at the expense of those who built American tankers for American-flag operations, to the detriment of the shipyards, and to the severe financial detriment of the taxpayer and the Maritime Administration.

Over the past years, the Congress has closed loopholes which have permitted foreign built or foreign rebuilt ships from reentering the American coastwise trades. For years, vessels which have been documented under foreign registry have not been permitted to engage in the coastwise trades. This presently pending bill would be a severe retrogression: it would be to the extreme detriment of the American-flag tanker owners who have relied in good faith upon existing law in constructing their tankers with a view to their employment over the 20-year life of the ships.

If Standard Oil of California has a need for additional American-flag tankers, owners who have title XI modern tankers will be pleased to make these ships available to them at reasonable rates. We will be glad to do so on long-term charters. Under present market conditions, obviously the rates charged will be exceedingly low. There are certainly more than enough new and old American-flag tankers to serve any foreseeable needs of Standard of California and other oil companies in the American market over the next several years, and these are available to them through normal commercial channels.

If Standard Oil of California and others covered by this bill wish to redocument these vessels under the American flag, they are privileged to do so under existing law. But under existing law they are not entitled to coastwise privileges. If they are sincere in their desire to redocument them under American registry and to employ American labor, I say let them do so. But let them keep these vessels in the foreign oil trades in carrying imported oil into the United States. As large importers, they would certainly have use for these vessels whether under American flag or otherwise.

In view of the foregoing, I urge this committee to report unfavorably on the bill in order (a) not to bankrupt title XI tankers, (b) not to deprive the American shipyards of work they would otherwise obtain, (c) not to require the Maritime Administration and the taxpayers to pay under their mortgage guarantees for already existing ships and (d) not to give a large windfall to owners who in their judgment built vessels in American yards for foreign registry and now wish to change their minds to the detriment of those owners who built vessels for American registry.

Mr. KAHN. Mr. Chairman, the Standard Oil of California have attempted to develop a case wherein the repatriation of these vessels from foreign to American registry would in effect improve the posture of the American fleet and would in turn create additional employment. We take very serious issue with that position.

We feel, to begin with, it would definitely, for every ship that came back under the American registry from foreign registry, we can assume that one ship could never be built in an American shipyard.

Secondly, the economic effect on the coastwise tanker owners would be so adverse that for every ship brought back at least one ship would be lacking employment and in the case of a larger ship coming back under American registry perhaps two smaller vessels would lose employment.

Also I feel that this is completely contrary to recent legislation that has been passed in Congress, particularly last year. Congress saw fit to pass legislation wherein the midbodies that have been built abroad could not be brought back to this country and joined, and that all work must be done in an American yard.

Several years back, I believe in 1955 or 1956, I am not certain, in order for a vessel to enjoy coastwise privileges, Congress also passed legislation where conversion work could not be done on an American vessel and for that vessel to have retained its coastwise privileges.

There has been much discussion as to the number of vessels that could be brought back under American registry were this bill to become law—S. 1627.

We developed figures and our figures are somewhat different of those of the Shipbuilders Council, that are a bit more conservative, frankly. We only come out to 47 ships that are eligible to be brought back under this legislation. However, whichever is right, whether 47 or 60, as the Shipbuilders Council has developed, or as Maritime has developed of 30 ships, I can, without qualification, state that in spite of that fact Standard of California has indicated that their present intention is only to bring back 2 vessels. If this were to become law, I am convinced that every one of the eligible ships would eventually come back under American flag. And the logic behind it is pure economics.

The economics are that these vessels, and I speak of the six ships that belong to Standard of California, under foreign registry have a value of approximately \$1.5 million. Their replacement value in an American yard is approximately \$9 to \$10 million. It is obvious

to me, and I think it should be obvious to the committee and to the chairman, that when there is approximately a \$7½ or \$8 million difference in the value of the ships, and if these ships become necessary, and surely if they are not necessary at this very moment because of the great difference in the value of one vis-a-vis the other, in the case of Standard of California they would save themselves approximately \$50 million or \$45 million, and the same would be applied right across the line.

Believe me, I do not have any objection to anyone making a great deal of money. But I do object that this great deal of money is made at the expense of every independent shipowner and at the expense of the shipyards which will never have an opportunity to build these ships if and when they become necessary to be built. And the mere indication that this bill is before this committee is an indication that perhaps in the near future these ships that we suffer with today, independent American-flag tankers, which we employ primarily now in the carriage of grain, because there is not sufficient coastwise oil for us to move, the mere fact that there is a bill before you is an indication that perhaps in a year or two there may be need for our ships. Certainly when we built these ships we anticipated that sooner or later there will be need for them.

I propose that if this legislation was to be permitted, it would create complete havoc economically so far as the independent tankers are concerned, and certainly for every ship brought back that is one ship less that would be built.

I would like to point out one more thing. Mr. Ford, of Standard of California, mentioned that there is a special movement which he thought these ships are necessary for. And that is a movement for Nikisiki, Alaska, to the west coast. It is a port in Alaska, sir. This is based on a recent statement of Standard of California that the present production of oil is approximately 6,500 barrels daily. May I point out to you that 6,500 barrels daily is something that approximately 1¼ T-2's would handle very nicely. It is one T-2 a month, roughly speaking.

This type of movement does not call for any major legislation because of a special situation.

Also, may I point out that the production of Alaskan oil will not be prevented, nor will it be retarded, if Standard of California is not permitted to bring back these foreign ships under American registry.

We would have no objection, Mr. Chairman, if Standard of California was to bring back these ships under American flag and trade in Persian Gulf-California. If they want to have American-flag ships, that is all right. But we certainly don't want these ships to enjoy the privilege of coastwise trade.

I might point out that we, our own company, many of my friends, have many tankers available, promptly, or a month from today, or a year from today, and we would be pleased to offer them to any of these people at reasonable rates for any period of time to meet their commitments.

One more point, Mr. Chairman: you are correct, I do have very good counsel. One specific ship that I speak of is my own which we built at a cost of \$14 million. I am here as president of the

Committee of American Tankers Owners, Inc., and there are many colleagues of mine in this group who have built these very expensive ships. These vessels, having been built under title XI, the mortgages on these ships have been guaranteed by the U.S. Government.

If this bill were to become law—we feel that we would surely find ourselves in bankruptcy with our title XI mortgage and the Government would be called on to meet the mortgage guarantees which they guaranteed, the amount of which is roughly \$200 million.

Senator BARTLETT. Mr. Kahn, how big is this \$14 million tanker which you spoke of?

Mr. KAHN. My specific ship that I speak of is 46,000 tons.

Incidentally, I might add, you have mentioned, sir, that these 30 ships would perhaps make up 10 percent of the total American-flag tonnage.

Senator BARTLETT. Yes.

Mr. KAHN. May I correct it. The tonnages quoted by Mr. Hood of the shipbuilders council were quoted in gross tonnages, which are considerably less than deadweight tonnage. In other words, when I speak of my tanker as 46,000 tons, it has a gross of only 19 or 20 thousand tons. The deadweight tonnage is its carrying capacity.

For example, this bill proposes that vessels of 12,500 gross tons or more be permitted to be repatriated to American registry. Actually, these are ships of 20,000 tons and more deadweight carrying capacity.

Senator BARTLETT. That is a useful clarification.

Mr. KAHN. In conclusion, we strongly oppose S. 1627.

Senator BARTLETT. Thank you, Mr. Kahn.

You have enlightened the committee as to the measure and the nature of your opposition. And as I said previously, your prepared statement will be printed in full text.

Mr. KAHN. Thank you, sir.

Senator BARTLETT. Mr. Collins.

STATEMENT OF JOHN J. COLLINS, INDEPENDENT TANKER UNIONS, NEW YORK, N.Y.

Mr. COLLINS. Mr. Chairman, my name is John J. Collins. As adviser to several independent tanker associations, whose office is in New York and who respectively are authorized to represent licensed personnel, unlicensed personnel, radio officers and stewards, I wish to oppose on their behalf, Senate bill 1627. This bill, I understand, if passed, would permit registry under the U.S. flag of supertankers currently registered under foreign flags and would give such vessels permission to engage in the domestic coastwise trade.

Under our present laws, even though such vessels were built in the United States, inasmuch as they were placed under foreign registry, they cannot acquire the right to engage in the coastwise trade—laws which were intended specifically for the protection of American shipping.

The ships involved, we believe, number more than 30 and are of the supertanker type. If these vessels are registered under the United States and are given coastwise privileges, there can be only one result, namely, the lay-up of smaller tankers, generally the T-2 type. Based on the present manning scale of the T-2 tanker and the supertanker,

this can result in a minimum loss of 1,200 jobs. This would be the number of men displaced by virtue of 30 supertankers taking the place of some 60 smaller ships of the T-2 type.

It is difficult to believe that those who support this bill are not fully aware of the disastrous consequences for shipboard employment that will result. If they don't know, then they must be strangers to this business. If they do know, then it would appear they don't care what happens to the men who man their present fleet. For what is the purpose of seeking coastwise privileges for these vessels presently flying foreign flags, unless it is to achieve economies. Surely, those interested are not seeking to have such a bill passed, in order that these vessels be placed in a layup status. They intend to operate them. And if they operate them, it only can be on the basis of laying up existing tonnage.

The answer to an enlarged merchant marine is not more ships in and of themselves; rather it is the creation of more business. If there is more cargo to handle, more ships must be provided.

We see this problem as it develops every day, namely, newer and larger ships taking the place of older and smaller ones—and we recognize the inevitability of this type of automation. But these changes take place over a period of time which permit adjustments to be made with respect to the personnel affected.

For example, in Esso a few years ago, as a result of the building of supertankers and the elimination of smaller, older ships, a special early retirement plan was provided which gave the older men an opportunity to retire earlier with an improved pension. This same policy today is being put into effect by Socony Mobil. Also, in the case of these companies, they have tried to look ahead, and allow normal turnover to take care of the consequent reduction in employment, so that when the new ships have been placed in operation, very little actual unemployment results for regularly employed seamen. Nevertheless, for those who remain, opportunities for advancement are curtailed. Fortunately, in Texaco, their replacement program has been pretty much on a one-for-one basis and, as a result, their officers have been advancing in rank in a manner to satisfy the normal desire for promotion. If this bill were passed, however, a number of ships already built immediately would be available to take the place of smaller vessels. The resulting unemployment would not be over a period of time but presumably would occur at once. Furthermore, desirable as it is to have newer, larger, and faster ships, equal attention should be given to the necessity of providing a well trained, experienced reservoir of men, should the merchant marine be expanded suddenly, as happened in World War II.

If these ships, affected by this bill, were registered under the American flag and were employed to carry cargoes from foreign to the United States, we would be the first to endorse this and praise the sponsors. This is what we have been seeking to have done for a long time, that is, have petroleum from foreign be carried to the United States in American-flag ships. This would be a distinct contribution to the American merchant marine because these ships would be actively employed in carrying cargo to the United States that currently is being carried by foreign-flag vessels.

However, to place these vessels in domestic service at this time would be tragic. Not only, as we stated above, would there be an immediate loss of jobs for American seamen, but the long-term effect would be discouraging to young men both in the various maritime schools and young men going to sea in the "fo'c'sle"—for the future of the American merchant marine would look even dimmer than it looks now.

We see this situation daily. We see, for example, in some companies, officers with as many as 10 and 12 years' service still sailing third mate, although they may have a master's license. The problem of slow promotion and no promotion has affected the morale of many men currently going to sea. This bill, if passed, would have a still further adverse effect, as far as seamen are concerned.

Also, we are concerned with the implications of opening up the domestic trade to vessels presently excluded by law—a law that was passed for a purpose. It is almost a truism that no matter how tightly drawn a modification or an exception to a law may be, others find it to be an opening wedge to get around its basic concept, which in this case is to limit coastwise shipping to vessels which always have been registered under the American flag.

You will find that these independent tanker unions have consistently urged Congress to do something to provide more cargoes for American-flag vessels. We have done this by suggesting that a portion of petroleum that comes to the United States from foreign be carried in American-flag tankers. Only the other day we wrote to President Kennedy asking his assistance in bringing this about.

Members of these independent tanker associations are also writing to their Senators and Congressmen, asking them to act now to rebuild the American merchant marine by providing the cargoes necessary to keep it healthy.

We repeat, this bill, S. 1627, and the House bill, H.R. 6147, will not provide additional cargoes, rather it will displace existing vessels and eliminate the jobs that go with them. Such displacement we have had to witness when new supertankers were built over a long period of time to displace smaller existing vessels. Nor have we opposed it. This is the price of progress. But to do this in the manner suggested by this bill, we believe, would constitute a distinct disservice to the men who make their living going to sea on American-flag ships and who constitute the necessary backbone in experienced personnel for the American merchant marine.

We feel certain that it is not the intent of Congress to add further to unemployment in the United States at this time. We believe his bill will do just that.

We trust, therefore, that this Senate committee not act favorably on bill S. 1627.

Thank you.

Senator BARTLETT. Mr. Collins, you are advisor to groups of seamen. You don't have any association with the employers?

Mr. COLLINS. None whatsoever. Never have had and never expect to have.

Senator BARTLETT. What employees do you represent, again?

Mr. COLLINS. Licensed officers in the Esso Standard fleet, licensed officers in the Socony-Mobil fleet, licensed officers in the Texaco fleet,

licensed officers in the Tidewater fleet, east coast, licensed officers in the Cities Service fleet, unlicensed personnel in the Esso Standard fleet, unlicensed personnel in the Socony-Mobil fleet, unlicensed personnel in the Tidewater east coast fleet, two radio officer associations in Texaco and Esso, respectively, a stewards' organization in Esso, a radio officers' association, mentioned, in Texaco, and in California Oil Co., and on the east coast the deck officers on their three levels.

In each of these instances the unions, where it was necessary prior to the Taft-Hartley Act, in the case of the officers, all were certified following elections held by the National Labor Relations Board. In the case of all unlicensed unions, since they are nonsupervisory employees, they have had to go through this, and still do, and in each instance they have defeated the opponent unions and have been certified by the National Labor Relations Board to represent the employees of these particular vessels.

These organizations for the most part have been in existence for as many as 20 and 22 years. None of the people employed on these vessels have lost time as a result of strikes or any work stoppages. Not only that, but the gentleman to my left is 17 years an officer with the Esso Shipping Co. and still is only a permanent second assistant engineer, although he does sail as first assistant and chief engineer. He is working for a good company, and he is a qualified officer, but he is the type of person who has been on their executive committees in the past, and two gentlemen in the rear of the room are members of the board of governors of the Socony-Vacuum Tankermen's Association. One man has 14 years' continuous service with Socony, and the other man has 10 years.

This is the type of man that we are interested in protecting, and we think his job and the jobs of any other seaman would seriously be affected by this type of legislation.

I have no complaint whatsoever with oil companies—California Oil Co., Socony, Esso, Texaco, Tidewater, or Cities Service. I found that they have been good employers. Where they find an opportunity to deal directly and respectfully with their employees, good agreements have been negotiated and the employees have benefited, the industry has benefited, the country has benefited.

But we think this particular piece of legislation, unfortunately, whoever may be the sponsor of it—and we are not certain really who is—we think that it is misplaced judgment and we would like not to see it acted on favorably.

Senator BARTLETT. Mr. Collins, for the benefit of the record you might want to name the men you described who are in the room with you.

Mr. COLLINS. Yes. The gentleman on my left is Albert Fellows, and he presently is an officer in the Esso fleet and has been on the executive committee of the Jersey Standard Tanker Officers' Association, and currently he is running for election to that committee again.

The two gentlemen in the rear are Frank Avery, who is a representative from the stewards' department on the board of governors of the Socony-Vacuum Tankermen's Association. The other gentleman is Thomas Reynolds, who represents the engine department on the

same board of governors of the Socony-Vacuum Tankermen's Association.

Senator BARTLETT. Thank you.

Are you in a position, Mr. Collins, to give us a statement of the number of officers and seamen employed in the domestic tanker fleet?

Mr. COLLINS. All fleets?

Senator BARTLETT. Yes.

Mr. COLLINS No, sir. I couldn't give you a correct estimate.

Senator BARTLETT. We can get that.

I have no further questions.

Mr. Bourbon?

Mr. BOURBON. Mr. Collins, just to clear the record on this, the committee is in receipt of a telegram from the secretary-treasurer of the Pacific-American Tankship Association which says:

The board of directors of the association favor the enactment of S. 1627.

And they state that they represent, among others, the Richfield Oil Corp., Socony-Mobil Corp., Texaco, Inc., and Tidewater Oil Co.

Inasmuch as you have mentioned some of those same companies as representing the unions, thereof, I think it might be well to make a statement to clear that.

Mr. COLLINS. As I gather, sir, this telegram is from a shipowners association, is it not? It is not from a union.

Mr. BOURBON. Yes; a shipowners' association.

Mr. COLLINS. The shipowners obviously can speak their own piece. I wouldn't be able to say one thing one way or the other about what they may or may not say. I have not officially queried any of the companies with whom we have contracts as to their position on this particular bill.

It is true this morning I did hear Mr. Ford speak out in favor of the bill, which obviously is his privilege. But we have not discussed it with any of the companies. We don't know what their position on it is. But regardless of what their position is, we represent the seamen, licensed officers and unlicensed personnel on the ships, and our position is that this is a bad bill.

Mr. BOURBON. I just want to make that point clear for the record.

Mr. COLLINS. Thank you, sir.

Senator BARTLETT. Thank you, Mr. Collins.

Mr. COLLINS. Thank you, very much.

Senator BARTLETT. Mr. Segal.

STATEMENT OF ALFRED SEGAL, AMERICAN TRADING & PRODUCTION CORP., NEW YORK, N.Y.

Mr. SEGAL. My name is Alfred Segal and my home address is 21 Bronson Avenue, Scarsdale, N.Y.

I am marine division traffic manager of American Trading & Production Corporation, whose marine office is located at 555 Fifth Avenue, New York City. American Trading & Production Corp. is owner and operator of seven U.S.-flag tankers with coastwise privileges. These vessels have been operated continuously under U.S. flag with coastwise privileges from the date of their acquisition, which, with one exception, was from the U.S. Maritime Administration. It is my company's intention to continue to employ its fleet under U.S. flag.

I am appearing today in opposition to S. 1627, which, in the judgment of our company, would have a disastrous effect upon the coastwise trade generally and upon the interest of my company in particular.

It is scarcely necessary to call to the attention of your committee the strategic importance of the coastwise trade in assuring the ready availability of American vessels at all times for the vital needs of our country. Yet, vessels employed in the coastwise trade are subjected to the additional burdens of competition from other forms of transportation not generally common to maritime commerce. To protect the position of the operators of these vessels and to insure their availability in the event of an emergency, the strict requirements for operating in the coastwise trade have been adopted and continued.

Ocean shipping involves large capital expenditures. Such expenditures are made on the basis of projected continuance of the special protection afforded. People cannot be expected to embark upon such ventures if there is the slightest uncertainty in respect to the safeguards upon which they must rely. Any weakening of these safeguards must necessarily have immediate and far-reaching consequences.

We, like other shipowners, have relied upon the continuing protection afforded by the coastwise shipping laws in making our substantial investments in tanker tonnage. We are now threatened with the partial withdrawal of that protection and the consequent injection into an already depressed tanker market of competition from vessels previously registered under a foreign flag. There is no pressing need for additional tonnage. On the contrary, the trade is already, and for the past 3½ years has been, overtonnaged; rates are depressed; and the 38 privately owned U.S. tankers in layup due to lack of business act as a deterrent to a market revival. The employment of additional vessels, with a minimum size of about 17,000 gross tons, must inevitably depress further an unhealthy market and result in financial losses which the industry is in no position to bear.

While each of us must be dedicated to a strong, vital U.S. merchant fleet, it follows that to achieve such a status our merchant fleet must be in healthy condition. More vessels do not create more cargoes or more commerce; but more vessels in an already depressed industry will create more layups and stagnation and more apathy on the part of investors.

With respect to claims that redocumentation of vessels eligible under the proposed legislation will add stature to our national defense in time of emergency and will supplement our merchant fleet with newer, more modern vessels, I would point out that practically all, if not all, of the vessels eligible under this bill are already owned by U.S. citizens and thus are already subject to call by our Defense Department in case of emergency.

But more importantly, when conditions of commerce require modernization of a large portion of our merchant fleet, traditional processes of American business will build vessels that are really new and modern. We should not rely upon the substitution of 10- or 11-year-old vessels as would qualify under S. 1627. Only through such traditional processes can American business plan for modernization in an orderly fashion.

We understand that as many as 43 and possibly 63 tankers might be eligible for redocumentation under this bill. If anything approaching this figure were to be involved under present conditions, there could readily result such financial instability as to put at risk the very large amounts advanced under mortgage security, of which something like \$200 million is guaranteed by the Maritime Administration.

The consequences of the enactment of S. 1627 would be equally disturbing to American shipbuilders. For every tanker redocumented under the new legislation, one less tanker would be built in American yards over the next several years to carry coastwise oil. Moreover, and perhaps more importantly, the uncertainty resulting from the weakening of the coastwise shipping laws would not be conducive to additional investments in new construction. In this climate of uncertainty, no new buildings could be expected. As a result, the American shipbuilding policy would be defeated. Our shipyards would be deprived of work and unemployment would be increased.

Insofar as the interests of maritime labor are concerned, the redocumentation of the vessels in question could only decrease the total number of men employed. Assuming for the moment no special indirect consequences, the mere substitution of the larger vessels for smaller ones would throw out of work well over 1,000 seafarers at a time when additional jobs are needed. It is our considered view that this is indeed a conservative estimate and that the indirect consequences flowing from the resultant instability would in fact be much more serious.

The unfortunate effects of the proposed legislation seem clear and inevitable. We must now consider its objectives and purposes. When we look at the matter upon this basis, we find nothing more than special legislation, discriminatory in the extreme.

The bill relates to ships previously documented foreign, presumably for reasons which then seemed to be valid and compelling to those taking that step. But documentation is a serious matter and, when decided upon, should be lived with. Decisions on this matter must be made on the basis of full consideration of all the circumstances and with the full realization that there may be disadvantages as well as benefits. Registration of ships should have a permanency not contributed to by laws such as the one presently under consideration. It is not in the interest of order and regularity, let alone stability of international relationships, to encourage transfers and retransfers. Shipping is speculative enough at best without unnecessarily injecting the special gambles resulting from transfer and retransfer of flag.

We, like many others, have elected to maintain under the American flag as much service as feasible, thereby benefitting American shipyards and American seamen, often at substantial sacrifices. It is at minimum unfair to those in this position to permit others, who have elected to profit by the advantages of foreign-flag operations, to throw their vessels into coastwise competition with us during one of the most depressed periods of American shipping. It may well be that due to changes in Government policies, court decisions or otherwise, the foreign-flag operation has become less profitable than was anticipated. This does not justify special legislation to relieve a few owners of disabilities and burdens which they must have elected to assume.

The special favoritism of the legislation is emphasized by the following considerations:

1. It relates only to vessels of not less than 12,500 gross tons. Why this particular figure was chosen is far from clear.

2. It relates only to vessels built in the United States and completed subsequent to January 1, 1950.

3. It relates only to redocumentation during a period of 2 years from the enactment of the statute.

If legislation of this type is justifiable—and we say that it is not—it cannot be justified for only a few. While damaging the interest of all those who have elected to cast their lot with the American flag, it provides a special windfall to certain of those who have not. We understand, for example, that one company desires to redocument six tankers. These tankers have a market value today under foreign flag of approximately \$2 million each. To replace them in American shipyards, would cost over \$8 million each. Enactment of this bill would result in a profit of approximately \$6 million or more per ship, or \$36 million or more to the owner for the six ships in question.

Succinctly stated, owners who have previously elected to go foreign and after having gotten advantages such as cheaper repairs—about 60 percent less—wages and victualing, now want to come back and take business away from owners who stayed domestic and paid the American way.

Such selective legislation, detrimental to the interests of the coast-wise trade and the seamen and shipyards serving it, is unwarranted and should be rejected. We therefore urge this committee to report unfavorably upon this bill.

Senator BARTLETT. Thank you, Mr. Segal.

Does American Trading & Production Corp. have a shipping business other than the operation of the 17 tankers?

Mr. SEGAL. It does not, sir.

Senator BARTLETT. Does it have any other kind of business, or is this its exclusive business?

Mr. SEGAL. We are the marine division of American Trading & Production Corp., sir. Our company is also involved in the production of oil.

Senator BARTLETT. How large are these tankers of American Trading?

Mr. SEGAL. Six of our seven tankers, sir, are in the 16,000-ton-deadweight class, and one is in the 19,000-ton-deadweight class. One of our tankers was a T-2 tanker which we jumboized—modernized—3 years ago at Maryland Shipyards in Baltimore, at a cost of approximately \$4 million. In other words, as our tankers have come to the end of the line, as they will do, we have modernized them in American yards.

Senator BARTLETT. Thank you, sir.

Mr. Bourbon?

Mr. BOURBON. Do you operate any tankers under foreign flags?

Mr. SEGAL. We do not operate at the present time any tankers under foreign flag. One of our foreign-flag subsidiaries has two tankers, but they haven't been operating for 3 years.

Mr. BOURBON. I notice that on page 5 you deviated slightly to say that like many others you have elected to continue your services under the American flag, and then you inserted something—

Mr. SEGAL. Yes. I didn't want to create the impression, sir, in view of this foreign-flag affiliation, I didn't want to create the impression that there was absolutely no connection with foreign flag. But we have never asked to bring back our foreign-flag ships with coastwise privileges, nor do we intend to.

Senator BARTLETT. If this bill were passed, would those ships be eligible to come back?

Mr. SEGAL. Yes, sir; absolutely. They are exactly in that class, except for the fact they don't meet this 12,500-ton restriction, nor were they built subsequent to 1950.

Senator BARTLETT. They couldn't come back, then?

Mr. SEGAL. Because of that.

In all other respects of citizenship, they could. But because of the limitation of size and age, they could not.

But I might say, sir, if they did, we would not ask that they be brought back with coastwise privileges because we believe in the protection of the laws established.

Mr. BOURBON. As a matter of fact, you draw attention to one thing there, by mentioning the minimum size of about 17,000 gross tons, to the fact that the bill does say nothing less than 12,500. Actually there are only three or four vessels that are under 17,000 gross tons that have been built since January 1, 1950, in this list that Council of the Shipbuilders show.

Mr. SEGAL. That is the strange part about it, why I said why did they pick this 12,500 tons as the gross floor. I don't understand, because no ships fall in that category.

They could very well have put down 16,000 gross tons. There were no ships built in this country by American citizens for foreign flag in the tonnage that is specified in the bill. I don't quite get that, how they arrived at that figure.

Senator BARTLETT. Thank you, Mr. Segal.

Mr. SEGAL. Thank you, sir.

Senator BARTLETT. Paul Hall, president, Seafarers International Union, 675 Fourth Avenue, Brooklyn 32, N.Y., accompanied by counsel, Mr. Burdock.

STATEMENT OF PAUL HALL, PRESIDENT, SEAFARERS INTERNATIONAL UNION, BROOKLYN, N.Y., ACCOMPANIED BY COUNSEL, MR. BURDOCK

Mr. HALL. I don't have a prepared statement. I would like to make a few remarks, if I may.

Senator BARTLETT. I have never found you in need of any writing in front of you.

Mr. HALL. First of all, I would like to express my appreciation for the opportunity to appear here today and to make some comment relative to this proposed legislation.

I am the president of the Seafarers International Union. I am here supporting this legislation and the position taken by our affiliate union on the west coast, the Sailors Union on the Pacific.

Mr. Chairman, I think that the union, which I am here representing, its record on the question of the protection of the American industry is very clear. We believe in protecting this industry. We have fought for it consistently. We will continue to do so.

When this matter came up in relation to this position of ours, we discussed this matter of Standard Oil of California. Our feeling as it has been expressed to them is while we are in favor of this legislation, there should be placed within this legislation certain restrictions.

Some of those restrictions would be, for example, that the trade in which they were to be operated for a period of time would be restricted to those products of this particular company. Also, I understand the testimony of the head of this organization, Standard of California, as previously indicated, their intent or for that matter their requirement by law to do so, that the question of the worth of these vessels that would be brought back in the event of the favorable action on this legislation would be established by the Internal Revenue of this country.

I mention this simply because of the fact the previous speakers on this matter have referred to the great increase in wealth that these people would have.

We don't believe this would hurt the industry at all. We believe that it should be done.

I might mention, Mr. Chairman, it does my heart some good to see some of the people up here pleading the case of the American seaman in this hearing today. I only wonder where some of them have been for so long.

I would suggest, for example, whenever the AFL-CIO union in this country supported a petition to OCDM for required legislation, in effect that would say a certain percentage of all oil imports should be carried on tanker bottoms of American flag, where the representative of Standard Oil, who previously testified was then. This is the way to help the tanker industry, Mr. Chairman, in our opinion, and never have those organizations referred to ever come before such a hearing as this or ever before such a Federal agency, regulatory or otherwise, and made any plea to my knowledge relative to these matters. To the contrary, in the time, for example, when the workers aboard Standard Oil ships had their work area reduced from 75 and 85 ships down to less than 30, and it is going to even less than that, never was there one voice raised at any time relative to the condition of the American worker that sails those ships.

