AUTHORIZING CARRIAGE OF 50–50 CARGOES BY VESSELS "MONTAUK" AND "GLENBROOK"

HEARINGS

BEFORE THE

MERCHANT MARINE AND FISHERIES SUBCOMMITTEE

OF THE

COMMITTEE ON COMMERCE UNITED STATES SENATE

EIGHTY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 3649

A BILL TO PROVIDE THAT THE VESSELS MONTAUK AND GLENBROOK MAY BE UNITED STATES-FLAG COMMERCIAL VESSELS FOR THE PURPOSES OF SECTION 901(b) OF THE MERCHANT MARINE ACT, 1936

SEPTEMBER 6 AND 13, 1962

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AUTHORIZING CARRIAGE OF 50–50 CARGOES BY VESSELS "MONTAUK" AND "GLENBROOK"

THURSDAY, SEPTEMBER 6, 1962

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

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 5110, New Senate Office Building, Hon. E. L. Bartlett presiding.

Senator BARTLETT. The committee will be in order.

The bill to be considered this morning, S. 3649, would provide that the vessels *Montauk* and *Glenbrook* may be considered U.S.-flag commercial vessels for the purposes of section 901(b) of the Merchant Marine Act, 1936. In other words, it would permit them to participate in the transportation of Government-aided and financed cargoes, despite the 3-year lapse provided in Public Law 87–266, enacted last September 21, for vessels built or rebuilt abroad.

That statute provides that any vessel which, after the date of enactment, September 21, 1961, was built or rebuilt outside the United States, or documented under any foreign registry, would be required to be documented under the laws of the United States for a period of 3 years before it could be permitted to transport cargoes reserved for U.S.-flag vessels under the cargo preference laws.

Certain exceptions were provided for in Public Law 266, if certain requirements were met within the period of a year from the date of enactment—to wit, by September 21, 1962. The two vessels covered by this bill were scheduled to but cannot meet those requirements by the date set. This hearing is for the purpose of determining whether, because of certain unforeseen delays which will be cited by the proponents, the September 21 expiration date should be waived.

(The bill referred to follows:)

[S. 3649, 87th Cong., 2d sess.]

A BILL to provide that the vessels Montauk and Glenbrook may be United States-flag commercial vessels for the purposes of section 901(b) of the Merchant Marine Act, 1936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the vessel Montauk owned by the Mercantile Steamship Corporation, New York, New York, and the vessel Glenbrook owned by the Wall Street Traders Incorporated, New York, New York, shall be deemed to be privately owned United States-flag commercial vessels for the purposes of subsection (b) of section 901 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1241(b)), notwithstanding the last sentence of such subsection, if such vessels are documented under United States registry on first arrival at a United States port not later than December 31, 1962.

Professional staff member assigned to this hearing: August J. Bourbon.

Senator BARTLETT. Are there any reports, Mr. Bourbon, from the administration?

Mr. BOURBON. There's one report from GAO which says they have no recommendation to make. And Maritime is sending up a statement to the effect that, because of the statements that are to be made today, they have no opposition to this bill.

Senator BARTLETT. Mr. Bourbon advises me that the Comptroller General has submitted a statement which will be included in the record, dated August 31, averring lack of information, or knowledge, as to this subject, and making no recommendation.

He also advises that subsequently Maritime will send up a statement in lieu of a formal report saying, in effect, that on the basis of information now available to the administration they have no opposition.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, August 31, 1962.

B–95832.

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

DEAR MR. CHAIRMAN: Further reference is made to your letter of August 21, 1962, acknowledged on August 22, requesting the comments of the General Accounting Office concerning S. 3649, 87th Congress, 2d session, entitld "A bill to provide that the vessels *Montauk* and *Glenbrook* may be U.S.-flag commercial vessels for the purposes of section 901(b) of the Merchant Marine Act, 1936.

We have no special information or knowledge as to the desirability of or needs for the proposed legislation and, therefore, we make no recommendation with respect to its enactment.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

Senator BARTLETT. We will see what that says when it arrives, however.

For the record, here's a telegram addressed to Chairman Magnuson from I. A. Lamey, administrative assistant, National Marine Engineers Beneficial Association, District No. 1, 17 Battery Place, New York, N.Y., favoring the bill; and a letter from Paul Hall and Peter M. McGavin, respectivly president and executive treasurer of the Maritime Trades Department, favoring the bill, addressed to Chairman Magnuson, dated August 23.

(Documents referred to follow:)

NEW YORK, N.Y., *August 18, 1962.*

Senator W. G. MAGNUSON,
Member of Senate Commerce Committee,
Senate Office Building, Washington, D.C.:

The National Marine Engineers' Beneficial Association, District No. 1 and Wall Street Traders, Inc., owners of the steamship *Glenbrook*, have a long-standing collective bargaining relationship. Early this year this association entered into additional agreements for the employment of American marine engineers on the steamship *Glenbrook* following completion of the vessel's structural conversion in Spain. Jobs for American seamen are now being jeopardized by the owner's blameless inability to redocument the vessel by the September 21, 1962, deadline specified in Public Law 87–266 which amended section 901 of the Merchant Marine Act of 1936. Wall Street Traders, Inc., has made every imaginable effort to comply with the existing law but now both the company and American seamen are falling victims to almost incredible and unpredictable delays due to conditions beyond the owner's control encountered in Spain. Such a hardship was most certainly not the intention of the Congress. You are urged to support legislation such as introduced by Senator Bartlett on August 17, 1962, to provide for a reasonable extension of time for meeting provi-

sions of subsection (b) of section 901 of Merchant Marine Act, 1936, as amended (46 U.S.C. 1241(b)).

I. A. LAMY,
Administrative Assistant, National Marine Engineers Beneficial Association, District No. 1.

MARITIME TRADES DEPARTMENT,
Washington, D.C., August 23, 1962.

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

SIR: The Maritime Trades Department, AFL–CIO, consisting of 31 international unions, all having continuing interest in the American-flag merchant marine, note with great interest the introduction in the Senate of the bill, S. 3649, by Senator Bartlett of Alaska, to provide that the vessels *Montauk* and *Glenbrook* may be U.S.-flag commercial vessels for the purposes of section 901(b) of the Merchant Marine Act, 1936.

We strongly urge your immediate and favorable action on the Bartlett bill, because it will provide employment for American-flag ships and American seamen.

Very truly yours,

PAUL HALL,
President.
PETER M. MCGAVIN,
Executive Secretary-Treasurer.

Senator BARTLETT. The first witness this morning is Mr. Daniel J. Seid, manager, Steamship Division, Wall