To the contrary it seems rather strange, unless you know this industry pretty well, that the position of those organizations previously referred to just seemed accidentally to be hand in hand, voice by voice, with those of the voices and desires of Esso itself.

Standard Oil, we know, for example, are the grandfathers of the runaway flag. They are the originators of it. We think maybe some day, Mr. Chairman, that should also be a subject of investigation or hearing by this very committee.

We suggest not only have they done that, but also, Mr. Chairman, they have used influence, we believe, and proper investigation would reveal this completely, to even pressure the American Merchant Marine Institute, allegedly a spokesman for this American industry,

into positioning in fact for the runaway flag, better know by its phonier name of "effective control."

So I am glad at least to see today that a representative of this group is in here and at least is mouthing the issue of the welfare of the American sailor.

I say high time. Too bad it wasn't done before.

Mr. Chairman, on some of the other testimony that I have heard, relative to those operators of the title XI vessels, and I know a number of them and do business with them, and from my point of view they are certainly very honorable people; they are good to deal with. I would point out to you that this is one of those bad things about this industry, which I will deal with in a few remarks in just a moment, that constantly concerns us.

To start with, if the title XI owners had been so greatly concerned over our welfare—and I appreciate the fact that some of them are—this vessel, these types of vessels they are talking about that might employ the 40 sailors, some of them wouldn't have traded out 10, 12, 4, 5, 3, and 4 ships to do this. They didn't trade them out for popcorn, Mr. Chairman; they didn't trade them out for cracker jack. They traded them out for good old royal American money.

I would love to have seen them then taking the position, Mr. Chairman, of their expressed concern over the American working sailor and say, we will keep a few of these and won't give them all away, instead take and trade 300 jobs for 40 or 140 jobs for 40. I don't say this with any malice at all, Mr. Chairman. I repeat that these gentlemen are fine gentlemen; but I would suggest to them, too, that maybe if they had been more consistent over the past, then this type of evidence and testimony would have been at least to me a little bit more impressive.

Something that is very confusing to us, too. I heard the voice of Standard Oil of New Jersey here today. And that voice told me that New Jersey Standard Oil, Esso, is not in favor of this legislation. Standard Oil of California is. They are blood cousins. They are related. They are one and the same. I just cannot help but wonder, Mr. Chairman, what the meaning of this is.

I just drop this. I am very curious myself about it.

I don't think that I have the players mixed up. They say you can't tell the players without a scorecard. Let me tell you, Mr. Chairman, from those of us in this industry, Standard Oil has always got a scorecard, and they know who the players are. So I don't think they are mixed up; but it certainly has mixed me up.

Mr. Chairman, in relation to the Chairman of the Federal Maritime Board's testimony, I did not have the privilege of hearing him, but I read some of his statement.

First of all, Mr. Stakem is, again I would say, a very decent and honorable man, and I believe that under his guidance things might very well become better in the Federal Maritime Board. So it is not relative to an individual to whom I would direct these remarks, but rather to the voice in this case of the Federal Maritime Board, rather than as to the individual.

The Federal Maritime Board also—I know in their statement they are bleeding for the American sailor. Mr. Chairman, I never saw a guy in so much trouble in my life yet for whom so many people

bleed. You've heard of "For Whom the Bell Tolls"—well, it's for whom the tears flowed here today.

This is an amazing thing for us and on the record at least regardless of anything else is probably the height of the most inconsistent activity that I have ever heard of.

It was the same Federal Maritime Board who were tolling the bells of sorrow for us here today who come out in flat-footed favor of the effective control theory which has, in fact, buried the American seaman. It was the same Maritime Board which took other positions relative to the direct question of employment of the American seaman.

I say that because it seems to me that they are inconsistent, too.

For example, we have constantly petitioned them by word and by letter and by every other means at our disposal for the purpose of knocking MSTs out of this business. Isn't it a shame, when American shipowners and the American people in this case, in this industry, have to get up here and take diverse points of view and have to try to tear one another up, when the fact is if Government simply moved out of this business, then the question of one or two lousy ships wouldn't be such a basic and large issue.

This is the same Federal Maritime Board which was crying for us today, which was kept by their position, or certainly helped to keep, MSTs in business, who have really helped cut the American sailor's throat, and also the American shipowner.

I can go down the line. For example, the inconsistencies of this Federal Maritime Board have brought about this situation of the title XI of the supertanker. Because of the lack of a proper program in this industry, because of the lack of a continuing thinking process in these matters, what do they do? We hit the question of the Suez. We had been crying for years, Mr. Chairman, in such hearings as this, in the House and on the street corners and every place we could, of the absolute need of a continuing program aimed at the assistance of this industry in keeping it in operation. So what happens in the Suez crisis? They hit the panic button, like all green people, or people who don't know what they are doing and don't know their business.

They encourage these people to go out and build these super-tankers for which there is now no business. And in some cases, Mr. Chairman, as the record will show here, they can't even get into many harbors that we are talking about here in this hearing; they are not practical from many points of view.

I suggest to you, Mr. Chairman, that this was done purely because of the absence of a long-range positive program by and of the Federal Maritime Board itself. That is what has led to this situation, and it is ridiculous.

Mr. Chairman, I am not going to take a great deal more time. I would suggest that if this legislation were passed with some degree of restriction that we have mentioned—and we have mentioned the Standard of California—I would suggest that this won't hurt this industry at all. I would suggest, Mr. Chairman, that if it were to hurt this industry, at least in my opinion to the smallest degree, I wouldn't be on this stand today.

But if you restrict these particular vessels, if they are to be returned, to the hauling of their own products, and also if they are controlled as to the price, the value of them, by the appropriate Fed-

eral agency, it would seem to me, Mr. Chairman, from what I have heard here today—at least as I understand—that it would remove, in this case, some of the more objectionable features that I have heard raised by decent people and honest people.

One would be the question of the competition, for example, relative to the matter of the grain trade, pushing these people out. We don't want those people pushed out, Mr. Chairman. We sail those ships, too.

I heard some discussion, on the other hand, of the possible increase in the output of oil from Alaska by Standard Oil of California. Obviously they do need more bottoms. I don't think, therefore, that there is any question of necessity of an additional bottom or two—call it what you will, Mr. Chairman—in this trade. I think that you, being from Alaska, would be more of an expert on that, anyhow, as to the question of the oil output.

I think in having some type of restrictions, as I have referred to, it would in fact, therefore, remove some of these things and would not, as some of the previous people giving testimony here have suggested, leave the barn gate open for everybody to go through and just knock the industry down on its knees.

I suggest that wouldn't be done. I might say we don't want that done either, Mr. Chairman. We are the boys, if you recall, who begged and pleaded with the Federal Maritime Board not to put certain Liberty ships in the coal trade, on the same basis that it would destroy or drive down the charter rate, drive the business into a bad condition. I might say that these people who cried for us so hard today, who didn't cry then, that it destroyed charter markets. I don't have to tell you what happened subsequent to that; it is a matter of record.

I would think, therefore, that in following this procedure of supporting this legislation, Mr. Chairman, with these restrictions, that I don't think that the basic problems that have been raised before you would therefore become an actual reality.

I would, therefore, call on this committee to give favorable consideration, subject to those points I have made as to restrictions, Mr. Chairman, so that these two ships can be returned.

Somewhere down the line we would like to see many ships returned, Mr. Chairman. I don't think that slamming the gate is the proper answer. I think that we have to approach it calmly and carefully so as not to overload the market or not to cause irreparable damage to any section of this industry. I don't believe that this act, as I have talked about the matter of this legislation, with some added type of restriction, would do this at all.

I think, too, Mr. Chairman, it wouldn't be appropriate for me to get off of this stand without saying something else relative to the situation that brought this about. To use a fancy word I once heard a guy say, I think this hearing today is a manifestation of the illness that is on us in this industry, where industry of one section is opposed to the other, where they are fighting each other right down the line.

I hope some day, Mr. Chairman, that this Federal Government, through such a body as this, or appropriate agency or group, whomever that might be, or through collective bargaining or trade-union activity with management, might someday bring about in a manner

whereby this can be discussed properly and acted on, where the leadership of this industry can be pulled together, in a sense, so it can be used constructively and not against one another. I suggest that this might very well lead to something of that sort. If it doesn't lead to it, Mr. Chairman, certainly it highlights the necessity of such an action.

I also listened to these operators and those other people speaking, and I say to myself if they were to bleed for this industry every day of the week and for every section of it as much as they do special causes, we wouldn't be in such a bad shape as we are. Yet when we have invited many of them, Mr. Chairman, to sit with us, to discuss with us, and to act with us on a total industrial program aimed at these various matters, they are too busy or too far away or their very, very special interests will not allow.

Again I point out Standard of New Jersey, the great destroyer of the American industry. I point out MSTs, who has just cut under the whole private industry, and right on down the line. And those of us who truthfully say we want to help this industry, certainly we should all get together on one of these many common points and try to do something for it rather than just sharpshooting and special, selfish, one-point interest matters.

Thank you very much for your time, Mr. Chairman.

Senator BARTLETT. Thank you for a very forceful statement, Mr. Hall.

I should like to read to you a proviso which has been suggested—two, in fact—and ask your opinion concerning them, if you can give it on the basis of a simple reading:

Provided, further, That any vessels documented under the terms of this act shall not be sold or transferred for a period of 10 years from the date of documentation, other than to subsidiaries of the owner.

Mr. HALL. I think that would be a proper restriction, Mr. Chairman, and would go further in the direction of eliminating some of those problems that have been posed, theoretically, of course, by some of the opponents of this legislation. I would certainly think that would be a proper restriction.

Senator BARTLETT. Thank you.

And one further proviso which has been suggested—or restriction:

Provided, further, That these vessels shall be employed for a period of 3 years solely in the carriage of their own products or products of their partner or affiliated corporations, except as otherwise approved by the Maritime Administration.

Mr. HALL. That, Mr. Chairman, to my way of thinking, would certainly be a proper restriction and, again, it would eliminate some of those doubts that I have heard expressed here today by the opponents of this legislation.

Senator BARTLETT. Thank you, Mr. Hall.

Mr. Bourbon, do you have any questions?

Mr. BOURBON. No, sir.

Senator BARTLETT. Off the record.

(Discussion off the record.)

Senator BARTLETT. On the record. Mr. Altman, please.

STATEMENT OF EDWIN ALTMAN, PRESIDENT OF THE NATIONAL MARINE ENGINEERS' BENEFICIAL ASSOCIATION, AFL-CIO

Mr. ALTMAN. With your permission, Mr. Chairman, I have a prepared statement which I would like to read into the record.

As a result of testimony offered today, I would like with your permission to add a few words extemporaneously.

Senator BARTLETT. You may have that permission.

Mr. ALTMAN. Thank you.

My name is Edwin Altman and I am president of the National Marine Engineers' Beneficial Association, AFL-CIO. This is a labor union consisting of licensed marine engineers serving principally on American-flag merchant vessels.

I appear in support of S. 1627, a bill designed to permit tanker vessels now operating under foreign flag, but American built and American owned, to transfer to American registry.

Those testifying in opposition to this bill would indicate that they feel the transfer of these vessels to American registry will have an adverse affect on the tanker industry. Such statements will also include allegations that the competitive situation will be worsened and that American maritime labor who build and operate ships under the American flag will be adversely affected now and in the future by passage of this bill.

The organization I represent is extremely appreciative of the concern expressed by the opponents of this bill concerning the welfare of the American merchant marine and the people who make their livelihood in the maritime industry. I might say we would have been more appreciative if this concern had been exhibited much earlier and in more concrete fashion at a time when the problems the maritime industry now faces were being created.

The American maritime industry is now at its lowest ebb since pre-World War II days. Runaway foreign-flag competition has been a great factor in creating this situation. Testimony being offered here today in opposition to this bill is being offered in behalf of operators who are interested in having their cake and eating it too; namely, operators who have enjoyed the benefits under the title XI construction program and who also operate many ships under runaway flags. Their operation of runaway flag vessels has contributed greatly to the decline of the American merchant marine and they now take the stand to oppose this bill which might, in effect, begin to rebuild that which they have helped to destroy.

The union I represent has been in opposition to the foreign-flag transfer program since its inception. We do not now, nor have we ever, subscribed to the policy of effective control. Our position has always been that a stronger and abler American merchant marine is necessary for the welfare of this country and that the ships necessary for protection of this country should be sailing under the American flag and manned by American seamen. We cannot agree that our lines of maritime supply and transport are secure when the ships necessary to maintain such lines are sailing under foreign flag and manned by alien crews obtained from the four corners of the globe.

With this background, our appearance in support of this bill should be most understandable to this committee. We strongly endorse any program which will place more ships under the American flag. Pro-

ponents of this bill feel that there is employment for these ships in the coastwise and intercoastal trade. In the event that this bill should fail to pass, the alternatives faced by these operators are fairly clear cut. They could: (a) build new ships in American yards, (b) transport by barges, (c) construct pipelines, (d) relocate refineries.

Three of the four alternatives certainly would not enhance or strengthen the American merchant marine. The cost of ship construction today is so great that the companies would not be apt to select the construction of new ships as the cheapest and best means of solving their problems.

The organization I represent is considerably more interested in today's realities as against tomorrow's possibilities. We know that passage of this bill would immediately place more vessels in operation under the American flag. More jobs will be available to American seamen, repair and maintenance work would be immediately available to American shipyards, and American suppliers will immediately begin to furnish the food, equipment, and services necessary to operate and maintain these vessels. American seamen will pay taxes on their earnings, and the companies will also pay taxes to this country on whatever earnings they may accrue during the course of the American-flag operations.

As against this current day reality, failure to pass this bill could possibly force this company to build new ships which might operate in the next 2 to 5 years, but equally so might also force them to consider other and perhaps less costly means of solving their problems. Should they find such solutions, I repeat, the American maritime industry will be further weakened.

I strongly urge the favorable consideration by this committee of S. 1627.

With respect to the construction problems, Mr. Chairman, and the statements that have been voiced here today by American shipbuilders, we are of the definite opinion that shipbuilding alone will not maintain shipyards. The fact of the matter is that the majority of shipyards in this country are supported today by maintenance and repair work.

Shipbuilding is not necessarily incidental, but certainly not the main factor to the support and operation of shipyards. The trade-out program in recent years which has involved the transfer out of anything from 3 to 10 ships for the purpose of building 1, has cut that maintenance and repair business pretty much to the bone.

We feel the proposition put forth here by this bill and the permission which it would grant would allow without any trade-out, vessels to come back into the American-flag service without loss of vessels. Indications by the companies which are proponents of this bill, or one of the proponents, indicated that they have no idea or inclination of taking out of service any vessels if they receive the privilege of returning some of their vessels to American flag. This I believe was stated in company testimony offered this morning.

As indicated by the previous witness, Mr. Hall, there have been some discussions between the labor unions who are proponents of this bill and one of the companies represented here, and I have been fortunate enough to have taken part in some of those discussions. We are adherents of restrictions. We are not proponents of anything which will put one more ship in service from outside the

American-flag and lay up three or four. But we are also realists. We know that at today's market price of ship construction, while there may be a bare possibility in this particular area that Standard of California operates in, of building more ships to accommodate new fuel supplies or new petroleum supplies, there is also the very real possibility that they may go to other means of transport if the cost of new ships is going to be prohibitive, plus the fact that in this next period of time, and very shortly, their production will increase and it couldn't conceivably be carried by new ships purchased by them.

The restrictions within the area of proprietary cargo certainly remove the competitive aspects that had been discussed here by some of the opponents. If they handle proprietary cargo for the period of 3 years, as is suggested by the proposed restriction, if they are not permitted to sell their ships within 8 to 10 years of return to American flag, if the ships are available and remain available to the United States in time of war or other material problem endangering this country's welfare, if Internal Revenue establishes the price at which these vessels will come back into service, we in maritime labor feel that with these restrictions we can look forward to new jobs rather than replacement and supplanting of current employment now existing in the industry.

It seems to me that some points have been made here today with respect to the construction of new ships in the trade-out program that open some old wounds. I can recollect rather clearly when the tanker construction was the thing and the trade-out program was authorized and people were allowed to trade ships out on the basis that they were going to build new ships. Those ships were traded out and some of the new ships were never built. The records bear this out. These jobs went down the drain and were never replaced even by one-third or one-tenth of some of the jobs that they were supposed to supply in new bottoms.

This obviously didn't do our people at least any good, and certainly didn't do the industry any good.

With respect to the MSTS program, I think that this has been dealt with pretty extensively by Mr. Hall and needs no further embellishment on my part. I would like to ask, if I may, the contents of a wire that was read here sometime ago, at a time when I believe Collins was on, from the Pacific coast tanker operators, which named some companies.

Senator BARTLETT. I will read that wire. It will be incorporated in the record anyway. It is addressed to Chairman Magnuson and is in these words:

Pacific American Tankship Association is an association composed of the following companies owning and/or operating tank vessels on the Pacific coast of the United States, namely California Shipping Co., Josua Hendy Corp., Keystone Shipping Co., Pacific Coast Transport Co., Richfield Oil Corp., Socony Mobil Oil Co., Inc., Texaco, Inc., and Tidewater Oil Co. The board of directors of the association, comprised of representatives of each of the member companies, have considered S. 1627 introduced in the Senate by Hon. Clair Engle of California and unanimously agreed on April 20 that the association support passage of this bill as well as H.R. 6147, a companion bill, introduced in the House of Representatives by Hon. John F. Shelley of California.

ALBERT E. BENSON,
Secretary-Treasurer, Pacific American Tankship Association.

Mr. ALTMAN. Thank you, Mr. Chairman. I think there might be some confusion on the part of the committee as a result of a statement made when that wire was read. There was some indication that union people aboard those ships were in opposition to what, according to this wire, would be the company position.

Senator BARTLETT. That has been adequately clarified.

Mr. ALTMAN. I represent the people in the unions aboard these vessels. They are not represented by the gentleman who was here at that time, and I want to make it clear that I am here in behalf of people who belong to my organization who are employed, with the exception of Texaco, on all of the vessels operated by the companies in the Pacific coast area that are named in that wire. And we are here in support, from the union side, of this bill, and we represent these people.

I think that this is just simply a point of clarification to establish the clarity of the record.

Thank you very much for the opportunity of appearing here today.

Senator BARTLETT. Mr. Altman, I would like to ask you one question only.

On page 2 of your statement you suggested four alternatives that the operators might have if this bill isn't passed: "Build new ships in American yards, transport in barges, construct pipelines, or relocate refineries."

From what witnesses on the other side of this issue have said previously, isn't there a fifth alternative, and that is to hire tankers from the existing fleet?

Mr. ALTMAN. Yes, that alternative would be something that I am sure could be regarded as another alternative. But seemingly because of the practices of this particular corporation on the Pacific coast, they have inherently carried all of their own products in just about all of their own bottoms, with a rare exception on a charter level. It is my understanding that the policy of the company in that area is to handle their own products as they have done in the past, and they will continue to follow this program. This is a major concern.

Senator BARTLETT. Mr. Bourbon reminds me that this ought to go in the record at this point. Although Standard of California has expressed a leading, perhaps, interest in the legislation, it doesn't say Standard of California in the bill, and any company or any individual could benefit from its terms.

Mr. ALTMAN. That is correct. On the other side of the stick I might add, if I may, that while we are not appearing here in support of Standard of California, the name has been frequently mentioned in the course of my testimony because at this point they are the only ones who have indicated a desire to bring vessels back.

I think that the restrictions that have been suggested here could equally apply to any other vessels that might come in, and again would prevent damage to the competitive structure or to the work structure of the industry.

Senator BARTLETT. I would like to express the personal hope that the entire tanker fleet now existing in the United States might have to be used soon to carry oil from Alaska, and that the shipbuilding industry will be required to move more.

Mr. ALTMAN. Amen.

Senator BARTLETT. Thank you, Mr. Altman.

Do you have any questions, Mr. Bourbon?

Mr. BOURBON. No, sir.

Senator BARTLETT. We have one concluding witness, Mr. Alvin Shapiro, vice president, American Merchant Marine Institute, Inc., 919 18th Street, NW., Washington, D.C.

**STATEMENT OF ALVIN SHAPIRO, VICE PRESIDENT, AMERICAN
MERCHANT MARINE INSTITUTE, INC., WASHINGTON, D.C.**

Mr. SHAPIRO. My name is Alvin Shapiro. I am vice president of the American Merchant Marine Institute. We appear in opposition to S. 1627.

Our organization, as the Chairman knows, is the largest association of steamship owners. We include in our membership owners of tank ships, dry-cargo ships, passenger ships, and colliers who operate both in the foreign and the domestic trade.

I would like to apologize for not having a statement prepared for distribution to the committee.

Senator BARTLETT. That is all right.

Mr. SHAPIRO. We had a little problem in formalizing the position. We were caught short by the relatively brief notice in connection with this hearing.

I would just like to make a few comments because I believe the facts are really entirely in the record on this. It is really now a question of balancing them out.

One might ask very logically the American Merchant Marine Institute, which has its exclusive interest in developing a large and more modern American merchant marine, finds itself in the position of opposing the potentiality of bringing back a larger number, perhaps beginning with 2 and running up to 39, vessels that are now in the foreign flag for transfer under American flag.

And I would add only that we are in favor of bringing vessels back under the American flag. We are, however, very seriously concerned with the mechanism and the implications of doing this sort of thing.

We know the immediate transfer of vessels to the U.S. flag is obviously going to mean we have a larger U.S.-flag fleet immediately, but in the long run we feel that its implications are quite negative.

I would like to say the issue here—and this ought really to be clarified again—the issue here is not the reregistration of these vessels under American flag. This any company can do without any legislation. They can do it tomorrow if they choose. The real problem here is the entitlement, once they reregister under U.S. flag, to trade in the domestic trade of the country.

There are just a few points that might be made, if I may, Mr. Chairman.

Nobody should get the impression that bringing vessels back under American flag or, in fact, building new vessels under American flag is going to increase the volume of petroleum that is going to move. Obviously this is not going to take place. Whatever petroleum is now moving will continue to move, barring the long-range or even the short-range trends of the market. Bringing ships in or taking ships out is not going to affect the flow of petroleum.

The issue really is in whose ships are these petroleum products—crude oil, et cetera—going to move.

The Standard Oil of California people here, who, incidentally, are members of the Institute—

Senator BARTLETT. Did they vote?

Mr. SHAPIRO. They do not have a representative on the board of directors, and our vote is through the board of directors.

This is the entire question, as a matter of fact, and we know that petroleum is now moving. Some of the petroleum that Standard Oil of California, or other companies, wants to have moved in, perhaps, proprietary carriage—meaning in ships that they themselves own—now obviously is moving in ships that they do not own. This is extremely important because it bears on the question of the restriction that was mentioned here that you are contemplating imposing should the committee see fit to pass this legislation.

It is a restriction that is no restriction because you heard the California people tell you here that their policy is to carry 99-plus percent of their petroleum in their own ships. So simply saying in legislation that they should do it really doesn't accomplish anything. It is not a restriction.

I am very much concerned about the impact of this legislation on other operators who are now in the business, some of whom may be hauling Standard Oil of California products, because Standard is obviously caught short on American-flag tankers.

I do not think it is quite fair, from the long-range point of view, to allow any operator to take the advantage of the foreign market and the domestic market at his particular convenience.

Much has been said here about the impact on the shipbuilders, and I will hardly add very much to it except to say this: that the impact is definitely negative, and there is no mystery about it. It is just as simple as can be. If you take ships that are 6, 7, 8, and 10 years old and bring them back under American flag, you are simply deferring for that length of time when you use these as replacement vessels that are 14, 15, and 16 years old. You are simply deferring the necessity for replacing that particular group of vessels that are going to be replaced, if you will, by the vessels that are now coming in from foreign flag.

There is no way of getting around this consequence. It is there. You can evaluate it or minimize it, if you prefer, but you can't run away from it.

I am also very much concerned about the Government's role in this. This very committee passed out—and the Senate approved—the proposal never did become law—what we call the tanker bailout bill, which was an attempt to improve the opportunities of tanker owners under title XI to hold onto their vessels by having the Government pay these temporary mortgage payments until such time as the market got better. The Government has, and we heard today, over \$200 million at stake in this program. And I think that one of the things that should be most seriously considered in this is that the market is extremely bad. These vessels are on the verge of bankruptcy. The Government has 200 and some odd millions of dollars involved in this program. And if you are going to bring more vessels back under American registry with the opportunity of trading

domestically, you are simply that much more jeopardizing the Government's possibility of getting back some of the 200 and some odd million of dollars.

I won't comment on the particular program, that is, the original title XI program which I cannot comment on very favorably. Nor will I comment on the legislation by which the Government sought to bail something out. But I do think that we must be perfectly consistent about this. We can't on the one hand say, "Let's improve the opportunity for these operators to make a living, to hold onto their ships so the Government will get some of this title XI money back," and then dump on the market additional vessels by this special legislation which can do nothing more than make it that much more difficult for the Government ever to get bailed out.

This is a very, very serious problem.

I would like to say just one little word about the impact on maritime labor. We have heard a little about this here and there.

Senator BARTLETT. Yes.

Mr. SHAPIRO. It is very simple—simple arithmetic. You cannot, with a steady volume of movement, bring into the fleet more modern vessels of two and three times the capacity of the present vessels that are now servicing this trade without losing manpower on board ships. Everybody knows this. There is no way of running away from it.

As you replace antiquated vessels, in part, perhaps, noncompetitive vessels, with modern, larger, high-speed ships, you are only doing one thing: buying time. And that is displacing manpower that mans these ships.

One other comment and I will conclude.

You are setting a precedent here. The Congress can judge, however it chooses to judge and however in its wisdom it will judge, the danger of this question of setting a precedent. But I really doubt that this is the time and that you have substantial enough reasons at this moment for proceeding with setting this precedent.

That concludes my statement, Mr. Chairman. I am sorry it is a little disorganized, but I would like to answer any questions.

Senator BARTLETT. It wasn't disorganized. It was very cohesive and very coherent.

Mr. SHAPIRO. Thank you, sir.

Senator BARTLETT. Mr. Shapiro, what would you think of this bill if it were amended to place a definite limit on the number of ships that might be transferred, say two, three, four, five, or six, for example?

Mr. SHAPIRO. Of course, on behalf of the Institute, it would be impossible for me to address myself to this issue because we have never taken this specific consideration back to our members. I would be glad to do it if the occasion arose and see what their reaction would be.

Personally, what you are really doing by that process is reducing to perhaps a bare minimum the very negative impact of this proposal as is now embodied in S. 1627. You are not leaving open Pandora's box. We now have something that we will have to re-evaluate and balance in terms of the relatively limited negative impact as compared with S. 1627. You still, of course, are faced with the question, and my earlier remarks go to this as well: Is this or is

this not, and how can the conditioning handle this situation of the establishment of a precedent.

I will say this in all fairness, and I don't think anybody can run away from this: I am extremely sympathetic personally, I am extremely sympathetic with any importer of petroleum—Standard Oil of California or anybody else—because they have all pretty much found themselves in somewhat the same shoe—who has found that his long-range planning, his transportation planning for the movement of his own or perhaps purchased petroleum products, has been very seriously upset by a Government action which was not of his doing, that action namely being the limitation on petroleum imports.

This is one item which I think makes it mandatory for anybody judging the possibility of moving forward with that sort of a limited proposal. It is just one item that must be placed in the scale of doing something for people who were that adversely affected by a Government action which was not of their doing.

There still remain a number of negative considerations. But I would certainly say that you are reducing the negative impact when you limit the quantity that can come back under this arrangement.

Senator BARTLETT. Thank you, Mr. Shapiro, very much.

Here is a wire, a group of wires, opposing the bill, which I shall offer for the record without any effort at this time to identify them; and a wire previously read from the Pacific-American Tank Ship Association, and the American Independent Tanker Owners Association, favoring the bill. Those will be place in the record.

(The communications follow:)

NEW YORK, N.Y., May 8, 1961.

The Honorable WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.:

As an independent owner and operator of American-flag coastwise tank ships we protest the enactment of S. 1627 under which certain vessels would be admitted to American registry for use in coastwise trade.

Mr. Leslie C. Krusen, vice president of Charles Kurz Co. and counsel for Keystone Shipping Co. will present to your committee a detailed statement of opposition to this proposed legislation. In the interest of saving committee's time we take this means of acquainting you with our position on the bill and our concurrence in the statement that will be offered by Mr. Krusen.

J. H. DURBIN,
President, Trinidad Corp., New York City.

NEW YORK, N.Y., May 8, 1961.

The Honorable WARREN G. MAGNUSON,
Committee on Commerce,
U.S. Senate, Washington, D.C.:

Reference the proposed bill S. 1627 to permit foreign tankers transferred to American registry to engage in coastwise trade we wish to respectfully advise your committee that such legislation would have disastrous effects on independent American tanker owners because of seriously overtonnaged American tanker market. As owners of S.T. *National Defender* a recently built tanker of 67,000 deadweight tons we are presently experiencing great difficulties in finding employment for this vessel and during past year our income was not sufficient for payment of principal installments on our mortgage which under title XI is guaranteed by U.S. Government. If proposed legislation becomes effective we feel certain that a corresponding number of privately owned tankers would be forced into layup. It would have a detrimental effect on entire shipping industry. It would discourage future investments in construction of new vessels. Large oil companies which built tankers for foreign registry when independent owners

built them for American-flag operations would now drive the latter group of small independent tanker owners out of business. May we respectfully request that text of this telegram become a part of the record.

NATIONAL TRANSPORT CORP.

NEW YORK, N.Y., May 8, 1961.

HON. WARREN MAGNUSON,
Committee on Commerce,
U.S. Senate, Washington, D.C.:

Reference S. 1627 we strongly oppose this flagrant attempt by few large companies to obtain windfall profits while destroying independent competitors. We propose to testify and meantime respectfully request our opposition be placed in record.

RYE MARINE CORP.

NEW YORK, N.Y., May 8, 1961.

Senator WARREN MAGNUSON,
Committee on Commerce,
U.S. Senate Building, Washington, D.C.:

Undersigned corporation owner of U.S.-flag 33,000-ton 1959-built tanker protest bill S. 1627 scheduled your committee 10th. Its purpose change barring redocumented vessels from coastwise voyages regardless whether built United States of America ruins enterprises who confidence consistency present law, built recent years U.S.-flag tanker without enjoying trading for certain period under tax-exempt flag and higher earning due lower wages and other lesser expense. Domestic labor ultimately at disadvantage because resulting rate war must lay up more men than anticipated new positions. Treasury disadvantage because written-off tonnage revaluated under U.S. flag benefits owner large write-offs regardless by trading or layup. Intended limitation to minimum size building year inconsistent. Ramification for dry cargo trade equally dangerous. Present coastwise privilege U.S. tanker tonnage larger than orders. Many such tankers were laid up even during winter. Please incorporate foregoing objection in record.

ALBATROSS TANKER CORP.

NEW YORK, N.Y., May 9, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee,
Senate Office Building, Washington, D.C.:

As owners of the 33,000-ton deadweight supertanker *American Eagle*, built in Bethlehem Sparrow Point Shipyard in 1959, we are vigorously opposed to bill S. 1627. This bill will greatly favor a few large oil companies, add many tons to an already overtonnaged coastwise trade, and thereby further jeopardize the financial position of our and other title XI tanker-owning companies which have suffered serious financial losses over the past 2 years. As the U.S. Government has a large financial interest in these title XI tankers, passage of S. 1627 could cause an outlay to meet mortgage guarantees of approximately \$200 million. We therefore again urge that S. 1627 be unfavorably reported from your committee.

AMERICAN EAGLE TANKER CORP.

SAN FRANCISCO, CALIF., May 5, 1961.

HON. WARREN G. MAGNUSON,
Committee on Commerce, U. S. Senate,
Washington, D.C.:

Pacific American Tankship Association is an association composed of the following companies owning and/or operating tank vessels on the Pacific coast of the United States, namely California Shipping Co., Josua Hendy Corp., Keystone Shipping Co., Pacific Coast Transport Co., Richfield Oil Corp., Socony Mobil Oil Co., Inc., Texaco, Inc., and Tidewater Oil Co. The board of directors of the association, comprised of representatives of each of the member companies, have considered S. 1627, introduced in the Senate by Hon. Clair Engle of California and unanimously agreed on April 20, that the association support passage of this bill as well as H.R. 6147, a companion bill, introduced in the House of Representatives by Hon. John F. Shelley of California.

PACIFIC AMERICAN TANKERSHIP ASSOCIATION,
ALBERT E. BENSON, *Secretary-Treasurer.*

AMERICAN INDEPENDENT TANKER OWNERS ASSOCIATION, INC.

New York, N.Y., May 9, 1961.

HON. WARREN MAGNUSON,
U.S. Senate, Senate Office Building,
Washington, D.C.

MY DEAR SENATOR MAGNUSON: The American Independent Tanker Owners Association, Inc.—Commerce Tankers Corp., Oceanic Petroleum Carriers, Inc., Marine Tankers Corp., Clover Carriers Corp., Trans Ocean Petroleum Carriers, Inc., Ozark Navigation Corp., Kingston Steamship Corp., Fairfield Steamship Corp., Bayview Steamship Corp., Tideway Steamship Corp., Emerson Steamship Corp., Denton Steamship Corp.—would appreciate the opportunity to have this letter made public and a part of the record of the hearing by your committee on May 10, 1961, of S. 1627, a bill to admit certain vessels to American registry and to permit their use in the coastwise trade.

The American Independent Tanker Owners Association, Inc., and its member companies unanimously support and urge the passage of S. 1627.

Provided that S. 1627 be amended, after the words "notwithstanding any other provision of law to the contrary" (page 1, lines 3 and 4), by the insertion of the following words: "any vessel of less than twelve thousand five hundred gross tons which was built in the United States and was subsequently enlarged in the United States or in a foreign country to twelve thousand five hundred gross tons or more and which enlargement was completed subsequent to January 1, 1950, for a citizen of the United States, or a corporation wholly owned by such a citizen, shall be entitled to engage in the coastwise trade of the United States so long as it is owned by a citizen of the United States, as defined in section 2 of the Shipping Act, 1916, as amended, or * * *."

Such an amendment will permit independent American ship owners and operators to replace their aging coastwise vessels with competitive "jumbo-ized" T-2's.

The "jumbo-ized" T-2—tanker or bulk carrier—is universally accepted as an efficient and useful handy-sized vessel particularly suited to the coastwise trade of the United States and to emergency military needs due to its shallow draft. These vessels, on the completion of their enlargement or "jumbo-izing", have the useful life of a new vessel.

We consider that the inclusion of our proposed amendment will not only strengthen and modernize the U.S. coastwise fleet, but also will encourage and promote the continued existence of the independent, unsubsidized small American ship owner in the coastwise trade.

Please accept our thanks for your kind attention and assistance.

Respectfully yours,

MILTON PILALAS, *President.*

AMERICAN INDEPENDENT TANKER OWNERS ASSOCIATION, INC.,

New York, N.Y., May 29, 1961.

HON. WARREN G. MAGNUSON,
Chairman, U.S. Senate Commerce Committee,
New Senate Office Building, Washington, D.C.

MY DEAR SENATOR MAGNUSON: We would like to have the following comments made a part of the record of the hearing by your committee on May 10, 1961, of S. 1627, a bill to admit certain vessels to American registry and permit their use in the coastwise trade. We were surprised to hear the witness for the Standard Oil Co. of California deny that his company ran their tanker division on a profit and loss basis. This is unique as all the other major integrated companies run their various divisions, including the tanker division, on a functional profit and loss basis. Mr. Ford of the California company stated "The costs (of tanker transportation) are distributed back to the manufacturing or marketing departments and then applied against the total cost of the products."

Mr. Grinstein, the committee counsel, asked: "In the operation of your tank ships, Standard Oil Co. is not concerned with whether they operate at a profit or a loss?"

Mr. Ford replied, "No, because there is no basis for profit or loss. Of course, they are extremely interested in whether they operate at a high cost or a low cost."

We believe, and at least one of the companies has admitted publicly, that integrated oil companies, when it suits their purpose, consciously run their tanker operations at a loss. For instance, last winter, at the Arab Oil Congress, held in Beirut, Lebanon, Mr. Brandon H. Grove, the delegate of Socony Mobil Oil Co., stated that Socony had run its tankers at a loss of \$30 million from the reopening of the Suez Canal to the end of 1959. In 1959 alone, he said, his company had lost \$13 million in its tanker operations. Of this \$5 million was due to Socony having set its tanker formula (or rates) below its tanker costs, and a further \$8 million was lost in granting "inducements" to customers.

Independent tanker owners who have no other divisions cannot offset their losses against other profits—they simply do not have them. Mr. Ford's testimony plainly implies that the Standard Oil Co. of California has no internal tanker rate, and therefore, has no basis for profit or loss in its tanker division.

We believe this to be contrary to the facts.

We believe that the following citation from the joint hearings before the Subcommittee of the Committee on the Judiciary and Committee on Interior and Insular Affairs on the emergency oil lift program and related oil problems, Senate Resolution 57 indicates that Standard Oil of California, in point of fact, does have a tanker rate and that the company was concerned with "whether they operate at a profit or a loss."

"SAN FRANCISCO, CALIF., January 14, 1957.

"Residual fuel price increase, Ward Cove, Alaska.

"Mr. K. R. CUYLER: Since we established a posting at Ward Cove, Alaska, for full tankship deliveries there has been only one increase in the tankship delivery differential. A recent study has indicated that the present delivery differential to Ward Cove does not fully recover cost by an amount equal to 5 cents per barrel. It is, therefore, necessary that an increase in our Ward Cove posting of 3 cents per barrel be made.

"In order to avoid adverse customer reaction, we believe it best that this increase be made coincident with the contemplated general residual price increase effective January 15, 1957.

"RECOMMENDATION

"We, therefore, recommend that we increase our posting at Ward Cove, Alaska, an additional 5 cents per barrel over the price increase contemplated for January 15, 1957.

"[Handwritten:] O.K. to increase 5 cents per barrel at time of next general increase, whenever that may be.

"H.R.C."

"January 15, 1957.

We, therefore, believe that Mr. Ford's testimony was incorrect and that, as a result, your committee was unable to explore the fundamental economic problems involved as the result of the integrated oil companies' tanker transportation policies which are to administer oil prices through tanker rates.

Very truly yours,

MILTON PILALAS.

Senator BARTLETT. Reports have come to the acting chairman which the acting chairman believes to be entirely authentic, that certain witnesses desire to appear for purposes of rebuttal or elaboration of testimony. The acting chairman has come to the conclusion that considerable heat might be generated and the conversation might proceed for another day or two. So instead of having verbal testimony we will allow supplemental or further statements to be filed by those who care to do so, until June 1.

The Under Secretary of Commerce submits a report to Chairman Magnuson recommending against passage of the bill.

And here is a letter to Chairman Magnuson from the Acting Secretary of the Treasury. He makes no statement with reference to the legislation as such, but has a few technical suggestions.

(The statements follow:)

THE SECRETARY OF COMMERCE,
Washington, D.C., May 10, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department with respect to S. 1627, a bill to admit certain vessels to American registry and to permit their use in the coastwise trade.

Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), provides that "no vessel having at any time acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in, or documented under the laws of the United States, and later sold foreign in whole or in part, or placed under foreign registry, shall hereafter acquire the right to engage in the coastwise trade."

The bill, S. 1627, provides that "notwithstanding any other provision of law to the contrary, any vessel of not less than 12,500 gross tons which was built in the United States and completed subsequent to January 1, 1950, for a citizen of the United States or a corporation wholly owned by such a citizen, and placed under foreign registry, may be documented as a vessel of the United States by such citizen at any time within 2 years after the enactment of this act, and upon such documentation the vessel shall be entitled to engage in the coastwise trade of the United States so long as it is owned by a citizen of the United States, as defined in section 2 of the Shipping Act, 1916, as amended."

We recommend against favorable consideration of the bill.

Thirty-nine vessels (all tankers) were (1) built in the United States by citizens of the United States, or by corporations wholly owned by such citizens; (2) were completed after January 1, 1950; (3) were placed under foreign registry; and (4) are still owned by such citizens. All 39 of these vessels, aggregating approximately 885,000 gross tons, are eligible under the bill to be redocumented under the laws of the United States with coastwise privileges. The smallest of these vessels is 16,553 gross tons and the largest is 37,203 gross tons.

Thirty-three of these vessels were built after December 16, 1950, when the President proclaimed a national emergency which brought into effect section 37 of the Shipping Act, 1916, which prohibits, without the consent of the Secretary of Commerce, any contract to build a vessel for a noncitizen, and also prohibits, without such consent, any vessel which was built in the United States and which has not been documented, to depart from the United States without being documented under its laws. As a condition of his consent, as authorized by section 41 of the Shipping Act, 1916, the Secretary of Commerce exacted with respect to these vessels the following conditions: (1) that these vessels will be made available to the United States in a national emergency under the same terms as those under which vessels can be requisitioned under section 902 of the Merchant Marine Act, 1936, (2) that there will be no change of ownership or registry without our consent, and (3) that the vessels will not trade in violation of orders T-1 and T-2.

The other six vessels were built before section 37 of the 1916 act came into effect through the emergency proclamation of December 16, 1950, but they, nevertheless, are committed to be made available to the United States in an emergency because of agreements the owners made as a condition of our furnishing war risk insurance binders with respect to these vessels.

The 39 ships that would be eligible under the bill have a deadweight tonnage of approximately 1,500,000 tons. As of April 1, 1961, there were 246 ships with a deadweight tonnage of approximately 5 million tons engaged in the coastwise trade. As of March 1, 1961, there were, in addition, 34 tankers with coastwise privileges, and with a deadweight tonnage of approximately 540,000 tons, in permanent layup.

In 1959, approximately 165 million tons of cargo were carried in domestic trade by tankers. For the past several years, tanker fixtures in domestic trade have generally been at substantial amounts (as much as 35 percent or more) below the ATRS rate. The rate that a tanker needs to break even depends on its size. We estimate that a T-2 tanker can break even at the ATRS rate minus 3.6 percent. A 32,000-deadweight-ton tanker can break even at 9.1 percent below the ATRS rate.

The redocumentation with coastwise privileges of tankers that would be eligible under the bill would cause the layup of substantially the same amount of tanker tonnage in the domestic tanker fleet, would have a further depressing effect upon charter rates, and would be a deterrent to the ultimate replacement with new building of tankers now in the domestic fleet.

We have insured under title XI of the 1936 act mortgages on 25 tankers (aggregating 858,850 deadweight tons) in the original principal amount of \$229,294,355. The unpaid balances on these mortgages is now \$215,182,747. We have commitments, in addition, to insure the mortgages on four as yet undelivered tankers (aggregating 326,000 deadweight tons) in the principal amount of \$78,884,227.

With the exception of a few that have long-term charters, these tankers have been working at noncompensatory rates (as much as 70 percent below ATRS). With respect to five of these tankers we have made advances to the owners in the total amount of \$1,046,223.56 to enable them to cure defaults in payment of principal so that we would not be required to pay the entire amount of the insured mortgages. With respect to these five we have also consented to 2-year deferrals in payment of principal installments. We have consented to deferrals also with regard to two other tankers.

It would be much better to have the tankers that would be eligible under the bill for redocumentation, with coastwise privileges, documented under the American flag than to have our present arrangement for making these vessels available to the United States in an emergency. Because of the depressing effect this would have upon charter rates and upon prospects for shipbuilding, and because it would cause the layup of tankers now operating in the coastwise trade, however, we recommend against favorable consideration of the bill.

The Bureau of the Budget has advised us that there would be no objection to the submission of this letter from the standpoint of the administration's program.

Sincerely yours,

EDWARD GUDEMAN,
Under Secretary of Commerce.

THE SECRETARY OF THE TREASURY,
Washington, May 10, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 1627, "To admit certain vessels to American registry and to permit their use in the coastwise trade."

The proposed legislation would permit certain vessels of not less than 12,500 gross tons to be admitted to American documentation to engage in the coastwise trade even though such vessels had been placed under foreign registry, notwithstanding any law to the contrary.

The bill proposes an exception to the long-standing legislative policy of excluding vessels which have been placed under foreign flag or ownership from admission to American documentation to engage in the coastwise trade (46 U.S.C. 11,883). Whether the circumstances warrant such an exception is a matter of policy upon which this Department expresses no opinion.

As drafted, the bill would appear also to except these vessels from the vessel inspection laws administered by the Coast Guard, since it would authorize the documentation of these vessels "notwithstanding any other provision of law to the contrary." The Treasury Department believes that these vessels should be subject to the vessel inspection laws and recommends the insertion of the phrase, "upon compliance with the usual requirements," after the words, "United States," in line 9, page 1 of the bill. No administrative difficulties or additional expense are anticipated, if the bill is amended as suggested above.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your committee.

Very truly yours,

A. GILMORE FLUES,
Acting Secretary of the Treasury.

(Subsequently, the following communications were received for inclusion in the record:)

INDUSTRIAL UNION OF MARINE AND SHIPBUILDING WORKERS OF AMERICA, AFL-CIO
STATEMENT IN OPPOSITION TO S. 1627, TO ADMIT CERTAIN FOREIGN-FLAG VESSELS
TO U.S. DOCUMENTATION AND TO PERMIT THEIR USE IN THE COASTWISE TRADE

(Research Department IUMSWA, AFL-CIO May 1961)

The Industrial Union of Marine and Shipbuilding Workers of America, AFL-CIO, desires to enter a statement in opposition to S. 1627, a bill to admit certain foreign-flag vessels to U.S. documentation and to permit their use in the coastwise trade.

We hold that not only would this measure not create any new jobs for presently unemployed merchant seamen, but that it would reduce the number of jobs presently available in the coastwise trade for these merchant seamen, and would practically wipe out all vessel construction in this country to replace the coastal fleet.

In the statement of Thomas E. Stakem, Maritime Administrator, before this subcommittee on May 10, 1961, the Maritime Administration pointed out that under this measure "39 vessels, all tankers, would be made eligible by the bill for admission to the coastwise trade."

The Maritime Administrator also pointed out that admission of these vessels to the coastal trade would depress charter rates, cause lay ups of tankers now operating, and completely eliminate any further prospects for vessel construction.

It has also been pointed out that to allow these vessels to enter the coastal fleet of the United States would not make them any more available for this country in the event of an emergency than they presently are. Thirty-three of these vessels are already made available to the United States in emergency, as a condition of obtaining war-risk insurance binders with respect to them. Therefore, the measure would not increase tanker tonnage available to us in time of national emergency.

We would respectfully like to point out that the coastal and intercoastal shipping of the United States has, since the beginning of this Republic, been reserved to American vessels, and that this was done at the time of our Founding Fathers to protect our merchant marine and vessel construction industry against foreign competition. What this measure would presently do would be to allow American-built vessels originally built for foreign registry to come back into the coastwise trade. If this measure were passed, therefore, we would see American-built vessels moving from our coastal trade to foreign registry and back to coastal trade, not because of the requirements of American coastal trade but because of possible future world requirements, emergencies, and other situations over which this country has no control. At least in our coastal trade at the present time we have been able to assure some modicum of normal replacement of vessels to insure normal continuance of our vessel construction industry, although this is presently at a minimum. By giving vessels now the right to transfer into the coastal trade, and presumably therefore to transfer out of the coastal trade, would lay our coastal trade and our vessel construction industry open to all the pressures, vagaries, and disturbances to which the worldwide merchant marine is subject.

We must remember that these vessels were built at the time of the Suez emergency, and were built in American shipyards only because foreign yards could not guarantee delivery within a specified time. If we now allow the companies who built these vessels to take advantage of the reservation of our coastal trade to American-flag vessels, and to transfer them to the American flag, we have allowed these companies a double advantage—that of operating under foreign flag, with vessels which were built in time, when they could take advantage of high rates, and coming under American flag when foreign trade is depressed. On the other hand, we have always required of vessels engaged in our coastal trade that they not be given double advantage, and that they have to operate during depressions as well as during prosperity in the American-flag merchant marine.

We must point out also that over the past years Congress has been steadily closing loophole after loophole which had permitted foreign-built or rebuilt ships from entering our coastwise trades. This present bill would therefore be a complete change in the merchant marine policy of the United States. We

do not believe that such a change, if the Congress so desires it, should be entered into in this fashion.

If we desire to throw overboard our merchant marine legislation of close to 200 years, it would be advisable that a complete reconsideration of whether or not this country should have any merchant marine or any shipbuilding industry would be in order. We cannot, by whittling away at our obligations to the fourth arm of national defense, permit the entire intent and purpose of merchant marine and shipbuilding legislation in this country to be abrogated piecemeal.

Respectfully submitted.

JOHN J. GROGAN, *President.*

ANDREW A. PETTIS, *Vice President.*

ROSS D. BLOOD, *Secretary-Treasurer.*

MAY 17, 1961.

Re hearings on S. 1627.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During the recent hearings held before the Merchant Marine Subcommittee of the Committee on Commerce, the Committee of American Tanker Owners presented its views in opposition to S. 1627. In summary, our position is that enactment of the proposed bill would—

- (a) bankrupt existing operators of American-flag tankers;
- (b) substantially reduce the number of new tankers which would be built in American shipyards;
- (c) result in a decrease in the number of seamen employed on American ships;
- (d) result in the Maritime Administration having to expend over \$200 million in taxpayers' funds to pay on their mortgage guarantee obligations on existing tanker ships built pursuant to title XI of the Merchant Marine Act.

At the conclusion of the hearing, Senator Bartlett announced that the participants would be given until June 1 to file rebuttal to arguments as presented by other witnesses. As the proponents of this legislation made certain statements and suggestions which we believe might mislead the committee, may we take this opportunity to file the following information for the record.

The testimony of various witnesses shows that the present value of each of the Standard Oil of California tanker ships now under foreign flag ranges in the area between \$1,500,000 to \$2 million per vessel. The testimony further shows that these ships could not be replaced in the American market with coastwise rights at less than from \$8 to \$10 million per ship. As the testimony showed, if these foreign-flag tankers could be redocumented with coastwise rights, this would result in a windfall to Standard Oil of California of from \$6 to \$8 million per ship. As they have six ships which would be covered by this proposed legislation, the enactment of this bill would result in their having a windfall profit of from \$36 to \$48 million.

In order to combat this testimony, Standard Oil of California witnesses made the following statement: "The value at which we transfer the ships will be subject to the approval of the Internal Revenue Service for tax purposes; thus it will be the Internal Revenue Service that has the final decision as to the value."

Valuation of the vessels by the Internal Revenue Service would only have reference to their value for tax depreciation purposes. The higher the value that the Internal Revenue Service would grant, the greater the depreciation allowance which the company would receive; the higher the value that the Internal Revenue Service granted, the greater the tax saving to Standard Oil of California. But this question of valuation for tax purposes completely misses the main point. Irrespective of whether the vessels are valued at \$10 million or zero, the fact remains that Standard Oil of California will have vessels of a value of from \$8 to \$10 million each immediately after their transfer to American registry as compared to the value of the same vessels today under foreign registry without coastwise privileges of only from \$1½ to \$2 million each. In other words, it is not the tax question that is involved here but the fact that these people will receive a windfall of many millions of dollars.

Toward the end of the hearings, two amendments were suggested and read by the chairman to various witnesses who were asked to comment upon them. The first suggested amendment was that the vessels to be redocumented could not be sold or transferred by their owners for a period of 10 years. The second amendment would provide that, for a period of 4 years, the vessels would carry only cargo owned by their owners or related companies. While on the surface these amendments might appear to be restrictive, may we point out to the committee that for all practical purposes they are ineffective and a sham.

In the event Standard Oil of California or others redocumented their ships with coastwise rights under this proposed legislation, these proposed amendments would require them to carry their own cargo in these particular ships and not to sell these particular ships for the period prescribed. But please note that while they would have to keep these particular ships subject to these restrictions, the redocumentation of these vessels would release other vessels owned by the company. While they could not carry cargoes other than those owned by the companies in these particular vessels, the use of these vessels would free other tankers which the company owns to carry cargo for others. Moreover, while under the proposed amendments the Standard Oil Co. of California and others could not sell these particular ships for 10 years, they would have other ships made free as a result of using these redocumented vessels and such other vessels could be freely sold without restriction. In other words, even with these ostensibly restrictive amendments, the adverse impact on the American tanker companies, American seafaring and shipbuilding labor, the American shipyards, and the Maritime Administration's mortgage guarantee commitments, and the financial benefit to Standard Oil Co. of California, is the same whether or not the proposed amendments are included. All the proposed amendments would do would be to limit the particular ships and not in any way prevent or limit the results of the bill.

It is ironic that the Standard Oil Co. of California should advocate enactment of S. 1627 to permit it to redocument under American registry with coastwise privileges vessels which that company built for foreign-flag registration. As the chairman of the committee knows, American tanker owners and American labor organizations tried unsuccessfully to have the Office of Civil and Defense Mobilization rule that 50 percent of the oil imported into the United States must be carried on American-flag tankers. Standard Oil Co. of California was one of the principal opponents of that proposal. For the committee's information, we attach herewith a thermofax copy of the statement by Standard Oil Co. of California made to the Office of Civil and Defense Mobilization on this point. You will note that the company completely supported the use of Panamanian, Honduran, and Liberian tankers as being preferable to the use of American-flag tankers. We also invite the committee's attention to the statement on page 7 that "There is a current oversupply of U.S.-flag tankers." May we also invite the committee's attention to the statement on page 8 of Standard Oil of California's argument that "More importantly, under the petroleum import restrictions, the major share of future growth in the domestic market for oil has been reserved to domestic producers and assures that the fleet operating in the protected domestic trades will enjoy a concurrent increase in business at least as large as the growth in total domestic oil demand. As a result, increased usage of the U.S.-flag tanker fleet gives every indication of occurring at a rate sufficient not only to maintain the fleet itself but to afford it an opportunity for future growth while justifying the replacement of existing vessels as they become obsolete."

You will note that the proposal made by the Standard Oil Co. of California in support of S. 1627 is completely contrary to this statement. If this bill were to become law, the major share of growth in domestic markets for oil would not be reserved to the present American fleet operating in the domestic trades. Moreover, the redocumentation of their vessels would not only prevent the maintenance of the existing fleet, but it certainly would do away with the opportunity for future growth through new construction in American shipyards. There would certainly be no possible economic justification for building new American-flag tanker vessels if these foreign-flag tanker vessels can be documented with coastwise privileges.

It is strange that a company which has taken the position as set forth in the attached statement should now claim the privilege of bringing these vessels from Panamanian and Liberian registry back to American registry. The question is obvious: Is this because of their desire at this stage of the game to benefit the

American tanker fleet and American labor, or is it because they seek a huge financial windfall which the transfer-back of these vessels with coastwise privileges would give them? The answer is equally obvious.

As owners of American-flag tankers, we do not feel that Standard Oil Co. of California should be permitted this huge windfall at the expense of the American tanker owners. For every ship which they bring back to American registry, we will be required to put into layup an equivalent tonnage. Even if the proposed "restrictive" amendments were imposed, we would still be required to put into layup an equivalent tonnage for every ship brought back by this company. Moreover, as taxpayers, we do not feel that the Government should be called upon to pay over \$200 million in guarantees on foreclosure of these ships whose mortgages it has guaranteed merely to permit Standard Oil Co. of California and others who have documented vessels under foreign registry to obtain such financial windfall.

In view of the foregoing, may we again respectfully urge the committee to report unfavorably on S. 1627.

Very truly yours,

COMMITTEE OF AMERICAN TANKER OWNERS, INC.
JOSEPH KAHN, *President*.

STATEMENT BY STANDARD OIL CO. OF CALIFORNIA TO OFFICE OF CIVIL AND DEFENSE MOBILIZATION, WITH RESPECT TO PETITION TO REQUIRE THAT 50 PERCENT OF OIL IMPORTS BE TRANSPORTED IN U.S.-FLAG TANKERS, SAN FRANCISCO, MARCH 15, 1960

INTRODUCTION

This statement presents the views of the Standard Oil Co. of California on the petitions pending before the Office of Civil and Defense Mobilization to require that 50 percent of all oil imported by tankers be transported in U.S.-flag vessels having coastwise trading privileges. It is submitted in response to the general invitation to comment issued to interested parties by the OCDM.

Standard of California is an international oil company and in addition qualifies as an interested party by virtue of its extensive marine operations under both U.S. and foreign flags. Its experience in this field extends back for more than 70 years. The company presently owns and operates 19 U.S.-flag ships and 9 foreign-flag ships and charters 16 foreign-flag vessels on a long-term basis. These ships sail virtually all of the oceans of the free world.

Petitioners, representing certain maritime unions and a small group of private U.S.-flag tanker operators, declare that adoption of their proposal is required to encourage maintenance and growth of a U.S.-flag tanker fleet adequate for the national security. They assert additionally that only U.S.-flag vessels could be relied upon in time of emergency, contending that U.S.-owned ships of the Panlibhon fleet would not be dependable because of their foreign crews and foreign registry. In further support of their petition, they cite the regulation of oil imports as precedent for the allocation of a prescribed quota of the foreign oil transportation business to U.S.-flag vessels.

Standard of California opposes the petition and disputes the petitioners basic contentions.

Granting of said petition, in view of this company, would not advance the national security. It would only redistribute the foreign oil transportation business to the advantage of the petitioners and other domestic-flag operators and to the extreme disadvantage of a larger segment of the nation's oil economy and security forces—namely the Panlibhon fleet.

Nor is the situation which led to the regulation of oil imports analogous in any relevant way to the situation presently obtaining in the area of tanker transportation. The principles which led the government to impose mandatory controls on the importation of oil into the United States simply do not apply to operation of tankships on the high seas.

The specific reasons for our company's opposition to the petition are detailed below.

PANLIBHON AND NATIONAL SECURITY CONSIDERATIONS

At the beginning, it is important to note that the Defense and State Departments and the Maritime Administration in the Commerce Department have repeatedly stated that the large tonnage of American-owned tankers under Panlib-

hon registry is subject to effective control by the United States and is completely available in time of emergency.

By way of example, "Project Walrus," the study underwritten by the Department of Commerce, comments that, "We must regard the U.S.-owned Panlibhon flag fleet as a significant operating reserve for mobilization purposes. These merchantmen will be required immediately in the event of war to augment the limited U.S.-flag sealift capacity. They are available for this purpose and are, in effect, under U.S. control" (p. 55, Project Walrus Report, Special Supporting Study No. 9).

Further to the question of effective control, it bears emphasis that all vessels owned by this company would be placed immediately at the disposal of the Government in a national emergency as they were in the Korean crisis. The company can state this without qualification and is on record to that effect with the Maritime Administration.

The total of Panlibhon-flag tankers which would become available in an emergency is indicated in table I below. This represents a sizable carrying capacity, exceeding by a large margin that of the U.S.-flag tanker fleet itself.

TABLE 1.—*Private U.S.-flag and U.S.-owned Panlibhon tanker fleet (T-2 equivalents)*

Year	U.S. flag	Panlibhon	Total
1949.....	395.8	127.4	523.2
1952.....	395.3	167.6	562.9
1953.....	413.0	181.9	594.9
1954.....	405.5	214.8	621.3
1955.....	366.8	234.5	601.3
1956.....	362.8	296.5	659.3
1957.....	360.9	376.9	737.8
1958.....	388.0	497.1	885.1
1959 (estimated).....	422.0	690.0	1,112.0

Source: Through 1958, from Sun Oil Co., analysis of world tank ship fleet; 1959 data estimated by Standard Oil Co. of California.

In spite of these considerations, and many more, the petitioners persist in their allegations that unless the 50-percent proposal is approved, the tanker fleet available to the United States in time of emergency will be inadequate to meet military and civilian requirements. Such an allegation is certainly unsupported in view of the wealth of facts, figures, and knowledgeable statements which are available today.

The petitioners pursue their arguments further with the contention that there is danger ships of Panlibhon registry might be transferred to other flags and thus removed from the effective control of the United States.

This assertion disregards the fact that, by virtue of specific agreements entered into with the U.S. Government, many of the Panlibhon-flag ships in question cannot be transferred without U.S. Government consent.

Furthermore, in the case of all Panlibhon ships, there is no motive for such transfers, as long as conditions affecting the operations of Panlibhon tankers are not changed to increase the cost of these operations. Foreign registry provides operational savings and advantages which permit U.S.-owned tankers to compete with other foreign carriers in the same international trades. These savings are maximized under Panlibhon registries, and no purpose would be served by transferring the registry of a tanker to another flag which afford lesser benefits.

The petitioners have also asserted that U.S.-owned vessels flying the Panlibhon flags cannot be safely relied upon in time of emergency, because they are manned by foreign crews. They assert that these crews work for substandard wages under substandard conditions and might also be subject to Communist influence and penetration.

Standard of California operates nine tankships (one 18,000-deadweight tons, six 28,000-deadweight tons, and two 41,000-deadweight tons) under Liberian registry. They are manned by crews of Italian nationality and operate in international routes from the Persian Gulf, eastern Mediterranean, South America, and Sumatra to North and South America. Wages, benefits, and living conditions on these vessels meet and in some cases surpass the standards prescribed by the Italian Government for seamen in its own flag vessels.

These standards are set forth in considerable detail in the "Italian National Labor Contract," published by the Associazione Armatori Liberi of Genoa, Italy. They cover all phases of maritime employment, including wages, watch hours, shipboard quarters, victualing, and various benefits.

To cite specific examples:

An able-bodied seaman employed in one of this company's vessels receives benefits which include 18 days of paid annual vacation, company-paid sickness and injury benefits, and life insurance payable to survivors.

In addition, the company contributes approximately \$20 monthly to this seaman's retirement plan, against a personal contribution of about \$4.

Conditions of employment also include repatriation. At no time has any crewman been "stranded" through failure of our company to repatriate him on conclusion of his service.

Wages are, obviously, not on a parity with American seamen's rates. But neither are the wages of any Italian worker, regardless of his occupation, comparable to the earnings of his American counterpart. For example, the average hourly wage in Italian manufacturing is approximately 35 cents compared to more than \$2.20 in U.S. manufacturing. (Source: United Nations Monthly Bulletin of Statistics, January 1960, pp. 124-125.)

Our company utilizes foreign-flag ships as a necessary cost-saving measure which enables us to compete on equal terms with other foreign-flag vessels engaged in the same international trades—not, as has sometimes been charged, to deprive American seamen of employment.

With respect to physical working conditions on board our vessels—likewise contended to be substandard—our ships are maintained in every respect to the strict standards of the American Bureau of Shipping. The vessels are uniformly modern (none older than 10 years), carefully maintained, and operated under stringent safety procedures. Seamen's quarters are comparable to the quarters on U.S.-flag vessels, providing no more than two men to a room. In our newest tankers, seamen are assigned private rooms.

We submit that the allegation of substandard wages and working conditions is wholly unsupported in the case of Standard of California operations.

In the matter of loyalty, our seamen are carefully selected by our agent in Italy and screened exhaustively for moral character and political reliability. They are employed by us only after clearance by the Italian police and maritime authorities.

Further, when Italian crews are recruited abroad to join vessels in the United States, the names of crewmen must be submitted for prior clearance by the State Department before they can be admitted to this country. Likewise, whenever one of our vessels clears a foreign port for a U.S. destination, the company must submit a crew list to the local U.S. consul for forwarding to the State Department.

The majority of our crewmen have been employed continually by the company for many years and their loyalty has never been questioned. We believe that they would promptly expose any attempt by Communists to infiltrate their ranks.

It should be emphasized further that these men are citizens of a NATO ally nation.

The petitioners have sought to justify their proposed Government regulation of oil imports transportation by contending that the national security would be served just as it is served by the mandatory oil imports program. This does not follow.

The basic tenet of this imports program is that the national security requires a healthy and vigorous domestic oil industry capable of readily expanding its output because, in the event of a national emergency, the movement of oil from foreign sources by tanker is vulnerable to interruption by enemy attack. The tanker fleet, U.S.-flag PANLIBHON, and other foreign flag, constitute the very channels of supply upon which the imports program strives to keep this Nation's oil supplies from becoming unduly dependent. The cold truth is that all tankers are equally subject to enemy attack and destruction whether they be U.S.-flag or PANLIBHON.

In this vein, no possible analogy can exist between the proposal itself and the security provisions of the imports program.

CONDITIONS AND TRENDS IN US-FLAG FLEETS

Petitioners favoring the 50-percent proposal have asserted the U.S.-flag tanker fleet cannot continue, let alone prosper and grow, without a guaranteed large share in the movement of imported oil.

Many current studies and figures effectively refute this allegation. The following information is offered to substantiate the view that, far from deteriorating, the carrying capacity of the privately owned US-flag tanker fleet is at an alltime high and that prospects are favorable for increasing employment of this fleet.

There is a current oversupply of U.S.-flag tankers. This oversupply is a part of the worldwide tanker surplus caused principally by the unprecedented rate at which new vessels were ordered during the period of the Suez crisis and completed during the past 2 years.

Table II below highlights the current growth in carrying capacity (in terms of T-2 equivalents) of the US-flag privately owned fleet. The large increases during the past 2 years pushed this capacity to an alltime peak by the end of 1959. It is interesting to note that the greater part of this growth has been in tankers owned by independent operators.

TABLE II.—*U.S.-flag privately owned tanker fleet (carrying capacity, T-2 equivalents)*

Year	Oil company	Independent	Total
1949.....	275.7	120.1	395.8
1952.....	272.2	123.1	395.3
1953.....	278.1	134.9	413.0
1954.....	275.6	130.9	406.5
1955.....	251.7	115.1	366.8
1956.....	244.6	118.2	362.8
1957.....	248.8	112.1	360.9
1958.....	241.2	146.8	388.0
1959 (estimated).....	251.0	171.0	422.0

Source: Through 1958 from Sun Oil Co., analysis of world tank ship fleet; 1959 data estimated by Standard Oil Co. of California.

This large growth in the fleet over the past 2 years—some 17 percent—could not have been absorbed by any normal growth in requirements and, as will be noted in table III, on the next page, the tonnage in layup increased sharply. (The data in table III are expressed in deadweight tons only and not in effective carrying capacity as in table II.)

Employment of vessels in the privately owned American-flag tanker fleet over the last decade is also detailed in table III. During this period, while usage in foreign trades has decreased materially, requirements in the protected coastwise, intercoastal and U.S. agency trades have increased steadily and substantially. Today 95 percent of the active U.S.-flag fleet is employed in these protected trades.

TABLE III.—*Employment of privately owned U.S.-flag tankers (as of Dec. 31)*

[Thousands of deadweight tons]

Year	Protected trades	Foreign trading	Active fleet	Inactive fleet	Total
1950.....	4,042	2,549	6,591	93	6,684
1951.....	4,467	2,237	6,704	115	6,819
1952.....	4,696	1,862	6,558	216	6,774
1953.....	4,357	1,635	5,992	962	6,954
1954.....	4,528	1,353	5,881	742	6,623
1955.....	4,573	1,333	5,906	99	6,005
1956.....	4,645	1,126	5,771	68	5,839
1957.....	4,756	555	5,311	461	5,772
1958.....	5,135	540	5,675	470	6,145
1959.....	5,521	320	5,841	769	6,610

Source: Employment report of the U.S.-flag merchant fleet, oceangoing vessels 1,000 gross tons and over. Maritime Administration, U.S. Department of Commerce.

More importantly, under the petroleum import restrictions, the major share of future growth in the domestic market for oil has been reserved to domestic producers and assures that the fleet operating in the protected domestic trades will enjoy a concurrent increase in business at least as large as the growth in total domestic oil demand. As a result, increased usage of the U.S.-flag tanker fleet gives every indication of occurring at a rate sufficient not only to maintain the fleet itself but to afford it an opportunity for future growth while justifying the replacement of existing vessels as they become obsolete.

Far from there being a need for the Government to support the existing privately owned U.S.-flag tanker fleet in the manner in which the petitioners ask, it is apparent that such an action would merely benefit one segment of the Nation's tanker resources at the expense of another—namely PANLIBHON. The result would certainly not promote the national security nor would it, by any stretch of the imagination, serve the best interests of the Nation.

IMPACT OF THE 50-PERCENT PROPOSAL ON COSTS AND PRICES

Enactment of the 50-percent proposal would result in higher transportation costs on oil consumed in this country and these costs would be borne by industrial and all other consumers of oil products in the form of higher prices.

It is quite obvious that the basic objective of the proposal is to restrict American oil import movements to the economic advantage of the petitioners' U.S.-flag tanker fleet. In spite of the fact that Standard of California is a major participant in the U.S.-flag fleet, it can candidly decry the inevitably tighter market for U.S.-flag vessels and the resulting higher transportation charges in coastwise and import trades.

The company sees this as an additional cost which the American public would have to pay, as a hidden subsidy charged to the American consumer and as an added inflationary pressure imposed on the economy as a whole.

The issue of cost is quite simple. Advocates of the 50-percent proposal, evidently in search of economic justification, contend that foreign crude enjoys a large landed price differential and that the substantially higher shipping costs imposed by their plan could be absorbed without impact on the ultimate price of this oil to consumers.

It is apparent that the petitioners have a grossly inflated concept of landed price differentials. It is also apparent that they are unaware that any such differential is currently being passed on in lower prices to domestic consumers.

Certainly, foreign producers could not long afford to absorb higher transportation costs. Were the proposed 50-percent formula to be imposed, the increased cost of shipping foreign oil in U.S.-flag ships would inevitably be reflected in higher prices for imported oil. Moreover, tanker rates in domestic protected trades would be pressured upward by the increased demand for services of U.S.-flag vessels with coastwise privileges, resulting in higher costs for transporting domestic oil. The public, not the foreign producers, would in the end subsidize the higher cost of operations.

Treatment by the petitioners of their landed price differential argument is subject to critical scrutiny from another standpoint. Although they have made no investments in foreign oil, nor taken any of the political or economic risks involved, proponents of the 50-percent plan—ostensibly in the interests of national defense—in effect demand the right to participate in the returns from foreign oil ventures. They point to the price differential between foreign and domestic oil as justification for their demands. The accomplishment of their objective, by Government directive, would clearly be a contradiction of the principles of private enterprise.

EFFECT OF THE PROPOSAL ON U.S. INTERNATIONAL RELATIONS

As well as the many valid arguments which can be advanced against the specific provisions of the 50-percent proposal, it is this company's opinion that flag discrimination has highly important ramifications which extend far beyond the immediate tanker market and cannot help but work to the detriment of the entire United States.

Acceptance of the proposal would promote bitterness in other maritime nations and lead to retaliatory actions.

In the event of acceptance of the proposal, operators of U.S.-flag dry-cargo vessels would legitimately demand similar favored treatment.

Adoption of any form of flag discrimination by our country would be a setback to the policy objectives of the present and previous administrations, which have consistently advocated the mutual reduction of barriers to international trade. Implementation of the proposal would be a violation of the foreign policy that the United States has supported in the last three decades.

It would be ironic indeed if our country, heretofore a leader in the worldwide drive toward freer trade, were to lend its great weight of endorsement to the regressive practice of flag discrimination.

MORAL OBLIGATION TO U.S. OWNERS OF FOREIGN FLAG TANKERS

In October of 1956, immediately prior to the Suez crisis, our Government urgently called upon domestic tanker operators to construct large, new tankers capable of bypassing the Suez Canal and keeping foreign oil flowing to the free world's markets. Among those urging this course were Arthur Fleming, then Director of the Office of Defense Mobilization, Commerce Secretary Weeks, and other cabinet officers. Mr. Weeks and others made it clear that the Government's objectives would be met by construction of U.S.-owned vessels, regardless of their ultimate foreign registry.

A substantial number of large, foreign-flag tankers were subsequently built, and others are contracted for and still to be built, with private funds, but with the Government's encouragement and implicit support in mind. It is now proposed that these American owned vessels be discriminated against because of their foreign registry. Were this proposal to be adopted, the Government would be committing an outright breach of faith with the companies which it urged to build these very same foreign-flag ships only a few years ago.

SUMMARY

To sum up this company's views on the subject, the 50-percent proposal would add nothing in the way of advantages or benefits to the national security. Further, this plan would have three highly undesirable consequences, namely, (1) the subsidization of the proponents' operations by industrial and private consumers; (2) the erection of new barriers to freer international trade, in contravention of the administration's objectives in this area; and (3) the outright breaching of faith with American owners of foreign-flag vessels.

Standard Oil Co. of California again asserts its strong opposition to this proposal.

COMMITTEE OF AMERICAN TANKER OWNERS, INC.,
New York, N.Y., June 2, 1961.

HON. WARREN G. MAGNUSON,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR MAGNUSON: Reference is made to the hearing which you recently conducted on S. 1627, a bill introduced at the request of the Standard Oil Co. of California to permit the redocumentation of foreign-flag tankers under American registry with coastwise privileges. At that hearing, the Committee of American Tanker Owners and others opposed the bill because of the adverse and highly detrimental effect its enactment would have upon the American tanker and shipbuilding industries.

We have been informed that the Standard Oil Co. of California has suggested that S. 1627 be amended so as to provide that they could redocument with coastwise privileges only two tankers. The Committee of American Tanker Owners is equally opposed to the proposed amendment. While this might be a somewhat lesser evil than the proposal which would permit the redocumentation of all vessels, it is nonetheless an evil and would be detrimental to existing American tanker owners. It would also prevent the building of at least two American-flag tankers by American shipyards. Most important, we believe that the principle established by any amendment which would permit the redocumentation of two ships would open the floodgates to similar type applications which would be difficult to reject once a precedent had been set. While the windfall to Standard Oil Co. of California would be less, it would still be windfall of many millions of dollars in increased value of the two vessels and be at the expense of American tanker owners and American shipbuilders.

In view of the foregoing, we respectfully urge that you use your good offices in opposition to the proposed amendment.

Very truly yours,

JOSEPH KAHN, President.

JOHN J. McMULLEN ASSOCIATES, INC.,

New York, N.Y., May 10, 1961.

Hon. Senator WARREN G. MAGNUSON,
U.S. Senate Committee on Commerce,
Washington, D.C.

DEAR SENATOR: This letter is being addressed to you with the thought that you might be interested in an independent opinion on the legislation which would permit the redocumentation of foreign-flag tankers to American registry with operating rights in the domestic trade.

As a professional naval architect and marine engineer, I, and my firm, do not own, operate, or serve as broker for any steamship company. Our position is one of technical guidance, supervision, and design, and as such, we often have a bird's-eye view of marine activities.

In addition, as you may recall, I was for 2½ years Chief, Office of Ship Construction and Repair in the Maritime Administration, and during this period, I had the advantage of observing the marine activities which were being created from within and without the Government. Based on this experience, it seems to me that one of the serious problems which we have in our marine industry is the possibility of introducing and passing legislation which serves the self-interest of special groups.

In this particular instance, all of the ships which are now seeking reentry to American registry and to U.S. coastwise operating privileges were traded out at a time when it was financially opportune to do so. Now that the world conditions have changed, these same groups are now seeking reestablishment of the rights which they forfeited in order to seek greater financial return. Not only would it be inconsistent to permit the reentry of these special ships by special groups, but it would also punish those operators who in spite of the fact that it may have been more profitable to seek foreign registry nevertheless, kept their ships and crews under American flag. In addition, our shipyards are in a state of relative depression and the reentry of a large number of tankers definitely lessens the possibilities of future construction.

I have hesitated to write you because by your broad and extensive maritime experience you are in an excellent position to judge the merits of this particular case. Nevertheless, I felt you might desire having an opinion of an individual who cannot profit in either instance, whether the legislation is passed or not passed. My main concern is simply that of having a consistent and constructive maritime policy, which will benefit the U.S. merchant marine and U.S. shipbuilding.

Respectfully,

J. J. McMULLEN.

CALIFORNIA LABOR FEDERATION AFL-CIO,
San Francisco, Calif., May 30, 1961.

Hon. CLAIR ENGLE,
U.S. Senate, Washington, D.C.

DEAR SENATOR ENGLE: We want you to know that the California Labor Federation, AFL-CIO, deeply appreciates your friendly interest in and support of organized labor regarding legislation before the Congress.

Recently, our maritime affiliates have called our attention to the fact that you introduced the bill, S. 1627, to admit certain vessels to American registry and to permit their use in the coastwise trade. We are informed that the Sailors' Union of the Pacific and the Seafarers' International Union of North America have already appeared before the Senate Subcommittee on Merchant Marine and Fisheries in support of the bill. They inform us that if the bill is enacted it will make it possible for Standard Oil of California to transfer at least two ships to American registry which were built in American shipyards, but now fly the Liberian flag. The ships would be used exclusively to carry products of the company and its affiliates and subsidiaries, and would be used primarily in the Alaska oil trade.

You know, of course, the extent to which our American tanker fleet has been destroyed by the "runaway-flag" ships. We think and hope that your bill may reverse the trend and signal the return to the American flag of many American-owned ships now operating under the flags of Panama and Liberia.

But if only two ships return, they would provide jobs for at least 80 seamen, and their maintenance and repair would create additional jobs for American workers in the depressed shipyard industry.

We greatly appreciate your introduction and support of this bill.

Sincerely yours,

THOS. L. PITTS, *Secretary-Treasurer.*

PHILADELPHIA, PA., May 16, 1961.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: On May 10, 1961, I testified on behalf of Chas. Kurz & Co., Inc. and Keystone Shipping Co., in opposition to S. 1627; the provisions of which would enable certain U.S. citizen-controlled foreign companies to redocument under U.S. flag, with coastwise privileges, certain large vessels now under foreign flag.

During the hearing a representative of the committee asked a witness whether the proponents of the bill would be satisfied if it were amended to provide, in effect, that ships returned to U.S. flag with coastwise privileges be restricted to carriage of products owned by the owner of the vessel for a term of, say, 3 years. I believe an affirmative answer was received.

We are opposed to any form of compromise or amendment so far as this bill is concerned. The integrity of the present coastwise law is vital not only to coastwise operators who have risked their capital and based their plans upon the protection which the present law affords them, but to the maintenance of an adequate fleet of tankers available for defense, which would eventually suffer if the established coastwise operators become discouraged or are forced out of business by competition of vessels suddenly transferred from foreign flag and admitted to coastwise trade. We can conceive of no form this legislation could take which would not have the harmful consequences described in my written statement, which I shall not repeat here.

We have no criticism of U.S. citizens who place or have placed vessels under foreign flag. However, having elected to do so, and having obtained the advantages of such operation, they ought not be permitted, at times when the foreign situation becomes less favorable, to return their vessels to coastwise operation. If the time should come when the coastwise tanker trade is not over-tonnaged, and if additional vessels are required to satisfy the demands of the economy, the way to get them is to build them in U.S. shipyards. The committee may be assured that present coastwise operators, whose continuance in the business depends upon maintaining their fleets, will build vessels whenever there is a prospect of profitable employment.

We think we should further comment—although it has no bearing on our opposition to the principle of the bill—that any amendment such as the one proposed would discriminate to the advantage of oil companies who would be enabled to make us of their foreign-flag ships, and against the interest of non-oil-company owners, who have no products of their own to carry.

Yours very truly,

CHAS. KURZ & Co., INC.,
By LESLIE C. KRUSEN.

C. J. THIBODEAUX & Co.,
Houston, Tex., May 8, 1961.

Hon. RALPH YARBOROUGH,
U.S. Senator, Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I enclose herewith S. 1627, introduced in the Senate April 14, 1961. I have retained the original of the slip sheet sent me and I am only enclosing a thermofax to facilitate your approach to this bill.

I have been in the shipping business for over 35 years and this proposed bill causes me a great deal of apprehension due to the present situation in the tanker field as far as American-flag ships are concerned.

No useful purpose can be served at this time by transferring tankers in excess of 12,500 gross tons from flags of convenience to the American flag and permitting them to engage in coastwise trade.

You, of course, cannot approach this situation without being fully advised of the conditions in the industry, therefore, so far as the tanker business is concerned, I desire to point out to you that at the present time the tanker industry is beset with tapering demand and rising costs. Specifically, the conditions are as follows:

1. Open market rates today on tanker charter parties are below cost of operation.

2. American-flag tankers are laid up and there is an abundance, if not a surplus, of American-flag tankers now and for the foreseeable future.

3. Bringing back ships—particularly tankers—would, therefore, lend nothing to improve the present situation, but would rather augment conditions which now contribute to a bad situation.

4. No appreciable increase in demand for additional tanker tonnage is presently within the foreseeable future.

5. From a national security point of view, nothing is to be gained by the proposed transferring of flag of ships—particularly tankers—as, for all intents and purposes, such ships are presently under the control of the United States in any event.

It is, therefore, my studied opinion that S. 1627 should be vigorously opposed by you and I sincerely hope that you will make such opposition.

This letter is coming to you air mail, as it is my information that the House version of the bill will be taken up by the Committee on Merchant Marine and Fisheries on Wednesday, May 10, 1961.

Yours very truly,

C. J. THIBODEAUX.

Senator ENGLE. The next bill is S. 1690, to amend title VI, Merchant Marine Act, 1936, to increase certain limitations in payments on account of operating-differential subsidy under such title.

(S. 1690 follows:)

[S. 1690, 87th Cong., 1st sess.]

A BILL To amend title VI of the Merchant Marine Act, 1936, as amended, in order to increase certain limitations in payments on account of operating-differential subsidy under such title

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third sentence in the first paragraph of section 603(c) of such Act, as amended (46 U.S.C. 1175), is amended to read as follows: "Such payments on account shall in no case exceed 90 per centum of the amount estimated to have accrued on account of such subsidy except that, with respect to that part of the subsidy relating to any particular voyage, an additional 5 per centum may be paid to the contractor after such contractor's audit of the voyage account for such voyage has been completed and the Secretary of Commerce has verified the correctness of the same."

Senator ENGLE. The first witness is Mr. Thomas E. Stakem, Administrator of the Federal Maritime Administration.

Mr. Stakem, we are glad to have you here this morning.

**STATEMENT OF THOMAS E. STAKEM, MARITIME ADMINISTRATOR,
ON BEHALF OF THE MARITIME ADMINISTRATION AND THE
DEPARTMENT OF COMMERCE**

Mr. STAKEM. The purpose of the bill is (1) to increase, from 75 to 90, the percentage of estimated accrued subsidy that could be paid to subsidized operators before such operators have audited their voyage accounts and before such audits have been verified by the Secretary of Commerce, and (2) to reduce, from 15 to 5, the percentage that could be paid after such audit and verification and before the final annual accounting.

This Department does not favor enactment of the bill.

Section 603(b) of the Merchant Marine Act, 1936, provides that the amount of the operating-differential subsidy shall not exceed the excess of the fair and reasonable cost of (A) (1) insurance, (2) maintenance, (3) repairs not compensated by insurance, (4) wages and subsistence of officers and crews, and (5) any other items of expense in which the Board finds the applicant is at a substantial disadvantage, over (B) the estimated fair and reasonable cost of the same items of expense under the flag of vessels which are substantial competitors of the contractor.

Section 603(c) of the act provides that (1) the operating-differential subsidy shall be determined and shall be payable on the basis of a final accounting made as soon as practicable after the end of each year or other period fixed in the contract; and (2) the Board may approve the payment during such period of such amounts on account as it deems proper, but not exceeding 75 percent of the estimated amount of the accrued subsidy, except that with respect to any particular voyage the Board may pay the contractor an additional 15 percent after the contractor's audit of the voyage account has been completed and the Board's auditors have verified it.

Section 606(5) of the act requires the operator to pay to the United States, at the end of a 10-year recapture period, one-half of all earnings over 10 percent of capital necessarily employed but not exceeding the amount of operating-differential subsidy paid to him during the recapture period.

Section 607(c) requires the operator to deposit in his special reserve fund all earnings in excess of 10 percent of capital necessarily employed and one of the purposes of this fund is to assure repayment to the United States of the operator's recapture obligations.

The Kracke formula which was contained in all Department of Commerce appropriation acts from 1951 to 1957, and which was made permanent legislation in the Department of Commerce appropriation act for the fiscal year 1958 (Public Law 85-52), provides in substance that payments of operating-differential subsidy shall be reduced by the amount of the operator's accrued recapture obligation.

The purpose of this was to avoid making payments to the operator which would have to be deposited in the operator's special reserve fund and be returned to the United States at the end of the 10-year recapture period.

We make operating-differential subsidy payments (based on subsidy accrual less recapture accrual) on terminated voyages as follows:

(1) We pay quarterly (monthly for large passenger vessels whose financial need therefore has been demonstrated) 75 percent of the estimated accrued subsidy, without regard to recapture, on all subsidizable items, or 90 percent less recapture, whichever is less, using as estimated subsidy rates the latest year's final subsidy rates.

(2) We pay semiannually an additional 15 percent (making a total of 90 percent) of the accrued wages subsidy, after the contractor's audit of the wages included in voyage expense and our verification of the audit, using as an estimated rate the latest year's final wages subsidy rate.

(3) With regard to the subsidizable items of expense (except wages), we pay an additional 15 percent (making a total 90 percent) of accrued subsidy after the contractor's audit of the applicable voy-

age expenses and our verification of the audit, and after determination of the final subsidy rates for the year involved.

(4) We pay the remaining 10 percent of accrued subsidy after the operator's final accountings have been completed and have been reviewed by the Maritime Administration, and after final subsidy rates have been determined.

If an operator is in a substantial recapture position (so that 90 percent of estimated subsidy, less recapture accrual is less than 75 percent of estimated subsidy without regard to recapture), he is now paid 90 percent of estimated subsidy less recapture accrual, before voyage audits are made and before final rates are determined.

On the other hand, if the operator is not in a recapture position (so that 90 percent of estimated subsidy less recapture accrual is more than 75 percent of estimated subsidy without regard to recapture), all that he can be paid before voyage audit under existing law is 75 percent of estimated subsidy, although after audit and verification of his wages expense, which is included in voyage expense, he can be, and is, paid an additional 15 percent of subsidy for wages.

The subsidy for wages is approximately 85 percent of total subsidy for all subsidizable items. Under the bill such an operator could be paid 90 percent of estimated subsidy for all subsidizable items before audit of the applicable voyage expenses and our verification of the audit.

The intent of this legislation is to relieve certain of the subsidized operators of the need to borrow from private sources in order to obtain sufficient working capital. In order to accomplish this, the payment of subsidy which has been earned but which cannot be paid because of the requirements of section 603(c) of the act would be made available.

We do not believe the Government's interest would be properly safeguarded if an operator who is not in a substantial recapture position were paid so large a percentage of estimated accrued subsidy before his audit of voyage expenses and our verification of the audit.

It is estimated that the effect of the bill would be to authorize payment of approximately \$26 to \$28 million of subsidy which is accrued but unpaid. Payments authorized by legislation would have to be appropriated in the normal manner.

With reference to making subsidy payments more current, we have given serious consideration to the need for taking certain administrative steps to bring this about. However, while we are sympathetic to the desirability of such action, the appropriation request for 1962 is not sufficient to permit any acceleration.

We are of the opinion, in the absence of overriding reasons, that the priority of advancing subsidy payments might be considered in relation to other program requirements in connection with the normal budgetary process.

For the above reasons, the Department of Commerce does not recommend enactment of S. 1690.

The Bureau of the Budget advises that there is no objection to the submission of this statement from the standpoint of the administration's program.

Senator ENGLE. Mr. Stakem, just one question.

Would you agree that the 75-percent figure ought to be raised in any amount; that is, should it be 80 percent or 82½ percent?

I note you say that the Federal Government's interests cannot be adequately protected if 90 percent is paid. Isn't it possible that it is overprotected when only 75 percent is paid? Isn't there some in-between ground?

Mr. STAKEM. We think that we have found that in-between ground by the payment of 90 percent of the wages accrual after the audit of the company's voyage expense.

As you know, as I have stated, the wages subsidy is about 85 percent of the total subsidy paid.

So that we run a special audit first on the wage costs which enables us to make the payments as to wages earlier than they do on the other subsidizable items.

Senator ENGLE. I observe a statement here which says that the Government is holding \$132 million. That is a pretty good cushion isn't it?

Mr. STAKEM. Yes; there is no question, Mr. Chairman, that as of December 31, 1960—that is the commencement of the present calendar year—the estimated operating differential subsidy payable amounted to \$135,525,000.

Senator ENGLE. That is a pretty good stack of dollar bills.

Mr. STAKEM. Yes. That has been reduced in the first quarter of this calendar year to approximately \$95.6 million. But this does not take into account any of the subsidy that has accrued up to this point in calendar 1961.

Senator ENGLE. Then to answer the question that I asked, you would say that there is no change that you would make presently in the law or in the administrative procedures?

Mr. STAKEM. We had a procedure which we would like to adopt at the time when the money available allows us to do it. This is the same procedure which we now do with respect to the passenger ships, namely, we pay them on a monthly basis.

Senator ENGLE. What you mean is that you would accelerate the bookkeeping and that sort of business so that these people would be getting their money faster although not in larger percentages?

Mr. STAKEM. That is right. We would like to see the percentage treatment in the 1963 Act remain intact. At such times as the correct amount of funds can be made available through the budgetary processes we can administratively move up to a monthly payment rather than a quarterly payment as is now done, except as to passenger ships.

Senator ENGLE. Mr. Bourbon?

Mr. BOURBON. Mr. Chairman, you say you would like to do that. But isn't it a matter of fact that you are unable to keep abreast of the auditing?

In certain cases aren't you three years behind now?

Mr. STAKEM. No. The audit does not represent a problem. The fundamental problem that we face here is the problem of money and the obtaining of the necessary funds to keep current.

As you note, the major portion of the subsidy that is accrued is paid after the audit of voyage expense. This is not what we call a final annual accounting which is offered. We don't see any problem

in connection with the audit of the accounts. The only problem is the problem of getting enough money.

Mr. BOURBON. We have received information that the Department of Defense has taken just an opposite view to this payment situation, in that they have recently decided to pay their contractors 100 percent rather than the 80 percent that they used to.

Mr. STAKEM. I am unfamiliar with their audit processes. Is that 100 percent after audit?

I should say it would be.

Mr. BOURBON. Formerly their directive provided that 20 percent of costs incurred by contractors should be withheld. The effect of the cancellation of that is to reinstate the practice which prevailed prior to November 1957 of paying contractors in full for their incurred costs as they accrue in work on new contracts, and to authorize the Military Department to pay contractors the amount presently deferred to the extent these contractors are willing to renegotiate their fee.

It is estimated that some \$175 million of deferred payments to contractors could be accelerated if contractors avail themselves of this provision.

Mr. STAKEM. Again I don't think that letter touches the audit situation with respect to the defense contractors. As I said, the audit of accounts is not what is holding up payments in the large amounts. We could make the \$20-odd million available to the industry if we had sufficient funds appropriated in order to go on a monthly payment basis.

Mr. BOURBON. Is that your main reason, then, that you oppose this, that you have not been able to or do not have the funds?

Mr. STAKEM. The principal opposition is that we think the formula of payment and audit stated in the 1936 act is sound legislation. We do not think that merely passing this bill will solve that existing problem.

We think that we can meet what the intent of the bill is by the increased appropriations to enable us to go on a different payment basis. And of course this comes down to how much money can be appropriated each year for this purpose.

Mr. BOURBON. In these days of few cargoes and high expenses I am sure you will agree that \$135 million that has to be borrowed from the bank continually is quite a drain on the companies, isn't it?

Mr. STAKEM. I don't think they will have to borrow anywhere near that amount, Mr. Bourbon, but I do know that some of the operators have had to go to banks to borrow money for operating capital.

Mr. BOURBON. Year after year?

Mr. STAKEM. Yes, I would say that is a continuing proposition, but not for all of them. This is the reason why the passenger ships went on a monthly payment basis because of the terrific amount of funds involved in the passenger subsidy.

Mr. BOURBON. Do you think any great amount of the \$135 million still owing was owed on passenger vessels, or is that amount negligible?

Mr. STAKEM. I think it is owed on all the vessels, Mr. Bourbon. I think when I appeared before the Appropriations Committee of the House of Representatives recently I made the statement that even

after the \$182 million which we have asked to be appropriated for fiscal year 1962, we would still have owing to the operators approximately \$100 to \$120 million.

Senator ENGLE. Let me ask a question.

Let's assume we raised this to 90 percent and you got a little bit uncomfortable because you might think that the Government's cushion was getting narrow. You could speed up the administrative procedure, couldn't you, and by what you might call dilatory tactics protect your position?

Mr. STAKEM. If we had the law on the books to enable the submission of payment of vouchers up to 90 percent on it, I think we would pretty much have to pay that out and the appropriated funds would run out that much sooner in the year.

Senator ENGLE. I suspect that a little foot dragging might take care of the situation. I am not sure.

What is the prospect of speeding up procedures that you referred to? I notice in your statement you said you did not have money enough to do it.

Mr. STAKEM. Yes. We could go on a monthly payment basis if we had sufficient appropriated funds, which we do not, so we must face that situation.

Senator ENGLE. In other words, if we can speak to the distinguished Chairman of this Committee, who handles these appropriations, we might get you the money to speed it up, is that it?

I am not asking you to comment.

Mr. STAKEM. I won't comment on that.

Senator ENGLE. Thank you very much for your statement.

Without objection, the letter from Mr. Gudeman, Acting Secretary of Commerce, will be made a part of this record at this point. I will quote one sentence:

The Department is reviewing this matter since it shares your concern regarding burdensome and costly delays in payments. In seeking correction of this problem, the appropriation as well as procedure need to be examined to determine the method best suited to the needs of the merchant marine and the Federal Government.

(The letter is as follows:)

THE SECRETARY OF COMMERCE,
Washington, D.C., May 8, 1961.

Hon. WARREN G. MAGNUSON,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: This is in reply to your letter of April 20, 1961 in which you asked to be advised whether the Department has considered requesting funds for supplemental Operating-Differential Subsidy appropriations in order to make payments on a monthly rather than a quarterly basis as is now the case.

You are advised that the budget estimates for fiscal years 1961 and 1962 do not provide for advance payments on a monthly basis. The Department is reviewing this matter since it shares your concern regarding burdensome and costly delays in payments. In seeking correction of this problem, the appropriation as well as procedural approaches need to be examined to determine the method best suited to the needs of the merchant marine and the Federal Government.

Your thought and communication on this matter is appreciated and will be carefully considered.

Sincerely yours,

EDWARD GUDEMAN, Acting Secretary of Commerce.

Senator ENGLE. The next witness is Mr. C. D. Gibbons, president, United States Lines, on S. 1690.

Mr. Gibbons, I have read your statement.

Without objection, the statement will be made a part of the record at this point as if read.

(The statement in full follows:)

STATEMENT OF C. D. GIBBONS, PRESIDENT, UNITED STATES LINES CO.

My name is C. D. Gibbons. I am president of United States Lines Co., but I am appearing before you today on behalf of Committee of American Steamship Lines to urge favorable consideration of S. 1690.

This bill would amend section 603(c) of the Merchant Marine Act of 1936 to bring it into agreement with present day conditions. It should be stressed at the outset that this proposal will cost the Government nothing, will be of substantial benefit to the operators and may in fact, in certain circumstances, be a financial benefit to the Government also. All of this is accomplished by a simple change in the language of 603(c) to make it read as follows:

"Such payments on account shall in no case exceed 90 per centum of the amount estimated to have accrued on account of such subsidy, except that, with respect to that part of the subsidy relating to any particular voyage, an additional 5 per centum may be paid to the contractor after such contractor's audit of the voyage account for such voyage has been completed and the Secretary of Commerce has verified the correctness of the same."

The difference between this and the present language in 603(c) is that the section now provides for payments of 75 percent, 90 percent and 100 percent, whereas the proposed amendment provides for payments of 90 percent, 95 percent and 100 percent.

In retrospect, it is worthy of note that when the present section 603(c) was amended in 1939, Rear Adm. Emory S. Land, then Chairman of the Maritime Commission, stated:

"The withholding of these funds for such a long time as is necessary under the present law, seriously handicaps the various subsidized contractors and impairs their current operating cash and, inasmuch as the Commission does not actually recapture any of the proceeds until the end of the 10th year, we believe that the law should be amended as suggested, allowing the payment of an additional 15 percent."

Prior to the amendment which Admiral Land proposed, the law provided for 75 percent and a final 25 percent. Admiral Land advocated an intermediate payment so that the three steps would be 75 percent, 90 percent, and 100 percent, as the section now provides. Admiral Land went on to say "to any extent that the Government holds back the operating subsidy, the contractor is at a financial disadvantage in comparison with his foreign competitors since the entire subsidy covers costs the American operator must pay in excess of his foreign competitors." In effect, what he said was that this procedure violated the parity principle of the act. He added that this did not involve the Government in

taking any chance and that there would be a considerable margin for safety under his suggested procedure. His most telling point was that "all this means we are withholding from 2 to 4 million dollars of this private contractor's money for which we get nothing and they get nothing for a long time, which seems unfair and useless."

There are significant differences between the situation then and now, all of which make the necessity for the revision proposed in S. 1690 most urgent and wholly justifiable.

For example, in 1939 the Government paid the first 75 percent and the next 15 percent of operating subsidy on a monthly basis. Currently these payments are being made on a quarterly basis.

The amount withheld at the time of the 1939 amendment was \$4 million. The amount withheld at December 31, 1960, was over \$130 million.

When 603(c) was adopted, and even when it was amended in 1939, the operators did not have, as they now do, substantial reserves in both the capital and special reserve funds. By contrast, the combined deposits in the capital and special reserve funds for all the subsidized operators as of June 30, 1960, were almost \$296 million, and these funds are jointly controlled by the Government and the operator. Today, by regulation and contract, the Government also exercises continuing and stringent control over the financial operations of each subsidized line.

With such substantial deposits and control, the Government has no problem of overpayment or potential risk but the operator is needlessly placed at a substantial disadvantage with this statutory holdback of accrued operating subsidy to reimburse the operator for amounts already disbursed. To our knowledge, there is no other relationship between the Government and contractors involving such a withholding of amounts due and payable.

Some operators are forced as a result of this withholding to arrange extensive borrowings at high interest rates for operating cash. This is an expensive and unsatisfactory situation and, to the extent that a company may be in a recapture position, it is not only an additional cost which should not be saddled on the operator, but it is an additional cost which is shared by the Government by reduction of subsidy recapture.

I have attached for your information a statement of accrued but unpaid operating-differential subsidy for most of the subsidized operators at December 31, 1960. Of the total of \$132,433,549 of operating-differential subsidy accrued on terminated voyages but unpaid at that date, approximately \$54 million (about 40 percent) would have been billed or received by the operators if the proposed amendment to section 603(c) had been in effect in prior years.

In summary, let me say that we have proposed nothing in this amendment which in any way modifies the audit or control procedures of the Maritime Administration. We have proposed nothing that increases the Government's expenditure for operating differential subsidy. We have simply proposed that the law permit the payments provided by this amendment so as to reduce the unpaid balances of accrued operating-differential subsidy and thus improve the operator's operating cash position.

EXHIBIT A

Statement of accounts receivable, operating-differential subsidy at Dec. 31, 1960, and projection of operating-differential subsidy to be accrued in the year ending Dec. 31, 1961, for all CASL lines¹

Accounts receivable, operating-differential subsidy at Dec. 31, 1960	Number of voyages ²	Gross subsidy	Deduct recapture or (dipback)	Net subsidy payable	Less payments previously received	Balance due or to be due	Distribution of balance due or to be due					Estimated net subsidy on voyages terminating in 1961
							10 percent settlement of final accounting	Pending final audited expenses, etc.	Accrued but not billed	Billed but not paid	Accrued on untermi-nated voyages at Dec. 31, 1960	
Calendar year:												
1956.....	1,185	\$119,477,098	\$19,785,195	\$99,691,903	\$89,965,730	\$9,726,173	\$6,194,697	(\$13,110)	\$329,798	\$2,071,172		
1957.....	1,271	138,489,701	23,278,471	115,211,230	102,009,025	13,202,205	11,138,887	762,450	2,005,149	415,337		
1958.....	1,317	139,384,660	4,701,007	134,683,653	115,809,344	18,874,309	11,490,148	4,997,680	783,845	1,402,630		
1959.....	1,268	148,192,799	1,861,229	146,331,570	122,087,263	24,244,302	12,395,755	9,240,939	1,519,837	1,987,760		
1960.....	1,219	165,426,500	1,900,880	163,525,620	88,076,993	4,75,451,627	11,861,881	\$26,394,893	15,870,103	12,250,704	\$9,065,067	
Total accounts receivable, operating-differential subsidy, at Dec. 31, 1960 %	6,323	710,973,758	51,526,782	659,446,976	517,948,360	141,498,616	53,101,378	41,382,827	20,508,732	17,440,612	9,065,067	
Deduct subsidy accrued on untermi-nated voy-ages at Dec. 31, 1960.....	111	9,065,067		9,065,067		9,065,067					9,065,067	
Total.....	6,212	701,908,691	51,526,782	650,381,909	517,948,360	132,433,549	53,101,378	41,382,827	20,508,732	17,440,612		
Add estimated subsidy on voyages terminating in 1961:												
1st quarter.....	7,332	38,585,405		38,585,405		38,585,405						\$38,585,405
2d quarter.....	7,336	38,541,186		38,541,186		38,541,186						38,541,186
3d quarter.....	7,343	39,068,696		39,068,696		39,068,696						39,068,696
4th quarter.....	7,337	38,351,240		38,351,240		38,351,240						38,351,240
Total.....	1,348	154,576,527		154,576,527		154,576,527						154,576,527
Grand total.....	7,560	856,485,218	51,526,782	804,958,436	517,948,360	287,010,076	53,101,378	41,382,827	20,508,732	17,440,612		154,576,527

¹ Bloomfield, P.F.E. and Prudential did not file required reports.

² Voyages by U. S. Lines not supplied.

³ Includes \$1,143,615 withheld by limitation factor in 1956 billing, American Export Lines.

⁴ Includes \$3,760,979 covering 75% fourth quarter 1960 collected in January 1961, American President Lines.

⁵ Includes 15% withheld pending settlement of final accounting, United States Lines.

⁶ Does not include subsidy on untermi-nated 1960 voyages, American President Lines.

⁷ Grace and U. S. Lines did not indicate number of voyages.

Senator ENGLE. You say "I have attached for your information a statement of accrued but unpaid operating-differential subsidy for most of the subsidized operators at December 31, 1961."

I would like to get directly, Mr. Gibbons, if I can, at the position taken by Mr. Stakem, in which he asserts that the interests of the Federal Government will not be adequately protected if provisions of this bill are enacted and the percentage is moved from 75 to 90 percent. I assume that you have seen and read Mr. Stakem's statement?

**STATEMENT OF C. D. GIBBONS, PRESIDENT, UNITED STATES
LINES CO.**

Mr. GIBBONS. I heard him make it this morning.

Senator ENGLE. I think we will get directly at the issue if we go at it this way.

What is your comment?

Mr. GIBBONS. I can't agree with Mr. Stakem quite the way he puts it, for several reasons. He mentioned the Kracke formula which was enacted into law, which changed the original basis for subsidy payments by providing that the Government would withhold from payment to operators the amount of the estimated subsidy. It seems to me that is very adequate protection to the United States.

Secondly, they have access, the Government has access—I think there is no doubt about it—to very large amounts of money that are held in joint bank accounts by the subsidized operators which at June 30 totaled to about \$296 million. These amounts are there. If there is anything, any discrepancy which works out which is not otherwise protected in the audit system or in the payment system, certainly that is a very adequate protection for the U.S. Government.

I can't share Mr. Stakem's view at all. We very much appreciate—the industry very much appreciates—the efforts that the members of the Maritime Administration and the Federal Maritime Board have made in recent years to speed up these payments to make it easier for the operators to get along.

They have done some very constructive things. They would do more if they had the money to do it with. That is another problem I might say that basically I think that is the main difficulty in this problem. It is not intended—I don't say that in criticism of the Maritime Administration, but the fact that there is, according to the statement we furnished the committee—and this incidentally does not cover all lines, it covers all but three—at the date indicated, December 20, there were \$132 million of money held by the Government, running back, according to this statement, 5 years.

We have no serious complaints about the audit system. They have made a very fine improvement in their audit procedures. They are much more up to date. They are better than they were a few years ago in the determination of final subsidy rates, which is one of the criteria on which they make payments. They are not as up to date in that as the industry would like to see them, or as I am sure they would like to be themselves. But that has improved.

The fact remains that \$132 million is a lot of cash to hold out of anybody's business. Mr. Stakem made one statement which I must challenge. He stated that—

The intent of this legislation is to relieve certain of the subsidized operators of the need to borrow from private sources in order to obtain sufficient working capital.

I must challenge that statement for this reason: it is not sufficient working capital that is the problem; it is sufficient working cash. All of these receivables are in our working capital. They are good receivables. We have no doubt that we will get the money, but we cannot pay bills with receivables. We must pay the wages of the crew, we must pay the other bills, and the money has to come from somewhere. It is not an insignificant statement that we occasionally have to borrow money. That is the understatement of the day. There have been large amounts that some of the lines have found it necessary to borrow in order to have cash to pay their bills while they are waiting to get this money from the Government.

I have no absolutely accurate figures but we have been compiling figures, and the latest indication is that in the year 1960 the subsidized lines borrowed money to amplify their working cash and paid interest of close to \$900,000.

The idea that we have to go out in the market and borrow large amounts of money and pay interest of \$900,000 just because Uncle Sam is a little slow paying his bills is not exactly a pleasant situation for us to be in.

Frankly, if I may express an opinion about somebody else's business, I think the Maritime Administration's principal difficulty is lack of appropriations and not lack of having prompt auditing procedures and that sort of thing. We realize that and we are therefore asking you people to give us a form of legislative relief which may overcome some of their budgetary difficulties. They are now limited by the law in the amount that they can pay promptly.

We have hopes that if the basic law is changed that a way will be found to pay the bills according to the basic change in the law.

Senator ENGLE. When they are paying on a quarterly basis as they are now, they are bound to have a pretty good backlog?

Mr. GIBBONS. Of course there will always be a substantial backlog. As we say in the statement here, the relief which this law would provide would reduce the \$132 million by about \$54 million. We can see no excuse whatever for that \$54 million not being paid. That would still leave 80-odd million dollars unpaid. It would still leave the very large amounts of capital reserves and special reserve funds available. We are all under bond to the Maritime to pay our bills. They hold out their subsidy. I honestly cannot share Mr. Stakem's view that the Government is not adequately protected.

Senator ENGLE. If they did pay once a month on a 75 percent basis, and an additional 15 percent or whatever it is on wages, would that relieve the problem somewhat?

Mr. GIBBONS. That would relieve the problem temporarily. What that does is give you your money faster than quarterly payments. You do not have as long a drag on your payments. That is a permanent improvement. As far as the final answer is concerned, all it does is give them the opportunity to pay you in the fiscal year ending

June 30, the April and May bills before July. That is the budget situation.

They would pay the same amount of money in quarterly payments. Once they get this monthly statement fixed their budget would not be any different, whether they paid 12 times a year or 4 times a year. But the transition from a quarterly payment to a monthly payment means that they have to pick up 2 months subsidy in the fiscal year to come out whole.

Senator ENGLE. We have to get this bill signed if we pass it. In the light of the chairman's statement we may get it vetoed.

Mr. GIBBONS. You may.

Senator ENGLE. In its present form. What would you think if we amended the bill to say that the Government, in its discretion, could pay up to 90 percent, would mandatorily pay 75 percent, however?

Mr. GIBBONS. We do not need any legislation to get monthly payments if they can get the appropriation to pay them.

Senator ENGLE. I am not saying that. We give the Administrator the discretion to go to 90 percent, but not make it mandatory. As I understood Mr. Stakem, I said, why would it hurt to pay the 90 percent. You have this lag time. He said without audit you have to pay it.

Suppose we said in discretion he could go to 90, but necessarily would pay 75?

Mr. GIBBONS. That would be fine if he could get the appropriation. The difficulty now is that they have not been able to get sufficient money to pay the bills they are able to pay under the present law. A number of us have payments that have met every requirement, every requirement of the regulations of Maritime, every requirement of law. They are final payments. All the audits have been completed. All the work has been done. And they have run out of money.

Senator ENGLE. What we are trying to do is to meet the argument made by Mr. Stakem, and this is the guts of the case.

We do not believe the Government's interests would be properly safeguarded if an operator who is not in a substantial recapture position were paid so large a percentage of estimated accrued subsidy before his audit of voyage expenses and our verification of the audit.

If we send the bill down to the White House and the Chairman goes over there and says this statement stands and this is our judgment, you know what the President is going to do. He is not going to sign that bill in my opinion.

If we want to get something done we are either going to have to change this bill or we are going to have to get the appropriations faster. We do not need any new law to get the appropriations faster. What we will need to do is get the appropriations faster, by speeding up the Appropriations Committee. If we change this law in order to permit them on a discretionary basis to move from 75 to 90, even though we do not get the appropriations and they are somewhat slower, as long as they had the background, as long as the Administrator thought he was safe he could go up to the 90 on a quarterly basis.

Mr. GIBBONS. If he thought the interests of the Government were being protected. He said he is afraid they won't be, and I don't understand why so I can't pass judgment on his statement.

Senator ENGLE. That involves a factual statement. It is difficult for anybody but an expert to resolve. I have the impression that the President is not going to figure it out. He is going to take the view of his chairman and if he takes that we are dead on this legislation.

That is why I asked Mr. Stakem if we had an intermediate point, say between 75 and 90, but he would not agree to that, on a mandatory basis. My thought is that we might get the bill through and get it signed if on a discretionary basis we could move between 70 and to a maximum of 90, allowing the Administrator, if he got uncomfortable with reference to the cushion he needs, and just not take advantage of the authority. I toss that out for a suggestion to you.

Of course we do have the letter which I previously put in the record following Mr. Stakem's statement, in which they say that they are conscious of this problem and that they are going to consider the problem and procedural matters to help clean it up. No one wants to see industry sitting here with the Government owing them a lot of money while you fellows have to go out and borrow money. The Government is not getting any use out of the money, and you are not getting any use out of the money, I think as you pointed out in your statement, quoting Admiral Land.

Turn that over in your mind and talk to the staff people and perhaps we can come up with something.

Mr. GIBBONS. May I add something to the statement? As to the inadequacies of Government protection, it was pointed out that the Department of Defense permits a much higher first payment than Maritime Administration does. I would like to point out one other discrepancy. In the contracts that the Maritime Administration and the operators make—the joint contracts that they make—for the construction of ships under the Merchant Marine Act, they permit 95-percent payments to the shipyards. That is considerably more than they are permitting to the steamship companies which have to pay their bills just as the shipyards do. So within their own family it looks like they have what is a discrepancy there. They are the best ones to tell you what their degree of responsibility is. I won't attempt to tell you that. But I think that is worthy of note.

Senator ENGLE. I am very sympathetic to your problem. What I am seeking is some practical way to help you out. It may be that if we amended the bill along the lines that I have mentioned, we might slow up the appropriation process rather than speed it up. I don't know. You never can be quite sure how this thing will work. If we were to speed up the appropriations we would solve a good deal of your problem.

Mr. GIBBONS. It would solve part of it, yes.

Senator ENGLE. If we could do both, that is, speed up the appropriation and permit the Administrator to go to 90 percent in all instances where he felt justified in doing it, we would reasonably get the problem more nearly solved.

Mr. GIBBONS. That might be a help.

Senator ENGLE. It might modify the chairman's position. I am afraid that his view of the case as I quoted it will have a heavy bearing on not only whether the bill will pass in Congress but also whether the President would sign it if it did pass. At any rate that is something for your consideration. Thank you very much.

Do you have any questions?

Mr. BOURBON. No, sir.

Mr. GRINSTEIN. No, sir.

Senator ENGLE. Thank you very much for your testimony.

The bill will be voted to the full Committee for such further action as it wants to take.

(Whereupon, at 11:10 a.m., the committee proceeded to the consideration of other business.)

(The reports of the Secretary of Commerce and the Comptroller General on S. 1960 follow, together with copies of correspondence between the chairman of the committee and the Director of the Budget; also a letter from the Merchant Marine Institute, Inc., in support of the bill:)

THE SECRETARY OF COMMERCE,
Washington, D.C., May 10, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

Dear Mr. CHAIRMAN: This is in reply to your request of April 24, 1961, for the views of this Department with respect to S. 1690, a bill to amend title VI of the Merchant Marine Act, 1936, as amended, in order to increase certain limitations in payments on account of operating-differential subsidy under such title.

The purpose of the bill is (1) to increase, from 75 to 90 the percentage of estimated accrued subsidy that could be paid to subsidized operators before such operators have audited their voyage accounts and before such audits have been verified by the Secretary of Commerce, and (2) to reduce, from 15 to 5, the percentage that could be paid after such audit and verification and before the final annual accounting.

This Department does not favor the enactment of the bill.

Section 603(b) of the Merchant Marine Act, 1936, provides that the amount of the operating-differential subsidy shall not exceed the excess of the fair and reasonable cost of (A) (1) insurance, (2) maintenance, (3) repairs not compensated by insurance, (4) wages and subsistence of officers and crews, and (5) any other items of expense in which the Board finds the applicant is at a substantial disadvantage, over (B) the estimated fair and reasonable cost of the same items of expense under the flag of vessels which are substantial competitors of the contractor.

Section 603(c) of the act provides that (1) the operating-differential subsidy shall be determined and shall be payable on the basis of a final accounting made as soon as practicable after the end of each year or other period fixed in the contract; and (2) the Board may approve the payment during such period of such amounts on account as it deems proper, but not exceeding 75 per cent of the estimated amount of the accrued subsidy, except that with respect to any particular voyage the Board may pay the contractor an additional 15 per cent after the contractor's audit of the voyage account has been completed and the Board's auditors have verified it.

Section 606(5) of the act requires the operator to pay to the United States at the end of a 10-year recapture period, one-half of all earnings over 10 percent of capital necessarily employed but not exceeding the amount of operating-differential subsidy paid to him during the recapture period. Section 607(c) requires the operator to deposit in his special reserve fund all earnings in excess of 10 per cent of capital necessarily employed and one of the purposes of this fund is to assure repayment to the United States of the operator's recapture obligations.

The Kracke formula which was contained in all Department of Commerce appropriation acts from 1951 to 1957, and which was made permanent legislation in the Department of Commerce appropriation acts for the fiscal year 1958. (P.L. 85-52), provides in substance that payments of operating-differential subsidy shall be reduced by the amount of the operator's accrued recapture obligation. The purpose of this was to avoid making payments to the operator which would have to be deposited in the operator's special reserve fund and be returned to the United States at the end of the 10-year recapture period.

We make operating-differential subsidy payments (based on subsidy accrual less recapture accrual) on terminated voyages as follows:

(1) We pay quarterly (monthly for large passenger vessels whose financial need therefor has been demonstrated) 75 per cent of the estimated accrued subsidy, without regard to recapture, on all subsidizable items, or 90 percent less recapture, whichever is less, using as estimated subsidy rates the latest year's final subsidy rates.

(2) We pay semiannually an additional 15 percent (making a total of 90 percent) of the accrued wages subsidy, after the contractor's audit of the wages included in voyage expense and our verification of the audit, using as an estimated rate the latest year's final wages subsidy rate.

(3) With regard to the subsidizable items of expense (except wages), we pay an additional 15 percent (making a total of 90 percent) of accrued subsidy after the contractor's audit of the applicable voyage expenses and our verification of the audit, and after determination of the final subsidy rates for the year involved.

(4) We pay the remaining 10 percent of accrued subsidy after the operator's final accountings have been completed, and have been reviewed by the Maritime Administration, and after final subsidy rates have been determined.

If an operator is in a substantial recapture position (so that 90 percent of estimated subsidy, less recapture accrual is less than 75 percent of estimated subsidy without regard to recapture), he is now paid 90 percent of estimated subsidy less recapture accrual, before voyage audits are made and before final rates are determined.

On the other hand, if the operator is not in a recapture position (so that 90 percent of estimated subsidy less recapture accrual is more than 75 percent of estimated subsidy without regard to recapture), all that he can be paid before voyage audit under existing law is 75 percent of estimated subsidy, although after audit and verification of his wages expense which is included in voyage expense, he can be, and is, paid an additional 15 percent of subsidy for wages. The subsidy for wages is approximately 85 percent of total subsidy for all subsidizable items. Under the bill such an operator could be paid 90 percent of estimated subsidy for all subsidizable items, before audit of the applicable voyage expenses and our verification of the audit.

The intent of this legislation is to relieve certain of the subsidized operators of the need to borrow from private sources in order to obtain sufficient working capital. In order to accomplish this, the payment of subsidy which has been earned but which cannot be paid because of the requirements of section 603(c) of the act would be made available. We do not believe the Government's interest would be properly safeguarded if an operator who is not in a substantial recapture position were paid so large a percentage of estimated accrued subsidy, before his audit of voyage expenses and our verification of the audit. It is estimated that the effect of the bill would be to authorize payment of approximately \$26-\$28 million of subsidy which is accrued but unpaid. Payments authorized by legislation would have to be appropriated in the normal manner.

With reference to making subsidy payments more current we have given serious consideration to the need for taking certain administrative steps to bring this about. However, while we are sympathetic to the desirability of such action, the appropriation request for 1962 is not sufficient to permit any acceleration. We are of the opinion, in the absence of overriding reasons, that the priority of advancing subsidy payments might be considered in relation to other program requirements in connection with the normal budgetary process.

For the above reasons, the Department of Commerce does not recommend enactment of S. 1690.

The Bureau of the Budget advises there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

EDWARD GUDEMAN,
Acting Secretary of Commerce.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, May 15, 1961.

B-138589

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,

DEAR MR. CHAIRMAN: Further reference is made to your letter of April 24, 1961, acknowledged on April 26, requesting the comments of the General Accounting Office concerning S. 1690, 87th Congress, 1st Session, entitled "A BILL To amend title VI of the Merchant Marine Act, 1936, as amended, in order to increase certain limitations in payments on account of operating-differential subsidy under such title."

The subject bill is a matter of policy for determination by the Congress and, therefore, we make no recommendation with respect to its enactment. However, we should like to call attention to the fact that the reference to 46 U.S.C. 1175 on line 4, page 1, apparently was intended to read 46 U.S.C. 1173.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

AMERICAN MERCHANT MARINE INSTITUTE, INC.,
Washington D.C., May 10, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The American Merchant Marine Institute is the largest of the national trade associations representing American shipowners and operators. Among our membership are subsidized lines and nonsubsidized lines operating vessels of all types in our domestic and foreign trade.

We heartily endorse the principles embodied in S. 1690. This bill makes minor modification in section 603(c) of the Merchant Marine Act of 1936. It allows for payment of 90 percent of the subsidy accrued in place of the present 75 percent, an additional 5 percent of the subsidy to be paid upon final audit, and ultimate payment of 100 percent of the total accrual.

In our judgment, these amendments are essential in order to modernize the relationship between the Government and the ship operator. The bill in no way alters the total cost of subsidy to the Government, nor does it in any way weaken controls and procedures of the Maritime Administration which have been bestowed upon it in order to assure propriety in the payment of operating-differential subsidy. Moreover, as I am sure the committee appreciates adequate protections against potential overpayments by the Government are provided through the Government's control over the substantial funds subsidized ship operators have in their reserve funds. At no cost to the Government, it releases the operator from being compelled to make financial commitments resulting from unnecessary withholding of monies properly due him, and in this fashion improves his cash position.

We feel certain that testimony developed during the course of the hearing will further substantiate for you our profound conviction in connection with this legislation, which we hope will be reported out by your committee promptly and favorably.

We respectfully request that this communication be made a part of the record of the hearing.

Sincerely yours,

ALVIN SHAPIRO.

MAY 18, 1961.

Mr. DAVID E. BELL,
*Director, Bureau of the Budget,
Executive Office Building, Washington, D.C.*

DEAR MR. BELL: In the Department of Commerce report on S. 1690, dated May 10, 1961, and in testimony by Federal Maritime Board Chairman Thomas E. Stakem at the public hearing on the bill before the Senate Subcommittee on Merchant Marine and Fisheries on May 10, 1961, opposition was expressed, with Budget concurrence, to the proposal to increase from 75 to 90 the percentage of estimated accrued subsidy that could be paid to subsidized vessel operators before final audits and verification by the Secretary of Commerce.

Testimony by Mr. Stakem at the hearing was to the effect that there was an estimated \$135,525,000 of operating-differential subsidy accrued on terminated voyages but unpaid on December 31, 1960. An industry witness stated that from figures compiled "the latest indication is that in the year 1960 the subsidized lines borrowed money to amplify their working cash and paid interest of close to \$900,000."

The primary reason advanced by the Department of Commerce, in its report on the bill, for opposing enactment was that "we do not believe the Government's interest would be properly safeguarded if an operator who is not a substantial recapture position were paid so large a percentage of estimated accrued subsidy". At the same time the Department stated in its report that they have given serious consideration to the need for taking certain administrative steps to making subsidy payments more current. Industry testimony at the hearing was that the payments backlog would be reduced by about \$54 million if the proposals of S. 1690 were made effective. Mr. Stakem offered an estimate of a \$26 million to \$28 million reduction.

Subsequent to the hearing telephone conversations between the Committee staff member handling this legislation and the chief of your Bureau's commerce and finance section, and with the Chairman of the Maritime Board, disclosed that there were ample funds in the subsidized operators' reserve funds to protect the Government's interests in the event the Congress saw fit to give approval to payment of the higher percentage of subsidy funds before final audits and verification. As one industry witness put it at the hearing on the bill—"The Government has access to very large amounts of money that are held in joint bank accounts by the subsidized operators which at June 30 totaled to about \$296 million".

Under the circumstances, it would be appreciated if the matter again were given study, and the Committee advised as to the Bureau's views on the bill's proposals at this time.

Sincerely yours,

WARREN G. MAGNUSON,
Chairman.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., June 8, 1961.

Hon. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

MY DEAR MR. CHAIRMAN: This is in reply to your request dated May 18, 1961, for the views of the Bureau of the Budget with respect to S. 1690, a bill "To amend title VI of the Merchant Marine Act, 1936, as amended, in order to increase certain limitations in payments on account of operating-differential subsidy under such title" and related proposals to reduce the amounts of maritime operating differential subsidies estimated to have been earned which have not been paid.

The three facets of S. 1690 and similar proposals to reduce payment backlogs which require consideration are: (1) equitable treatment of this group of Government contractors; (2) proper safeguarding of Government's interest; and (3) budgetary accommodation of the expenditure effect. The first two of these considerations are principally the responsibility of the Department of Commerce, and on these we would normally defer to the judgment of that Department.

With further regard to this matter, there is enclosed for your information a copy of a statement pertinent to this problem which was recently submitted by the Director of the Bureau of the Budget to the Subcommittee on General Government Matters, Department of Commerce and Related Matters of the House Appropriations Committee.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

SUPPLEMENTARY STATEMENT ON MARITIME SUBSIDY PAYMENTS

Estimated operating differential subsidies, net of estimated potential recapture, are considered to have been earned by the subsidized steamship operators at the termination of each voyage for which a Government payment is to be made. Payment, however, is delayed because of the natural lag in billing by the operators, necessary audit, calculation of rates, and the settlement of disputes. As of March 31, 1961, the total amount of subsidy estimated to have been earned but not yet paid to operators was \$137 million.

Legislation has been introduced in both Houses to liberalize the formulas incorporated in section 603(c) of the Merchant Marine Act, 1936, for withholding of payments pending audit and determination of rates. The Department of Commerce, in its comments on this legislation, has stated that the proposed relaxation of payment formulas would not properly safeguard the Government's interest.

Payment on a monthly vs. quarterly basis represents an alternative procedure for reducing the large backlog of accrued subsidies, which would not require amendment of existing law. While over the long term such acceleration would create no added cost to the Government (other than cost of borrowing or loss of interest on invested funds), the short-term effect would be to cause disbursement of an additional \$20 million. Although there is no restriction in the appropriation language to preclude conversion to a monthly payment basis, funds now available and the appropriation requested for operating differential subsidies in the 1962 budget are not expected to be sufficient to accommodate this expenditure in addition to other anticipated programs to be financed from the appropriation.

Our general policy when reviewing the budget prepared by the previous administration has been to consider amendments only for major matters. This proposed change in procedure was accordingly not brought up for consideration during our reviews.

We would readily agree with the principle that amounts due Government contractors should be paid as rapidly as possible consistent with proper safeguards. However, a change in procedure involving significant Government expenditures should also be examined in relation to the many demands on the budget. Preparation of the 1963 budget will permit us to give thorough consideration to this matter.

MERCHANT MARINE LEGISLATION

MONDAY, MAY 15, 1961

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 5110, New Senate Office Building, Hon. Clair Engle presiding.

Senator ENGLE. The subcommittee will be in order for the consideration of S. 1728.

Under existing law, the Federal Maritime Board, or the Secretary of Commerce, is authorized to acquire obsolete vessels in exchange for an allowance of credit against new construction. Such allowance is determined at the time the construction contract is signed.

In other words, the owner must turn in his vessel before construction has started, which could take as much as 2 years' time. This legislation would allow the old vessel to be turned in either at the time the contract for new construction was signed, or when the new vessel was delivered.

(The bill follows:)

[S. 1728, 87th Cong., 1st sess.]

A BILL To amend section 510 of the Merchant Marine Act, 1936, to provide for the trade-in of obsolete vessels in connection with the construction of new vessels, either at the time of executing the construction contract or at the time of delivery of the new vessel

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 510 of the Merchant Marine Act, 1936 (46 U.S.C. 1160) is amended by:

(1) Striking the present subsection (b) and inserting in lieu thereof the following:

"(b) In order to promote the construction of new, safe, and efficient vessels to carry the domestic and foreign waterborne commerce of the United States, the Commission is authorized, subject to the provisions of this section, to acquire any obsolete vessel in exchange for an allowance of credit. Any agreement made by the Commission under this section shall provide that the obsolete vessel shall be transferred to the Commission, at the owner's election made upon execution of such agreement, either at the time the owner contracts for the construction or purchase of a new vessel or at the time of delivery of the new vessel to the owner. The amount of the allowance shall be determined at the time of the transfer of the obsolete vessel to the Commission. In the event the obsolete vessel is transferred to the Commission at the time the owner contracts for the construction or purchase of the new vessel, the allowance shall not be paid to the owner of the obsolete vessel, but shall be applied upon the purchase price of a new vessel. In the case of a new vessel constructed under the provisions of this Act, such allowance may, under such terms and conditions as the Commission may prescribe, be applied upon the cash payments required under this Act. In case the new vessel is not constructed under the provisions of this Act, the allowance shall, upon transfer of the obsolete vessel to the Commission, be paid, for the account of the owner, to the shipbuilder

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constructing such new vessel. In the event that title to the obsolete vessel is transferred to the Commission at the time of delivery of the new vessel, the allowance shall be deposited in the owner's capital reserve fund.

"In any case where at the time of enactment hereof a new vessel is under construction pursuant to a contract executed by an owner of an obsolete vessel, for which new vessel a credit against the transfer to the Commission of an obsolete vessel has not heretofore been allowed at the time of the execution of the construction contract, the Commission, upon application of such owner within ninety days after enactment hereof, is authorized to acquire an obsolete vessel at the time of delivery of said new vessel, in exchange for an allowance which shall be deposited in the owner's capital reserve fund."

(2) Striking the present subsection (d) and inserting in lieu thereof the following:

"(d) The allowance for an obsolete vessel shall be the fair and reasonable value of such vessel as determined by the Commission. In making such determination the Commission shall consider: (1) the scrap value of the obsolete vessel both in American and foreign markets, (2) the depreciated value based on a twenty or twenty-five year life, whichever is applicable to the obsolete vessel, and (3) the market value thereof for operation in the world trade or in the foreign or domestic trade of the United States. In the event the obsolete vessel is transferred to the Commission at the time the owner contracts for the construction of the new vessel, and the owner uses such vessel during the period of the construction of the new vessel, the allowance shall be reduced by an amount representing the fair value of such use. The rate for the use of the obsolete vessel shall be fixed by the Commission for the entire period of such use at the time of execution of the contract for the construction of the new vessel."

Senator ENGLE. The first witness this morning is Admiral Ford who will present the statement of Thomas E. Stakem, the Maritime Administrator.

Admiral Ford, we are very happy to have you with us this morning.

**STATEMENT OF THOMAS E. STAKEM, MARITIME ADMINISTRATOR,
ON BEHALF OF THE MARITIME ADMINISTRATION AND THE
DEPARTMENT OF COMMERCE, READ BY WALTER FORD, DEPUTY
ADMINISTRATOR**

Mr. FORD. Gentlemen, section 510 of the Merchant Marine Act, 1936, now provides (with respect to the trade-in of old tonnage for new construction) as follows:

1. The Secretary of Commerce is authorized to acquire obsolete vessels in return for an allowance of credit on new vessels which are of not substantially less utility value than the obsolete vessels.

2. The amount of the allowance shall be determined at the time the owner contracts for the construction or purchase of the new vessel.

3. If the new vessel is built under the 1936 act, the allowance shall be applied to the purchase price under terms and conditions prescribed by the Secretary.

4. If the new vessel is not built under the 1936 act, the allowance shall be paid to the shipyard at the time the obsolete vessel is delivered to the Secretary, to be applied upon the purchase price.

5. The trade-in allowance shall be the fair value of the vessel as determined by the Secretary after considering (a) the scrap value of the vessel both in American and foreign markets, (b) the depreciated value based on the vessel's 20- or 25-year life, and (c) the market value for operation in world trade or in the foreign or domestic trade of the United States.

6. If the owner of the obsolete vessel uses it during the period of construction of the new vessel, the trade-in allowance shall be reduced by the fair value of the use, which shall be determined by the Secretary for the entire period of use at the time of the execution of the contract for construction of the new vessel.

Under this section the amount of the trade-in allowance must be determined at the time the owner contracts for the construction or purchase of a new vessel. The owner can deliver the obsolete vessel at that time; or he can continue to use the vessel during the new vessel construction period, have the allowance reduced by the fair value of the use, and, finally, deliver the obsolete vessel to the Secretary of Commerce at the time the new vessel is delivered to the owner.

The bill would amend section 510 to provide as follows:

1. The owner may elect at the time the trade-in agreement is entered into (which by implication is the time when the owner contracts for the construction or purchase of the new vessel) either to deliver the obsolete vessel at that time, or at the time when the new vessel is delivered to the owner.

2. The amount of the trade-in allowance shall be determined when the obsolete vessel is delivered to the Secretary.

3. If the obsolete vessel is delivered to the Secretary when the new vessel is delivered to the owner, the allowance shall be deposited in the owner's capital reserve fund.

4. If any owner, at the time of enactment of the bill, has a vessel under construction with respect to which he does not have an agreement with the Secretary for the trade-in of an obsolete vessel, the Secretary would be authorized (upon application of the owner made within 90 days after enactment of the bill) to acquire an obsolete vessel from the owner, at the time the new vessel is delivered, in exchange for an allowance which shall be deposited in the owner's capital reserve fund.

The effect of the bill, prospectively, would be to give the operator an election which must be exercised when the trade-in agreement is entered into either (a) to have the allowance fixed at that time and pay the fair value of the use of the obsolete vessel if he uses it during the construction period of the new vessel or, (b) to have the allowance fixed when the new vessel is delivered and thus avoid the use payment. If the operator elects to deliver the obsolete vessel at the time the new vessel is delivered, the allowance would be deposited in his capital reserve fund which can be used only to pay for vessels.

The retroactive feature of the bill would give obsolete vessel owners, who refuse the trade-in allowances we offered them when their contracts for new construction were signed, the opportunity to elect (within 90 days after enactment of the bill), to trade in their obsolete vessels when their new vessels are delivered, at an allowance fixed under a formula which, if it had been in effect when their construction contracts were signed, would have yielded them a larger trade-in allowance than we offered them. These operators had their opportunity to trade in their vessels on new construction now building, and they elected not to do so. We see no equity in retroactively giving them the opportunity to elect to trade in their obsolete vessels now under a formula which, at the present time, would give them a larger allowance than we originally offered them.

We are opposed to the bill unless its retroactive feature is eliminated. If the bill's retroactive feature is eliminated, we would have no objection to the bill so amended.

We will discuss first the prospective features of the bill. The legislative history of section 510 (which was added to the 1936 act by the act of Aug. 4, 1939) does not disclose why that section requires that the trade-in allowance be determined when the ship construction contract is entered into. The capital reserve funds, however, had not (in 1939) long been in existence, and it may be that the financial condition of the subsidized operators, at that time, generally was such that they needed to have the amount of the allowance determined when the new ship construction contracts were entered into so that the allowance would be available to make progress payments on the new ship. We see no objection, at this time, however, to providing for determination of the amount of the allowance (at the operator's election) at the time the obsolete and new vessels are both delivered if the operator does not need to make use of the allowance to make progress payments on the ship. Under the bill, the election must be exercised at the time the trade-in agreement is entered into. If the operator elects to have the value determined at the time of delivery of the new ship, he would be obligated to deliver the obsolete ship to the United States no matter how much lower the fair value of the obsolete ship is when the new ship is delivered, than it was when the trade-in agreement was entered into. The bill would permit the operator to exercise his business judgment whether to sell the obsolete ship at the time the new ship construction contract is entered into, and then charter it back for the construction period, or to sell the obsolete ship to the United States at the time the new ship is delivered. In either event, he receives for the ship no more than the fair value.

With respect to the retroactive features of the bill, prior to October 1, 1960, our policy was to fix the value of traded-in ships at their restricted world market value. That is, the world market value of the ship with the restrictions on it which we impose when we consent to the foreign transfer of a vessel under sections 9 and 37 of the Shipping Act, 1916. We used this value because if the operator had elected to operate his ships under foreign flag he could sell them in the world market, but we thought, nevertheless, that he should not receive a higher value for his ship than he would receive if we consented to its sale in the world market. We fixed the trade-in allowance at the value he would receive if we consented to a foreign sale. Recently, the domestic market value of ships has been higher than the world market price. Since the domestic market value is one of the factors we must consider in determining the fair value of the ship, and since the ships are American-flag ships, we determined on October 1, 1960, to fix the fair value at the average of the domestic market price and the restricted world market value.

Three operators who were entering into ship construction contracts, shortly prior to October 1, 1960, for vessels which are still under construction, refused our trade-in offer with respect to their ships that were eligible for trade-in, and no trade-in credit, therefore, has been allowed against their new construction. Two other operators traded in fewer vessels than they were eligible to trade in, against new construction that is still building, but since a trade-in credit has been

allowed against this new construction, the retroactive feature of the bill would not apply to them. The three operators who would be covered by the retroactive feature of the bill, and the dates they entered into the construction contracts are as follows:

(1) Lykes Bros. Steamship Co., Inc.—September 13, 1960.

(2) Moore-McCormack Lines, Inc.—June 21, 1960.

(3) Pacific Far East Line, Inc.—September 22, 1959.

The number of obsolete ships involved is eight. The total offer we made on these ships was \$4,315,500. The new construction is not yet completed, but if the same ships, or similar type ships were offered for trade-in, as of now, under the policy adopted on October 1, 1960, we estimate that we would fix their total trade-in value at approximately \$4,975,000.

The new ships (with respect to which these three operators could have traded in eight obsolete ships at the time the new ship construction contracts were entered into) are scheduled for delivery to these operators as follows:

Lykes Bros. Steamship Co., Inc. (four ships)—January 1963, August 1962, October 1962, December 1962.

Moore-McCormack Lines, Inc. (one ship)—December 31, 1961.

Pacific Far East Line, Inc. (three ships)—June 12, 1961, January 30, 1962, March 30, 1962.

The owners of these ships would have a much better idea of the trade-in allowance they would receive under the bill than owners who must operate under the prospective features of the bill, because these owners would be making their decision closer to the time when the amount of the trade-in allowance would be determined.

For the foregoing reasons, we are opposed to the bill unless its retroactive feature is eliminated; and we would have no objection to the bill if it is amended to strike out the retroactive provisions.

The Bureau of the Budget advises there is no objection to the submission of this statement from the standpoint of the Administration's program.

Senator ENGLE. Admiral, as I understand this situation, if a ship operator wants to get a new vessel, he can come to the Maritime Administrator and arrange to build the new vessel. But under the present law his trade-in allowance is fixed as of the moment he signs the contract, even though it may be as much as 2 years before he gets the vessel.

Mr. FORD. That is correct.

Senator ENGLE. This bill would say that he can elect to make his trade-in either at the time that the contract is signed or at the time the new vessel is delivered; is that right?

Mr. FORD. That is right.

Senator ENGLE. As far as that feature of the bill is concerned, you have no objection to it.

The bill goes further and says that with reference to vessels currently under construction the bill would operate retroactively to permit the shipping companies for whom those vessels are being built to retroactively make trade-ins which they had not previously elected to do; is that correct?

Mr. FORD. That is correct.

Senator ENGLE. And you object to that?

Mr. FORD. Yes, sir.

Senator ENGLE. The basis of your objection is that it gives them an advantage over the fellow who is operating prospectively; is that right?

As I read the last paragraph of the statement, it says:

Because these owners would be making their decision closer to the time when the amount of the trade-in allowance would be determined, the owners of these ships would have a much better idea of the trade-in allowance they would receive under the bill than owners who must operate under the prospective features of the bill.

Is that bad, in your opinion?

Mr. FORD. We think so. We feel that the operators who now have ships building had the same opportunity that other operators have had in the past to make their election, and they chose not to accept the trade-in allowance offered them at that time and retained their vessels. We have accepted that decision and we don't feel that we should now change that particular feature of the existing legislation to the benefit of those operators who now have ships building in the yard, but that we would have no objection to going ahead on this basis for ships to be contracted for in the future.

Senator ENGLE. You have, I take it, at some previous time, given consideration to permitting the operators to do precisely what is contemplated under the bill; is that right? Has there been some study of that by the Maritime Administration previously?

Mr. FORD. Yes, sir. This has been discussed, but so far as I know this is the first time that this particular feature of the legislation has been considered. This is actually the first experience that we have had on an extensive program on the trade-in of obsolete vessels.

Senator ENGLE. Would the government pay more toward the construction of a ship under this amendment than the government would pay for the construction of a ship under the existing interpretation of the law?

Mr. FORD. The government would pay more for these particular ships that are now under construction in that we would now have to obligate funds for the trade-in of vessels against vessels now in the yard which have not previously been contracted for. In other words, we would have to obligate \$4,975,000 against ships now building in the yard which we would not otherwise have to obligate unless this legislation were made retroactive.

Senator ENGLE. As I understand it, the original offer on these ships was \$4,300,000; and now, because the trade-in value has gone up, you would have a credit of \$4,900,000; is that right? I am looking at page 7.

Mr. FORD. We would be paying more. I think I can explain it this way: We would be paying \$659,500 more than we originally would have allowed for these vessels. But we also would be paying \$4,315,000 that we are now obligated to pay. So that it would cost the Government this much more money accepting the traded-in vessels.

Senator ENGLE. Is that true because the value of the traded-in vessels has increased?

Mr. FORD. No. The difference in the allowances by balancing the domestic price and the foreign market value is \$659,000.

Senator ENGLE. Do you have any questions?

Mr. BOURBON. Admiral, do you think that your Administration would be opposed to this if the reverse had happened, if the value of these ships had gone down instead of advancing?

Mr. FORD. I think the answer is "Yes", because now we are not obligated to provide anything for the trade-in of vessels against the ships I listed—like Moore-McCormack and Pacific Far East Lines—that are now in the yard. So that we would have to buy in the obsolete vessels that we are not now obligated to buy in.

Mr. BOURBON. To get at this thing from another point: Do you think that it is absolutely fair to the shipowners when you say to them, "You want to buy a ship here that won't be delivered to you until 2 years from now. We will give you a rigid amount; we will set some amount now for the value of your ship, and then we will charge you some thousands or several hundred thousand for the use of that ship until your new ship is delivered."

Mr. FORD. That is the law under which we have been operating, and we see no objection to changing it in the future. We think that this gives the operator a better opportunity to make his own determination as to the time that he wants to trade in his vessels, and it gives him a 2-year longer period in which to decide whether or not to trade them in. He may, in that 2-year period, find that he doesn't want to trade them in at all. Now he has to make up his mind when he signs the contract.

Mr. BOURBON. I don't suppose I quite followed you there. As a matter of fact, wouldn't he be in a better position if he, the shipowner, who is supposed to be benefited by this trade-in privilege—wouldn't he be in a better position financially if he could make the election either now or later?

Mr. FORD. Yes.

Mr. BOURBON. I asked you a minute ago whether you thought it was a fair deal to them to require them to make that election now, to turn the ship over and more or less be in a vacuum for 2 years, where they didn't own any ship and had to pay the Government what might run into a couple of hundred thousand dollars for the use of their old ship until the new one is delivered to them?

Mr. FORD. That is the way the law reads now. It is not what I think or anyone else thinks. He has to make his determination at the time of signing the contract. We are in favor of giving more latitude in the future. It may well be that a number of these people need the funds they receive at the time of signing the contract for payments on the new ship and would still choose to make this election 2 years from advance of receipt of the newly constructed ship.

On the other hand, he may want to delay his decision until the time of actual receipt of the vessel. This certainly gives the operator a better break in that he has a greater latitude of determination than under the present bill.

Mr. BOURBON. But you don't care to state whether you think it is fair or not, under the present arrangement, where his ship is taken from him and he has to pay for the use of it until he gets his new ship?

Mr. FORD. I think that some of the operators will still choose to trade in their ships under the same rules that now exist in the legisla-

tion. However, this will be to the advantage of others who elect to wait. I wouldn't say it is unfair.

Senator ENGLE. Mr. Adams, would you come forward, please; and will you stay where you are, Admiral. I think we have this case where we can get down to brass tacks.

Mr. Adams, your statement has been delivered to the committee and has been read. Without objection, it will be made a part of the record as if read.

STATEMENT OF HOWARD C. ADAMS, VICE PRESIDENT, PACIFIC FAR EAST LINE, INC., WASHINGTON, D.C.

(The statement follows:)

STATEMENT OF HOWARD C. ADAMS, VICE PRESIDENT, PACIFIC FAR EAST LINE, INC.

Mr. Chairman and members of the committee, my name is Howard C. Adams, and I am vice president, Pacific Far East Line, Inc., and I am appearing before you today on behalf of the Committee of American Steamship Lines in support of S. 1728.

Section 510 of the Merchant Marine Act, 1936, was added to the original act by amendment passed in 1939. The addition of section 510 was prompted by recognition on the part of Congress that subsidized lines did not have the same freedom of disposing of their obsolete vessels as did their foreign competitors. Hence that legislation was enacted to carry out the concept of parity with foreign competitors which is the basic philosophy of the 1936 act.

There exists, however, certain limitations upon the achievement of complete parity; first, the right to trade in obsolete vessels is conditioned upon the owner entering into a construction contract to replace the obsolete vessel or vessels with new tonnage; and, second, the allowance takes the form of a credit against the purchase price of the new vessel rather than a cash payment. Likewise, over the years, by interpretation, it has become the administrative policy to require that the trade-in be accomplished at the time the owner contracts for the replacement vessels. This interpretation likewise prevents the achievement of parity as the foreign ship owner has the right to dispose of his vessel at any time he chooses to do so. This means that he has greater flexibility in the utilization of his vessel and selection of the sales market. There is no discussion in the legislative history bearing directly upon the question of whether the United States subsidized owner should be permitted to trade in his vessel at the time of delivery of the new vessel as well as at the time of entering into the contract for the replacement vessel. The present language of section 510 is ambiguous on this subject. However, as mentioned above, by interpretation, the present administrative policy requires that the owner trade in his vessel when the new construction contract is signed.

The purpose of the amendment to section 510 as provided in S. 1728 is to clarify the existing statute and to carry out better the intent of Congress to provide parity. Under the proposed amendment the owner would be permitted to elect at the time he signs the contract for the replacement vessels as to whether his obsolete vessels would be traded in at that time or whether the trade-in would be accomplished at the time of delivery of the new vessels. While not achieving complete parity with the foreign competitor—in that the U.S. owner will still be required to make his election at the time of signing the construction contract—this would permit the U.S. owner greater flexibility in utilization of his fleet. The amendment would not alter the requirement that the trade-in allowance be applied against the construction cost of the new vessel and would make no other changes in the basic statute. The proposed amendment will be applicable to all owners whose new vessels have not been delivered and would provide parity for owners who contract for new construction in the future.

Senator ENGLE. While Admiral Ford is here I would like to get right on the point of controversy, if I can.

The Chair observes that the only objection to this bill is the retroactive feature. All the witnesses appearing for the bill today,

including yourself, Mr. Flanagan, and Mr. Bartle, are all for this bill, and with very brief statements. But none of these statements deal precisely with the retroactive feature. If we can get that straightened out or at least try to get the answers in the record, perhaps we are in a position to move.

Would you care to comment on this particular point made by Admiral Ford, which is so clearly contained in the statement made by Mr. Stakem? The Maritime Administrator has said that he will interpose no objection to this bill. As a matter of fact, they would think that this would be all right except with reference to the retroactive features.

What justice do you find in making provisions of this bill retroactive as to those vessels currently under construction?

Mr. ADAMS. Senator Engle, I think that the retroactive feature has perhaps been overplayed here. The law doesn't state that the operator cannot turn his vessel in at the end of the 2-year period or when the vessels are delivered. The law states that the allowance should be established at the time the contract is signed.

Further, as in the case of the Pacific Far East Line, which I know better than the others, from a practical standpoint there is no retroactivity. That may be true in the other lines as well.

The section 510 amendment, which was established in 1939, was done for one purpose, and that was to permit the operator to trade in vessels which were not able to be sold foreign, which would permit sea-type vessels to be traded in on new construction. At that time—it still is in effect—the vessels could not be sold foreign. There is no retroactivity feature involved there.

The purpose of the act at that time was to provide for exchange of new vessels to allow obsolete vessels to be exchanged toward new vessels. There is no retroactivity feature there. The vessels that they are talking about have not yet been delivered.

In the case of Pacific Far East Line, I notice here they have a vessel which was listed to be delivered at June 12, 1961. There is no such vessel.

The next vessel—there are only two vessels that are involved in the Pacific Far East Line. One is expected to be delivered about the end of January, the other vessel is expected to be delivered about the end of March.

If a vessel had been delivered to us last year, and we want to go back and pick up the allowance for that vessel then, that would be retroactivity. If the vessel is prospectively to be delivered to us and the act says it is for the purpose of exchanging old vessels for new, that is prospective; that is not retroactive. Therefore, the law states that the allowance should be made at that time, but does not say that the operator cannot trade in at the time that new vessels are delivered.

Mr. FORD. I would like to correct that to this effect: Title to the vessel passes at the time of signing the construction contract. This is the Comptroller General's decision. If the decision to trade in has not been made at that time and title not transferred, then that decision cannot be made at a later date.

Mr. ADAMS. The law does not state that title shall pass at the time the operator signs his contract.

Mr. FORD. This is a Comptroller General decision.

Mr. ADAMS. That is correct. This is an administrative decision.

Senator ENGLE. That gets right to the point. As I understand it, you are saying, Mr. Adams, that the features of the bill are not in fact retroactive because the ship is to be delivered prospectively.

Mr. ADAMS. That is correct.

Senator ENGLE. Admiral Ford says that it is retroactive under the Comptroller General's opinion because under his opinion title has to pass at the time that the contract for the new ship is signed and as a consequence the legal situation at that point is fixed.

This bill, therefore, retroactively changes a legal situation which in time was made firm by the failure to exercise the option to trade in when the contract for the construction of the new vessel was entered into.

We may be dealing with semantics. I think what the committee would be interested in is whose bull is getting gored around here.

I want to find out, does the Government have to pay more under this retroactive feature than would have been paid if this bill were not enacted?

Mr. ADAMS. On that point, I don't think anyone can answer that right now. If you did it this instant, you could take an instantaneous reading. The ships which are to be turned in here, they list them as January 1963, August 1962—let's say all the way between the earliest, I believe, December 31, 1961—I don't think anyone at this table knows exactly what the market price will be or their allowance will be at that time. It may be less than now or it may be more than now. But the purpose of this act is to establish parity with the foreign operator. The foreign operator has the privilege and the flexibility of trading his vessel in when he gets a new vessel or at any other time he wishes to sell his vessel. This will give the American operator additional flexibility to trade in at the time the contract is signed or when the new vessel is delivered. That we do not now enjoy.

So far as Pacific Far East Line is concerned, we may take less for our vessels at the time they are traded in than we would have received, say, when the contract is signed, or we may get more. It all depends on the market value or the allowance which is established based upon the market value at the time the vessels are traded in.

Senator ENGLE. I understand that. But you will then have the choice, under this bill, of trading in at any time between the time the contract is signed and the time when the vessel is actually delivered; is that right?

Mr. ADAMS. Sir, this vessel only provides for two times: one when you sign the contract and the other when you trade the vessel in.

Senator ENGLE. Let me be sure that we have the record straight on this. This legislation only gives you two points?

Mr. ADAMS. Right.

Senator ENGLE. One when you sign and the other when you get actual delivery?

Mr. ADAMS. Yes. We now have only one.

Senator ENGLE. In other words, you can't wait the 2-year period, watch the market and pick your time to get the best market?

Mr. ADAMS. That is correct.

Senator ENGLE. What you have to do, if you don't select at the time that you sign the contract, then you have to take the market value at the time when the new vessel is delivered, which may or may not, because of the fluctuations of the market, be as advantageous from a price point of view; is that correct?

Mr. ADAMS. That is correct.

Senator ENGLE. Is that correct, Admiral?

Mr. FORD. Yes.

I would like to make another point here. On this retroactivity, we are not now obligated to take these ships in. Therefore, it is a charge against the Government which we have not entered into at this time.

Furthermore, other operators who have done this have operated under a charter from the time they have signed the contract, which reduces, actually, the amount of trade-in at the time of delivery of the vessels. If this were made retroactive for these operators they would therefore avoid that charter hire for the use of the ships which they have been using for the last several years and also get a higher trade-in value than they would have originally.

Senator ENGLE. They might get a higher trade-in, but if I understand the situation they might also get a lower one.

Mr. FORD. It happens at this time that the formula permits them a higher trade-in value.

Senator ENGLE. That is right at this moment. They actually wouldn't make an election to trade or not to trade until you were ready to hand them the vessel; isn't that right?

Mr. FORD. Yes. There is one other thing—

Senator ENGLE. Of course, they might have a little better idea as to whether the market was going to stay pretty firm or was going to drop a little.

Mr. FORD. Within 90 days.

One other thing that strikes me, that I don't understand, as to the desirability of retroactivity on this particular item as it concerns these particular operators, the trade-in value is based on the average of the foreign and the domestic price of these ships.

At the present time this figures out to be about—let's take the case of PFE; two of their vessels are valued—their trade-in value is estimated at about \$650,000. They can sell those ships, according to our estimates, for \$700,000 in the open market, in the domestic market. So I don't see why there is any great advantage in making this applicable at this particular time on a retroactive basis to these particular ships.

Maybe Mr. Adams can answer that.

Mr. ADAMS. I can answer that, Admiral. I think that the operator is entitled to the flexibility which we have discussed here. The statement which the Admiral has made, in so far as the price of the ships is concerned, is approximately correct as of this moment. They may be 10 percent higher or 10 percent lower, or 20 percent higher or 20 percent lower at the time they are traded in.

This bill, as the Admiral has stated, is a good bill, based on prospective operations. If it is a good bill prospectively, it is a good bill now. The matter of second-guessing is perhaps something we are all guilty of.

This bill was referred—not this bill but the principles or philosophy of this bill—was referred to GAO previously and GAO took the position that the way the law was now written it was ambiguous, and perhaps the only safe way to interpret the bill was to state the vessel had to be traded in at the time the contract was signed.

I think we are faced here with a technical oversight which occurred at the time the language was drawn and there is no question about it; it is ambiguous the way it is now drawn. I think the operators prospectively would have an advantage in competing against their foreign operator and introducing greater parity if it were approved. So far as the present operators are concerned, I still say it is prospective. The vessels have not been delivered.

Senator ENGLE. What has happened is this: Certain operators have signed contracts for new vessels. At the time they signed the contract they elected not to trade in the vessels. This bill says that notwithstanding that election they will have the privilege, because these vessels have not as yet been delivered, to reexercise their option at the time the vessel is delivered. Is that correct?

Mr. FORD. Within 90 days.

Senator ENGLE. Within 90 days of the time of delivery of the vessel.

Mr. FORD. Ninety days of the act, I think it is.

Senator ENGLE. That you feel, Admiral, is unfair, because at the present time the situation is somewhat different than it was at the time they first elected not to trade in, namely, the vessels are worth more than they were then; is that right?

Mr. FORD. Their trade-in value is slightly greater than it was at that time.

Senator ENGLE. Under this bill, then, if this bill were enacted and the law today, they would have 90 days from today to reexercise their option; is that correct?

Mr. ADAMS. That is correct. The 90 days would be to exercise the option but the price of the vessel to be paid or allowed by Maritime would still be the price that the market indicates at the time the vessel is delivered to the Government.

Senator ENGLE. I understand that. In other words, what they will have a chance to do is to say over again whether they choose now or will choose when the vessel is actually delivered, and some of these vessels are coming up here.

Mr. ADAMS. December 31 apparently is the next vessel, Senator. They run all the way to 1963.

Senator ENGLE. December 31, 1961, is the first one?

Mr. ADAMS. Yes, sir.

Mr. FORD. Moore-McCormack sold their vessel, I believe, that they proposed to trade in.

Senator ENGLE. So actually they are not in it; is that right?

Mr. FORD. I think that is correct.

Senator ENGLE. Actually, this bill wouldn't get through very soon, and if we get it through toward the end of the session they would have only about 6 months' lag time. You think perhaps if that one were in they could draw a pretty good bead on what the price might be, whereas some of these that are off until 1962 and June 1961, you can get substantial fluctuations.

Mr. ADAMS. The June 1961 vessel has been stricken. That should not be in there. That is a mistake. I don't know why it is there. It should not be there.

Senator ENGLE. Would you agree to that, Admiral?

Mr. FORD. Yes, I agree to that.

Senator ENGLE. In other words, what we are down to here is January 1962 and from then on until 1963, so we have quite a period of time there. Pacific Far East, you get your first one on January 30, 1962; is that right?

Mr. ADAMS. Yes. It looks like it will slide until about the middle or the end of February, right now.

Senator ENGLE. Your construction contract was signed on September 22, 1959?

Mr. ADAMS. Yes, sir. The actual price on our vessel, Senator, I don't think would vary maybe \$10,000 to what it was then, one way or the other, net price.

Senator ENGLE. We have Mr. Logan's statement here. Without objection, his statement, which is relatively brief, and which has been delivered to the committee, will be made a part of the record as if read by Mr. Flanagan.

STATEMENT OF HAROLD R. LOGAN, VICE PRESIDENT, GRACE LINE, INC.; PRESENTED BY FRANCIS D. FLANAGAN, ASSISTANT VICE PRESIDENT, GRACE LINE, INC., WASHINGTON, D.C.

(The statement follows:)

STATEMENT OF HAROLD R. LOGAN, VICE PRESIDENT, GRACE LINE, INC.

Mr. Chairman and members of the committee; my name is Harold R. Logan, I am vice president, Grace Line, Inc., and I am appearing before you today on behalf of the Committee of American Steamship Lines in Support of S. 1728.

The addition in 1939 of Section 510 to the Merchant Marine Act of 1936 was in recognition of the fact that subsidized lines did not have the same freedom in disposing of their obsolete vessels as their foreign competitors. Addition of this section, therefore, was in furtherance of the parity concept upon which the 1936 act was founded.

Administrative policy, by interpretation of the statute, presently requires that the trade-in of obsolete vessels be made at the time the owner contracts for the replacement of vessels. The fact that the present law is so administered limits the achievement of full parity, for a foreign shipowner has the right of disposing of his vessel whenever he elects to do so.

The proposed amendment in S. 1728 would give greater flexibility to the operator in the utilization of his vessels and the selection of the sales market, thereby placing him more nearly on a parity basis with his foreign competitor.

On behalf of the Committee of American Steamship Lines, I respectfully urge favorable consideration of S. 1728.

Senator ENGLE. Do you have any comments to make in addition to what has already been said?

Mr. FLANAGAN. I am Mr. Flanagan and I am here in place of Mr. Logan, representing the Grace Line.

The only comment that I can make, so far as I know, and I am sure the Maritime records will show that the Grace Line, which I represent here today, would not be affected by this retroactive feature.

However, the Grace Line feels that in order to place the American shipowners on full parity with foreign shipowners, we should include this retroactive statement. In other words, the Maritime Administra-

tion admits that the whole purpose of this bill is to place us on full parity with foreign operators.

We are not now on full parity. We would not be on full parity unless the owners who now have ships under construction and have trade-in ships to dispose of were given an equal opportunity with the foreign owners to place them in full parity.

Mr. FORD. I don't know what you mean by "full parity".

Mr. FLANAGAN. I mean an equal opportunity which you would have with a foreign shipowner to dispose of your ship either at the time you enter into your contract or when the ship is delivered.

Senator ENGLE. We also have a statement by Mr. T. P. Bartle, vice president of Lykes Bros. Steamship Co. which will be made a part of the record, as if read, at this point in the record.

STATEMENT OF THOMAS P. BARTLE, VICE PRESIDENT, LYKES BROS. STEAMSHIP CO., WASHINGTON, D.C.

(The statement follows:)

STATEMENT OF T. P. BARTLE, VICE PRESIDENT, LYKES BROS. STEAMSHIP CO.

Mr. Chairman and members of the committee, my name is T. P. Bartle. I am vice president, Lykes Bros. Steamship Co., and I am appearing before you today on behalf of the Committee of American Steamship Lines in support of S. 1728.

As Mr. Adams has so clearly stated, this bill is designed to further the principle of parity as contemplated in the Merchant Marine Act of 1936, as amended.

In essence, the bill would permit the owner of the obsolete vessel to trade in the vessel at the time of the signing of the contract for construction or purchase of a new vessel, at an allowance which shall be determined at the time of the transfer of the obsolete vessel to the Commission. Thus, the operator would have a degree of flexibility which he does not now have and is thereby disadvantaged to the extent that foreign competitors are not so restricted.

The concept of parity is the cornerstone upon which the Merchant Marine Act was founded. While the proposed revision of section 510(b) would not completely reflect the parity concept insofar as the determination of vessel allowance is concerned, it would more nearly reflect such principle.

On behalf of the Committee of American Steamship Lines, I respectfully urge favorable consideration of this bill.

Mr. BARTLE. I think our position has already been stated. We certainly support the bill and support the retroactive part of it. I might add here, for the record, that we would be the benefactor on these four vessels. We have entered into a contract, we have five new vessels already delivered to us on which we traded in five at the time of executing of the contract. We did the same thing in the second group, which was before we traded in our vessels. In the third group, on four additional vessels, we traded in four vessels at the time of signing the contract for construction. It is only on this last group, numbering four, that admittedly we had the opportunity of trading in four additional vessels at the time of execution of that construction contract, but we elected not to do it. We elected not to do it for several reasons. At the time we did not feel that the vessels were given a fair value, but, of course, that has two sides. But now, with respect to this bill, if the retroactive feature is enacted into law, we do not say at this moment whether, at the time of the delivery of these affected four vessels, we would trade in or not. We think it is certainly fair that the operator be accorded that right, but we do not

know for sure at this time whether we would exercise such right at the time. Perhaps we would.

As to the value fluctuating, and the rates of the charter hire, it is not paid to the Government when the trade-in did not take place. It can also be stated that with regard to the then value of a vessel at the end of that 2-year period during the construction of the new vessels, it stands to reason that they are a bit older and their value, unless there is an emergency of some sort, will show its wear and tear at that time.

Senator ENGLE. One further question, Admiral.

Is your objection to the so-called retroactive feature based upon the proposition that it would allow these owners to make their decision too close to the time when the amount of the trade-in allowance would be determined?

Mr. FORD. The basic objection is that this would now obligate the Government to four and half million dollars that has not been contracted for up to this time with regard to the building of the vessels now in the yard.

Senator ENGLE. Do you have any comment on that, Mr. Bartle?

Mr. BARTLE. That is a true statement. But on the other hand, certainly there is not—I wouldn't get—a strong feeling on the part of the Government that the mere fact that it was offered to us originally and we elected not to take it, there is the complete loss to us forever for having exercised or having the right to exercise the privilege later on.

You were perfectly willing to obligate the Government for the amount of that money at the time the contract is signed, but merely because we turned it down that certainly shouldn't rule out the equity of the transaction, in our opinion.

Mr. FORD. And, of course, our funds are obligated and plans made for future construction and this would mean getting additional funds for this particular purpose.

Mr. ADAMS. May I ask the Admiral what happened to the funds which were ready for use for this purpose before, and have the funds not been obligated for future construction in that area? There should have been a credit back of \$4 million, if it was previously available for that purpose.

Mr. FORD. That is easy. We never get all the money we ask for for new construction, and it has gone into new construction.

Mr. ADAMS. So your value has been received for the funds already appropriated.

Senator ENGLE. Will your company, Mr. Adams, be better off financially because of this so-called retroactive feature if it is continued in the bill?

Mr. ADAMS. Senator, I don't think we know right now. I can't say right now that our price for the vessel will be \$10,000 or \$20,000 more or \$20,000 less by January or February, 1962, than it is now. We may have an emergency and they may be worth more. The Government may requisition those vessels between now and that time. We don't know.

Senator ENGLE. What percentage of these vessels changed in value since the original operation was turned down? Percentage-wise, in rough figures, without being exact.

Mr. FORD. About 10 percent, I would say, 9 or 10 percent in the trade-in allowance, under the formula now being used. But to again state our position, we don't want to obligate four and a half million dollars. The values we use in estimating the trade-in value, one of the values is the domestic market value. Presumably these companies can sell these vessels in the open market for as much or more than they can get from the Government for the same ships.

Mr. BARTLE. I think it could be said, Mr. Chairman, that the Maritime in declaring what they determine the fair value of the vessels to be, make the determination. We may not agree with it, and either we accept it or we do not. But their determinations are made 60 or 90 days apart over the years that these trade-in arrangements have been made available to the operators. They have been high and low and fluctuating both up as well as down.

Mr. FORD. Mr. Chairman, off the record. The operators have never complained that our values were too high.

Senator ENGLE. Do you have any further questions, Mr. Bourbon?

Mr. BOURBON. I would like to ask Mr. Adams: Mr. Adams, do you have any privileges in the use of your ship by not turning it in, that you would not have if you turned it in and then had it under charter?

Mr. ADAMS. This goes back to my original statement, which was placed in the record.

At the time of signing of the contract there are a number of obligations and details and decisions to be made by the operator in connection with his new financing. If he is financing publicly, he must obtain his distributor, his underwriter of the securities, he must find retail distributors to distribute the bonds, that is Title XI bonds. Trust indentures have to be written. It is a very time-consuming operation. We found that the future planning of utilization of these vessels was difficult at that time and we would be in a much better position if those vessels were ours during the period of construction of the new vessel, rather than Maritime. If they were with Maritime, they then became titled to Maritime and we haven't the use of the vessel at that time as if the vessel had been owned by the operator, the principal reason we cannot get together with Maritime on pricing of vessels at that time, and our decision had not been made even then whether it would be better for us to keep the vessel for our own use or trade it in and charter it back.

Mr. BOURBON. When the ship is under charter are you restricted under certain uses against which you are not restricted when the vessel is not under charter?

Mr. ADAMS. I would say yes. The vessel is owned by Maritime and chartered by Maritime, and the vessel is chartered for a specific purpose.

Senator ENGLE. Each of these transactions involve ships that were not traded, so that the retroactive feature of the bill would apply—let's assume this bill passed and went down to the President in July. That would mean that within 90 days of the passage of the bill, which would be July, let's just say July 1, to make an estimate on it—you would have July, August, and September. By October 1 Pacific Far East Lines would exercise an option with reference to the trade-in of a ship to be delivered on January 30, which would be four months hence.

If I understand the Admiral's argument—and this appears on page 7 of his statement—he says sitting there with only four months ahead of you as compared with, say, over two years—this construction contract is made September, 1955—that the opportunity to evaluate whether it is more profitable to trade the vessel than it is to hold it weighs very heavily on the side of the operator; is that right?

Mr. ADAMS. No, sir.

Senator ENGLE. I may not have correctly stated the Admiral's position and I will take it as my own so that he is not in a position of saying it. It is just the way I think he is thinking, and I could be wrong. It troubles me very frankly, to push this elective date right up against the time when delivery is present, or in the immediate prospect. It creates quite a different situation, it seems to me, and it does in my opinion put the owner in a very different position than the man who is dealing with these ships prospectively because if he has two years, and you have to elect, either at the time the contract is signed or upon delivery, then you are really shooting in the dark with reference to what kind of a trade-in you are going to get. But if the bill is changed in such a way that you have a four-month crystal ball instead of a two-year plus crystal ball, it makes quite a difference between those who operate under the bill prospectively and those who currently have contracts signed under which they have not elected to trade in vessels.

What comment do you have on that, Mr. Adams?

Mr. ADAMS. Under the present law you don't crystal ball at all. That is, you decide at the time you trade the vessel in that you will trade it in at that time. You know the market price.

Senator ENGLE. That is correct.

Mr. ADAMS. There is no speculation, no risk on the part of the Government or on the part of the operator. In the case of trading in at the time the ships are delivered, there is risk on both sides. The Government may get less or it may get more, and the operator may get less or more. It places the operator in a better position parallel to that of his foreign competitor than to have to trade it in at the time the vessel is contracted for.

Senator ENGLE. I understand that. As far as the bill is concerned, prospectively, I see no problem with it. But this monkeying around with this situation in which the contracts have already been signed and the option has not been exercised gets troublesome because, as I look at these completion dates—and they are all 1962 except Lykes Bros. which has one coming up in January, 1963—the rest are all within the 1962 period.

Mr. ADAMS. If you took an operator who was going to sign a contract tomorrow, he establishes his price now or says he is going to sign his contract 3 months from now. Maritime will start working on that 3 months prior to the time the contract is signed so you have about the same leadtime if a new operator was coming to bat at this time, as a matter of fact, as we would have right now.

Senator ENGLE. It is important to get a bill through this Congress. I have the feeling that there will be some difficulties with this particular provision. Are there any further questions?

Mr. BARTLE. Senator, maybe the record should also be corrected, if it is a fact, that two of the vessels in the Admiral's statement have

been withdrawn. That has a bearing on the four and a half million dollars that the Government would be obligated to spend. In other words, I think it now would be reduced to six vessels, rather than eight.

Senator ENGLE. I am sure that the Admiral will be willing to file a supplemental statement. Would you care to put another figure in the record if that will make a difference, Admiral? You probably can do it now with a sharp pencil.

Mr. LOGAN. \$3,600,000 or \$3,700,000, really, rather than four and a half million dollars.

Senator ENGLE. With this additional caveat on the case, and that is, that the figure given by the admiral is the current figure and may not necessarily be the figure at the time of actual delivery. Now, Admiral?

Mr. FORD. I would say that it would be reduced by approximately \$650,000. In the case of Moore-McCormack, the ship they originally proposed to trade in and didn't, has been sold. But this would not deny them the right to trade in some other vessel.

Senator ENGLE. I was going to ask you about that.

Is there anything further?

Mr. BOURBON?

Mr. BOURBON. Admiral, in keeping within the spirit of the 1936 act, which is unquestionably to help the operators to establish and maintain a merchant marine on a sound basis, you have been concerned, I am sure, over the past couple of years, with the financial situation of the various subsidized lines. Admittedly, they have been having a hard time. I think you will agree with that. They have entered on a program, each one of them, that can run into some with Lykes, I guess \$300 million.

Mr. BARTLE. On the plus side, yes, sir, after construction subsidy.

Mr. BOURBON. Grace Line, it would be that much or more.

Mr. FLANAGAN. 200 million.

Mr. BOURBON. And Pacific Far East, \$250 million, at least?

Mr. ADAMS. Yes, sir.

Mr. BOURBON. Under those circumstances, and keeping in mind the spirit of the act, do you think that the Government should bear down too hard when the companies are buying ships that cost them five or six times as much as they would pay for them under the Merchant Ship Sales Act, and are admittedly having real serious difficulties in financing and in maintaining their services on a stable basis?

In other words, you say you object because this would make the Government obligate four and a half million dollars more than they have obligated now. Yet the 1936 act expresses the willingness of the Government to obligate that money on these trade-ins. What difference does it make whether the obligation in 6 months earlier or later than it might otherwise be?

Mr. FORD. That is a pretty long question. I think I can best state it this way: We have merely carried out the 1936 act as it is now written.

We are advocating a change in the law that may be of benefit to the operator. But with the great difficulty we have in obtaining funds for new construction we see no great benefit in going back retroactively on contracts that have already been signed and obligating

funds that are now earmarked for new construction when we are already behind in that program.

We don't feel that this retroactivity is going to hurt the operator. The ship values we use on trade-in are lower than the reputed domestic market value that they can sell their ships for. So, instead of getting \$4 million from the Government we would like them to sell their ships to someone else and get the money from them.

Mr. BOURBON. That is all that I have, Mr. Chairman.

Senator ENGLE. Do you think you can do that, Mr. Adams?

Mr. ADAMS. Senator, that is why this bill is not retroactive. We are trying to get this legislation in while the ship still is being constructed and make it a prospective exchange of vessels. I don't think the Admiral can say what the market will be in January or February next year any more than I can. We think the principle of this legislation is good. We in Pacific Far East Line, I think, have gone way out of our way. We have leaned over backward to fulfill our obligation in ship replacement. These last two vessels, Senator, complete our entire fleet of Maritime vessels. We are the only operator which has gone that far in the ship replacement program. We started back in 1952. We met our obligations on time, we have not stalled. This is the first time we have asked for consideration insofar as a replacement program is concerned.

I don't say that we earn it. I say we have merited some consideration for it.

Senator ENGLE. You say these last two ships complete your program?

Mr. ADAMS. Yes, sir.

Senator ENGLE. In other words, if this bill doesn't operate with reference to you on these two ships, it doesn't operate at all.

Mr. ADAMS. That is correct, sir. And we felt in 1952 that the Mariner ship was a good vessel. In 1952 we signed our contract. We have now, or will have when these vessels are completed, a total of nine Mariner vessels in our fleet, which is our complete subsidized fleet.

Senator ENGLE. I am a little puzzled as to how you can come out on this; because the Maritime Administrator has the power to fix the price of the trade-in, you don't.

Mr. ADAMS. That is correct.

Senator ENGLE. If we leave the retroactive feature in it, he might offer you a price that may be below the domestic market anyway.

Mr. ADAMS. He may do it. We feel we would like to have the opportunity to come up to bat in any event.

Senator ENGLE. If he was really playing hard and rough with this, he just wouldn't give you a price that you thought you would like to trade for.

Mr. ADAMS. That is true.

Senator ENGLE. The vice administrator is sitting down there and a little put out about this. That is the way I look at it. I am not saying that the administrator would.

I understand that he is bound at least in conscience by what is patently the market and the average between the foreign and domestic, and I wouldn't imply that he would do anything other than that.

Mr. ADAMS. I think he would be fair in his determination, Senator.

Mr. FORD. We could give them a scrap, anyway, within the law.

Senator ENGLE. Is there anything further to go in the record?

Without objection the letter from the Pacific American Steamship Association, dated May 8, 1961, addressed to the chairman, and on this subject matter and favoring the bill, will be made a part of the record at this point.

(The letter from the Pacific American Steamship Association dated May 9, 1961, follows:)

PACIFIC AMERICAN STEAMSHIP ASSOCIATION,
Washington, D.C., May 9, 1961.

Subject: S. 1728—Amend section 510, Merchant Marine Act, 1936, re time for trade-in of obsolete vessels.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

The Pacific American Steamship Association is a trade association representing a large majority of the American-flag, dry cargo steamship companies serving our trade from the Pacific coast. As such, we are interested in the above legislation.

We strongly support S. 1728 because it provides flexibility concerning the time when the obsolete vessel is transferred to the Government. This flexibility, together with the language concerning the establishment of the trade-in allowance, is necessary in order to help promote replacement of existing ships.

Because this problem is of primary concern to subsidized operators at this time, our association, in order not to burden the record with repetition, supports the testimony presented by industry witnesses under the auspices of the Committee of American Steamship Lines.

It is respectfully requested that this letter be made a part of the official record in these hearings.

Yours very truly,

J. MONROE SULLIVAN.

Senator ENGLE. That closes the hearings. I thank you gentlemen for your appearance.

(Thereupon the subcommittee was adjourned.)

(Subsequently, the following letters with reference to S. 1728 were received by the committee for inclusion in the record from the American Merchant Marine Institute, Inc., dated May 15, 1961, the Committee of American Steamship Lines and the Farrell Lines, Inc.)

AMERICAN MERCHANT MARINE INSTITUTE, INC.,
Washington, D.C., May 15, 1961.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: The American Merchant Marine Institute, Inc., a trade association which represents the preponderance of American-flag shipping, favors enactment of S. 1728 which is being considered by your Committee.

Passage of the measure is necessary to clarify Section 510 of the Merchant Marine Act of 1936 which deals with the trade-in of obsolete vessels to the Maritime Commission in connection with the construction of new vessels. Subsection (b) states that the amount of such allowance shall be determined at the time the owner contracts for the construction or purchase of a new vessel, and provides that the allowance shall not be paid to the owner of the obsolete vessel but shall be applied upon the purchase price of a new vessel.

Under administrative policy that has developed, the trade-in is required to be made at the time the owner contracts for the construction or purchase of a new vessel. The proposed amendment of Section 510 would provide that, at the owner's election made upon execution of a replacement agreement with the Commission, the obsolete vessel shall be traded in either at the time the owner contracts for the construction or purchase or a new vessel or at the time of delivery of the new vessel to the owner, and that the amount of

the allowances shall be determined at the time of transfer of the obsolete vessel to the Commission.

The present procedure does not afford to subsidized lines the flexibility needed to achieve parity with foreign operators, who have the right to dispose of their vessels at any time they choose, thereby allowing the advantage of selectivity in the market.

We urge favorable action on this proposal, in the belief that it would further implement the concept of parity that is one of the underlying principles of the Merchant Marine Act of 1936. Further, we ask that this letter be made a part of the record of this bill.

Yours very truly,

ALVIN SHAPIRO.

COMMITTEE OF AMERICAN STEAMSHIP LINES,
Washington, D.C., May 23, 1961.

HON. CLAIR ENGLE,
U.S. Senate, Washington, D.C.

DEAR SIR: We request that this letter be made part of the record of hearings before your subcommittee on S. 1728, which would amend section 510 of the Merchant Marine Act to provide that obsolete vessels can be traded in either at the time of execution of a construction contract for replacement vessels or at the time of delivery of the new vessels. The purpose of this letter is to amplify the record with respect to the change in the Maritime Administration policy on October 1, 1960, as outlined by Admiral Ford, and the effect of this change in policy upon certain of our member lines.

In the statement of the Maritime Administrator, which was read by Admiral Ford, there appears the following:

"With respect to the retroactive features of the bill, prior to October 1, 1960, our policy was to fix the value of traded-in ships at their restricted world market value. That is, the world market value of the ship with the restrictions on it which we impose when we consent to the transfer foreign of a vessel under sections 9 and 37 of the Shipping Act, 1916. We used this value because if the operator had elected to operate his ships under foreign flag he could sell them in the world market, but we thought, nevertheless, that he should not receive a higher value for his ship than he would receive if we consented to its sale in the world market. We fixed the trade-in allowance at the value he would receive if we consented to a foreign sale. Recently, the domestic market value of ships has been higher than the world market price. Since the domestic market value is one of the factors we must consider in determining the fair value of the ship, and since the ships are American-flag ships, we determined on October 1, 1960, to fix the fair value at the average of the domestic market price and the restricted world market value."

As Admiral Ford later stated, several owners who signed construction contracts for new ships prior to the change in policy on October 1, 1960, did not trade in their old ships. These owners, among them Pacific Far East Line, Inc., and Lykes Bros. Steamship Co., Inc., did not regard the restricted world market valuation offered by the Maritime Administration as being the proper basis for computing the trade-in allowances. During the course of finalizing the construction contracts, these owners informed the Board that they were unwilling to accept the offer made. In fact, one of the lines stated to the Maritime Administration Vessel Valuation Committee that they were in error in not including the domestic value as a factor in their conclusions.

The same situation which prompted the Maritime Administration to change its policy on October 1, 1960, namely, that the domestic market value was higher than the restricted world market value, existed at the time these operators signed their construction contracts for replacement vessels. However, because of the contractual deadlines in their operating-differential subsidy agreement for executing construction contracts and the necessity of accepting favorable shipyard bids before such bids expired by their terms, the owners were unable to delay the execution of the construction contracts until the Maritime Administration could be convinced its valuation policy was incorrect.

In the case of Pacific Far East Line, Inc., which signed its construction contracts in September of 1959, and thereby completed its replacement program for at least the next 15 years, extensive discussions as to trade-in values were held with the Administration in the summer of 1959. During these discussions,

PFEL submitted the attached memorandum concerning the legislative history of section 510, clearly demonstrating the intent of the statute was to provide maximum incentive and inducement for the replacement of obsolete vessels and to afford the owner the same fair and reasonable value which he could obtain on the open market. Notwithstanding these discussions, the Administration refused to change its policy at that time and continued to so refuse until October of 1960, even though the domestic sales market was then considerably higher than the restricted foreign market.

The only reason the administration advanced for its reluctance to change its policy was that it felt bound by a statement in the report of the House Merchant Marine and Fisheries Committee—issued after extensive hearings on the general subject of vessel replacement in 1955 (H. Rept. No. 843, 84th Cong.)—to the effect that restricted world market value was a proper factor to be considered in determining trade-in allowance. But this statement was made only because the restricted world market value at that time was higher than the domestic value, and the Maritime Administration was then seeking congressional concurrence in the use of that valuation which, like domestic market value, is one of the factors expressly provided in the present statute. The House committee did not intend that this value should be a limitation on the statute or that it should be the only value ever to be considered. This fact was stated in a letter dated August 31, 1959, to the Maritime Administrator from the chairman of the House Merchant Marine and Fisheries Committee, a copy of which is also attached. Senator John Marshall Butler, a member of the Senate committee, expressed the same views in a letter dated September 1, 1959, which likewise is attached. Despite these expressions of congressional intent, the Maritime Administration declined to change its policy prior to the execution of the PFEL contracts.

Subsequently, in 1960, Lykes made the same representations to the Administrator. But Lykes had to execute its replacement contract on September 13, 1960, only several weeks before the change in policy, made on October 1, 1960.

Since both of these owners discussed with the Maritime Administration the very points which brought about the change in policy and since the Maritime Administration, when it finally came to realize the validity of these arguments, did change its policies, these owners (who executed construction contracts but whose replacement vessels have not as yet been delivered) should not be penalized. This is particularly true because Pacific Far East Line, Inc. has completed its replacement program and will not have another opportunity to trade in obsolete tonnage for 15 years, and Lykes has been the leader in carrying out its overall replacement contract, having already entered into construction contracts for 17 vessels.

Respectfully,

ALBERT E. MAY,
Acting Executive Director.

MEMORANDUM ON BEHALF OF PACIFIC FAR EAST LINE, INC. AS TO THE
DETERMINATION OF TRADE-IN ALLOWANCES UNDER SECTION 510

I. INTRODUCTORY

This memorandum is submitted on behalf of Pacific Far East Line, Inc. ("PFEL") in connection with the determination to be made by the Maritime Administration ("Administration") of the trade-in values under section 510 of the Merchant Marine Act, 1936, as amended (the "Act") of two C-2 type vessels and one AP-3 type Victory vessel which PFEL proposes to trade in against the purchase price of two new C4-S-1t Mariner vessels.

As outlined herein, it is PFEL's position that the trade-in value determination to be made under section 510 should be consistent with the congressional intent that the allowance should be an incentive and inducement to the owner to trade in older vessels and replace them with new tonnage. For this reason the owner should be given the "fair and reasonable value of such vessels" at least equal to the price that it would be able to obtain if there were no restrictions upon the free sale of such vessels by the owner. It is clear that the administration may use any of the three value criteria set forth in the act, namely, scrap value, depreciated value, or market value, in arriving at the allowance to be given the owner, but this end result must be the "fair and reasonable value of such vessel" as contemplated by the act and at least equal to the amount which could be realized from private sale.

The policy of the administration has been to compute the trade-in allowance on the basis of the so-called restricted world market value. This policy was adopted with the approval of Congress after considerable discussion, at a time when the restricted world market value was substantially in excess of the United States domestic market value. The rationale for adopting this value was that the subsidized operator, if not prevented by restrictions of the Department of Defense and the Maritime Administration, could freely sell its vessels to persons not citizens of the United States and transfer such vessels to foreign registry. The same restrictions still prevent PFEL from transferring its two C-2 type vessels and one AP-3 type Victory vessel to foreign ownership and registry. On the other hand, PFEL does not have the right to sell freely its vessels privately on the U.S. domestic market as it must be in a position to charter back at least two of these vessels, or other vessels, in order to maintain its present service on Trade Route 29 during the construction period of the replacement vessels. The Administration will not pay operating-differential subsidy on privately-owned vessels chartered in by a subsidized operator unless there is a finding of "actual emergency". Therefore, the only way in which PFEL can maintain its present subsidized service is to trade the vessels in and charter the same back from the Administration under the "use" provisions of section 510.

Because of these restrictions upon the free salability of the vessels, the Administration, in order to determine the "fair and reasonable value" of such vessels, must arrive at a value which PFEL would be able to obtain for the vessels if there were no restrictions upon free transfer and use of the vessels. This consideration and the determination reached pursuant thereto is entirely consistent with both the language and legislative intent of section 510.

II. THE LANGUAGE AND INTENT OF SECTION 510 SHOW CLEARLY THAT CONGRESS INTENDED THE TRADE-IN PRIVILEGE TO BE AN INCENTIVE TO VESSEL REPLACEMENT

Section 510(d) of the Merchant Marine Act, 1936, provides:

"(d) The allowance for an obsolete vessel shall be the fair and reasonable value of such vessel as determined by the Federal Maritime Board or Secretary of Commerce. In making such determination the Board or Secretary shall consider: (1) The scrap value of the obsolete vessel both in American and in foreign markets, (2) the depreciated value based on a twenty-year life, and (3) the market value thereof for operation in the world trade or in the foreign or domestic trade of the United States. If the owner of the obsolete vessel uses such vessel during the period of construction of the new vessel, the allowance shall be reduced by an amount representing the fair value of such use. The rate for the use of the obsolete vessel shall be fixed by the Board or Secretary for the entire period of such use at the time of execution of the contract for the construction of the new vessel" (46 U.S.C. § 1160(d)). The Office of the General Counsel of the Administration described the Congressional intent underlying section 510 as follows:

"The inclusion of section 510 was intended to be a further inducement for shipowners to trade-in their obsolete vessels for newer craft to be built in American yards. It was enacted as permanent legislation and was intended to be complementary to, rather than in substitution of, section 507, which it closely resembles. Congress recognized the need for broadening the inducement for trade-ins in an effort to eliminate old and inefficient ships from the seas and to include vessels engaged in the coastwise trade. It particularly recognized that the formula set out in section 507 did not represent a realistic basis for arriving at the actual value of older vessels. It was intended particularly to remove obsolete tonnage from service. The tonnage so eliminated was intended by Congress not to be used except during periods in which vessels might be requisitioned for national defense" (Opinion of the General Counsel, Maritime Administration, January 19, 1956, pp. 2-3) (citations omitted).

This view is in accord with two earlier opinions of the Comptroller General, which stated in 1943:

"The authority granted the Commission by 510(h) to make an allowance of credit on an obsolete vessel toward the purchase price of a new vessel was intended to provide an incentive—other than by way of subsidy—to shipowners to replace older vessels with efficient craft of modern design. * * * It would seem therefore, that section 510(d) and the extent to which the terms thereof limit the amount of an allowance should be construed in the light of such purpose" (Compt. Gen. Letter B-32105 (unpublished), Feb. 17, 1943).

In 1953, the Comptroller General reaffirmed this view.¹ At that time the Secretary of Commerce inquired whether, inasmuch as the section 510 credit was intended as an incentive, he could find the fair and reasonable value of the vessel to be traded in to be the highest value arrived at under any one of the three factors specified in section 510(d). The Comptroller General answered in the affirmative:

"* * * if after thorough consideration of all the facts concerning a particular transaction, it is determined that the 'fair and reasonable' value of the obsolete vessel is equivalent to the highest of the three valuations to be considered, there is no legal objection to fixing the credit allowance in that amount. The law clearly permits the valuation to be controlled by any one or by any combination of the three factors specified; at the same time it does require, in making the determination, that consideration be given to each of the three factors" (p. 2).

Finally, in 1957, the Comptroller General, citing his 1953 opinion, *supra* ruled that the Board has discretion to determine the weight to be given to each factor under Section 510(d).²

In determining the "fair and reasonable" credit to be allowed under section 510, the Committee on Merchant Marine and Fisheries recommended, after lengthy hearings on the general subject of Vessel Replacement, that—

"The Maritime Administration should adopt a policy under which operators who agree to turn in vessels covered by the provisions of section 510 of the 1936 act would be offered a credit allowance determined on the basis of established world market values of vessels of the type involved, *provided an allowance so determined represents the fair and reasonable value of the vessel.*" [p. 6; emphasis supplied.]³

It is clear, from the testimony before the Committee at that time, that the conclusion and recommendation of the Committee was predicated upon the fact that the world market value was considerably in excess of the domestic market value at that time and hence would more effectively serve to carry out the "incentive" purposes of section 510.

Early in 1957 the Maritime Administrator again testified before the House Committee to bring the Committee up to date as to the then existing trade-in policy of the Administration. At that time the world market value continued to be much higher than the domestic market value. The Administrator stated:

"In the absence of unusual circumstances restricted world market value represents the fair and reasonable trade-in allowance, for ships, whether or not built with construction differential subsidy or purchased under the Merchant Ship Sales Act of 1946. * * *"⁴

The Administrator further stated that he favored the restricted world market value because "* * * it recognizes in favor of the owner the values which owners of other personal property are able to obtain for themselves" (id. at p. 12). This, he testified, provided the inducement contemplated by section 510:

"Mr. MORSE. Let us put it this way, Mr. Rivers. The 1960 act gives us discretion. It gives Maritime discretion in arriving at what would be a fair and reasonable trade-in value. In exercising my discretion I have indicated that I am agreeable to paying 90 percent of the world market value today on trade-ins. *That is an inducement to American-flag owners to trade in their old vessels and build new vessels because the world market value is substantially in excess of the American market value* and also on today's market is substantially in excess of the price they paid for the vessel initially." [Emphasis added.]⁵

III. CONCLUSION

The following conclusions result from the foregoing discussion:

1. By including section 510, Congress intended that the trade-in allowance be an incentive and inducement to shipowners to trade in older tonnage and replace the same with new vessels.

2. That the allowance to be given to the owners must be the "fair and reasonable value" of such vessels, based upon existing circumstances.

¹ Compt. Gen. Opinion B-115883, Aug. 11, 1953.

² Compt. Gen. Opinion B-134493, Dec. 23, 1957.

³ H. Rept. No. 843, "Vessel Replacement in the American Merchant Marine," 84th Cong., 1st sess. (1955).

⁴ Transcript for Feb. 6, 1957, at p. 10.

⁵ Transcript for Feb. 7, 1957, at p. 116.

3. The Board must consider each of the three value criteria stated in the act, but is not bound to make its determination upon the basis of all or any one of the criteria.

4. Because of existing circumstances, PFEL is not in a position to sell its vessels either on the world market or on the domestic market.

5. PFEL is entitled to the "fair and reasonable value" of its vessels at least equal to the values which it could realize on either the domestic market or the foreign market if it had freedom of action in connection with the sale of its vessels.

AUGUST 31, 1959.

HON. CLARENCE A. MORSE,
*Administrator,
Maritime Administration, Washington, D.C.*

DEAR MR. MORSE: It has come to my attention that a problem has arisen in connection with the determination by the Maritime Administration of the "fair and reasonable value" of vessels to be traded in by U.S. shipowners, pursuant to section 510 of the Merchant Marine Act, 1936, as amended, for credit allowances against the purchase price of replacement tonnage to be constructed for such shipowners. It is my understanding that the Maritime Administration is presently determining such allowances on the basis of the world market value of such vessels less 10 percent, which is generally referred to as the "restricted world market value." The Administration from time to time has indicated that it adopted this method of valuation as a result of recommendations made by the Committee on Merchant Marine and Fisheries after extensive hearings before the committee as to general problems with respect to vessel replacement in 1955.

At the time these hearings were held and the report issued, the world market value for all vessels was substantially higher than prices which could be realized by sale of the vessels in the U.S. domestic market. Today the converse is true. The so-called restricted world market value on vessels of the C-type and Victory-type, which are the types of vessels presently used by U.S. subsidized operators and which will be traded in against replacement tonnage, is anywhere from \$250,000 to \$350,000 less than the value which can be realized by sale on the U.S. domestic market; therefore, if the Maritime Administration continues to limit its determination of the allowance to the so-called restricted world market value, the vessel owners will receive allowances substantially less than could be realized from private sale.

The reason that my committee recommended to the administration in House Report No. 843 that the administration use the world market value was that such value provided at that time the greatest incentive and inducement to U.S. shipowners, and particularly subsidized operators, to proceed with vitally required vessel replacement programs. It has always been my view that Congress, in enacting section 510, intended the trade-in allowance to be determined on a basis which would provide such an incentive to the U.S. shipowners. For that reason, the administration was given broad discretion in determining the allowance and was not limited to any one of the various value criteria stated in section 510(d). My view as to the incentive features of section 510 have always been shared by the Maritime Administration. Likewise, in further hearings before our committee in February of 1957, it was testified that the administration was basing the trade-in allowances on restricted world market value because such value was substantially in excess of the U.S. market value in order that there would be an inducement to American-flag owners to trade in their old vessels and build new vessels (committee transcript, Feb. 7, 1957, p. 116). At that time the committee indicated no objection to a continuation of this policy.

For these reasons the Maritime Administration, in administering section 510 should not limit itself to the so-called restricted world market value or any other of the specific values stated in section 510, but should give paramount consideration, in determining credit allowance, to the value which will serve as the greatest inducement to U.S. subsidized operators to replace obsolete tonnage at any particular time. Further, because of the national defense aspects of the Merchant Marine Act, 1936, the administration should consider the value and benefit which the United States will realize during an emergency period by having the traded-in vessels available in the national defense reserve fleet.

Finally, each owner who trades in his vessels should receive an allowance equal to the amount which he could realize if he were completely free to sell the vessel either on the U.S. market or on the world market. No U.S.-flag operator can transfer his vessels foreign without the consent of the Maritime Administration under the Shipping Act, 1916, as amended. The Department of Defense at the present time will not concur in such consent in the case of C type and AP-3 Victory-type vessels. Likewise, the U.S.-flag subsidized operators are restricted by the Maritime Administration from receiving subsidy on any privately owned chartered vessels unless there is a finding of "actual emergency"; therefore, if the vessels which are to be replaced by the subsidized operator must be continued in operation in the subsidized service until the replacement vessels are completed, he has no choice but to trade in the vessels to the Maritime Administration under section 510 and charter the vessels back during the construction period. Since these restrictions in most instances will effectively require that the subsidized operator trade in his older tonnage, it is my strong feeling that he should receive a credit allowance at least equal to the value he could realize from private sale on any market.

Sincerely,

HERBERT C. BONNER.

SEPTEMBER 1, 1959.

HON. CLARENCE A. MORSE,
Administrator, Maritime Administration,
Washington, D.C.

DEAR CLARENCE: I have been advised that a situation which may seriously interfere with vessel replacement programs is developing as a result of the policy now being followed by the Maritime Administration in determining trade-in allowance to be granted pursuant to section 510 of the Merchant Marine Act, as amended, to United States shipowners for application against the construction cost of replacement vessels. The Administration for a number of years, with full approval of the Congressional committees responsible for developing a strong American Merchant Marine, has based the trade-in allowances upon the so-called restricted world market value. This decision was made after extensive hearings on the ground that the owners of obsolete tonnage should be permitted to realize, as trade-in allowances, amounts equivalent at least to the value which could be realized from private sale. At that time and until the last several months, the restricted world market value has been considerably higher than the U.S. domestic market value. Today, however, there has been a substantial change and the U.S. domestic market values are far greater than restricted world market values.

The Maritime Administration is apparently reluctant to change its present policy of following the restricted world market value for fear it will be criticized as being inconsistent and as attempting at all times to give the owners the highest possible trade-in values. It is my feeling that rather than being criticized for not being consistent, the Administration runs a greater risk of being criticized for not arriving at values which will serve as the greatest inducement to American shipowners to construct vitally required replacement vessels. It is clear that Congress, in enacting section 510, intended the trade-in allowances to be a real incentive for replacement purposes. It was for that reason the Administration was given broad discretion as to the criteria it could follow in arriving at the trade-in allowances. Congress provided that the Administration could consider scrap value, book value or world market value, or values for operation of vessels in the domestic or foreign trade of the United States, but it specifically did not limit the Administration to any one of these values. Finally, because one of the specific purposes of the Merchant Marine Act, 1936, as amended, as stated in section 101 of that act, is to assure a strong National Defense reserve fleet, the Administration should, in determining trade-in allowances, consider the value of the vessels to the United States in the event of an emergency.

It is, therefore, my belief that the only policy which is entirely consistent with the intent of Congress and the language of section 510 is a policy which will afford the shipowner an allowance against his replacement cost at least equal to the amount he could receive if he were free to sell his older vessels in any market of the world.

With best wishes and kindest regards, I am,

Sincerely yours,

JOHN MARSHALL BUTLER,
U.S. Senator.

FARRELL LINES, INC.,
New York, N.Y., June 8, 1961.

HON. CLAIR ENGLE,
Senate Office Building,
Washington, D.C.

DEAR SENATOR ENGLE: We wish to comment on certain views expressed on behalf of the Maritime Administrator at the recent hearing before the Merchant Marine and Fisheries Subcommittee of the Senate Committee on Commerce on S. 1728, a bill introduced by you to amend section 510 of the Merchant Marine Act, 1936, as amended, to provide for the trade-in of obsolete vessels, in connection with the construction of new vessels, either at the time of executing the construction contract or at owner's option, at the time of delivery of the new vessel.

S. 1728 contains a *retroactive* feature reading as follows:

"In any case where at the time of enactment hereof a new vessel is under construction pursuant to a contract executed by an owner of an obsolete vessel, for which new vessel a credit against the transfer to the Commission of an obsolete vessel has not heretofore been allowed at the time of the execution of the construction contract, the Commission, upon application of such owner within ninety days after enactment hereof, is authorized to acquire an obsolete vessel at the time of delivery of said new vessel, in exchange for an allowance which shall be deposited in the owner's capital reserve fund."

It appears from a report of the hearing held before the subcommittee on May 15, 1961, that the Maritime Administrator has taken the position that the retroactive feature of S. 1728, as quoted above, would cover only those subsidized operators who had entered into ship construction contracts shortly prior to October 1, 1960, for vessels which are still under construction, and who had refused to trade in *any* of their obsolete vessels and, therefore, no trade-in credit had been allowed against their new construction. The views of the Maritime Administrator on this point are set forth in a written statement submitted to the hearing, which reads in part as follows:

"Three operators who were entering into ship construction contracts, shortly prior to October 1, 1960, for vessels which are still under construction, refused our trade-in offer with respect to their ships that were eligible for trade-in, and no trade-in credit, therefore, has been allowed against their new construction. *Two other operators traded in fewer vessels than they were eligible to trade in, against new construction that is still building, but since a trade-in credit has been allowed against this new construction, the retroactive feature of the bill would not apply to them.*" [Emphasis supplied.]

Farrell Lines, Inc., is one of the two subsidized operators mentioned in the Maritime Administrator's statement, which, according to his views, would be ineligible to take advantage of the retroactive feature of your bill, S. 1728, because of the fact that at the time of executing its contract for the construction of new vessels, it traded in some, but not all, of its obsolete vessels, then eligible for trade-in under section 510.

Farrell Lines, concurrently with the execution on September 22, 1960, of a contract for the construction of six new vessels, entered into trade-in agreements covering only four of seven vessels then eligible for trade-in. If the Maritime Administrator's interpretation of S. 1728 is correct, then in the event of the enactment of S. 1728, Farrell Lines would not be entitled to trade in the remaining three vessels at the time of delivery of either of the new vessels.

The Maritime Administrator apparently bases his interpretation of the retroactive feature of S. 1728 on the clause "for which new vessel a credit against the transfer to the Commission of an obsolete vessel has not heretofore been allowed at the time of the execution of the construction contract. * * *" This clause—unintentionally we believe—seems to say that if any credit has been taken for a new vessel, no further credit can be taken against that particular vessel and in the case of Farrell Lines, the total credit for trade-in allowances on the four vessels was allocated equally to each of the six vessels now under construction.

We believe all that was intended by the quoted clause was that if any credit has been taken for a new vessel on account of an obsolete vessel transferred or to be transferred to the Commission, no further credit can be taken on account of such obsolete vessel.

But we see no logical or equitable reason why additional credit should not be permitted to be taken against the new vessel by turning in an additional

obsolete vessel that was eligible for trade-in at the time the construction contract was executed.

Accordingly, we respectfully suggest that S. 1728 be amended, at lines 6-9, by striking the words "for which new vessel a credit against the transfer to the Commission of an obsolete vessel has not been allowed at the time of the execution of the construction contract" and that there be substituted the words "or vessels, which at the time of such execution were eligible for trade-in allowance but which were not so traded in."

In addition to the above suggested language change, we believe it important to emphasize that the principal reason all vessels eligible for trade-in at the time of executing the construction contract were not traded in was the repeated refusal of the Maritime Administrator to change his policy with respect to a determination of a "fair and reasonable" trade-in allowance.

Farrell Lines, as a member of the Committee of American Steamship Lines, was represented at several meetings with the Maritime Administration at which it was contended that the determination of a fair and reasonable trade-in allowance should take into consideration the domestic market value. However, on June 10, 1960, the Maritime Administration, after due consideration to these arguments, reaffirmed its existing basic policy and refused to budge from its position that, in the absence of unusual circumstances, restricted world market value represented the fair and reasonable trade-in allowance for ships. On August 25, 1960, the Administrator approved the "fair and reasonable" trade-in allowance for Farrell Lines' seven obsolete vessels which, pursuant to the Maritime Administration's reaffirmation of policy, was the restricted world market value.

Since these values did not give consideration to domestic market values in the United States, which were considerably higher, it was necessary for Farrell Lines' management to decide whether it could afford to gamble on disposing of the seven obsolete vessels on the open market. Since the risks were too great, the decision was to compromise and therefore, on August 26, 1960, the application for trade-in was amended to cover only four of the seven ships formerly included in the application. On September 22, 1960, the trade-in contracts were signed, providing for the allowance of credit for the four vessels traded in to be applied to all six new vessels covered by the construction contract signed on the same date.

Since the Maritime Administration policy of not considering domestic values in determining the "fair and reasonable" trade-in allowance was the principal reason for Farrell Lines not trading in the seven vessels as initially contemplated and since only nine days had elapsed after the date of Farrell Lines trade-in contract until the Administrator publicly announced that domestic market values must be considered, it appears highly improbable that the new policy could have been formed in such a short time. Therefore, we believe that no operator should be penalized by this change in policy and any so penalized should be eligible to trade in obsolete vessels upon delivery of new vessels now under construction if such obsolete vessels were eligible for trade-in on the dates of execution of the construction contracts.

Very truly yours,

C. CARLTON LEWIS,
Vice President and Treasurer.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, May 12, 1961.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

MY DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 1728, "To amend section 510 of the Merchant Marine Act, 1936, to provide for the trade-in of obsolete vessels in connection with the construction of new vessels, either at the time of executing the construction contract or at the time of delivery of the new vessel."

Section 510 of the Merchant Marine Act, 1936 (46 U.S.C. 1160) authorizes the Maritime Commission to acquire obsolete vessels in an exchange for an allowance of credit on a new vessel. At the present time, the allowance must be determined at the time the owner contracts for the construction or purchase of a new vessel. The proposed legislation would authorize the determination of the allowance to be made either at the time the owner enters into a contract for a new vessel or at the time of the delivery of the new vessel to the owner.

The Department has no comments to make with respect to the bill.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your committee.

Very truly yours,

ROBERT H. KNIGHT,
General Counsel.

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The General Counsel of the Treasury

Washington, D. C. 20540

1900, William C. Mackintosh

Washington, D. C. 20540

C. S. Smith, Washington, D. C.

My Dear Mr. Chairman: Reference is made to your report for the year of this Department on the 17th and 18th sections 510 of the Merchant Marine Act, 1920, to provide for the transfer of vessels in service with the Government of one vessel to another at the time of changing the ownership and transfer of the time of delivery of the new vessel.

Section 510 of the Merchant Marine Act, 1920, provides that the Maritime Commission is authorized to receive and hold in trust for the Government any vessel of the United States which is transferred to the Government at the time of changing the ownership and transfer of the time of delivery of the new vessel. The proposed legislation would authorize the Maritime Commission to receive and hold in trust for the Government any vessel of the United States which is transferred to the Government at the time of changing the ownership and transfer of the time of delivery of the new vessel.

The Department has been advised by the Bureau of the Administration of the Maritime Commission that the Administration is in favor of the legislation and this report to your committee.

Very truly yours,

Wm. H. K. Smith

General Counsel

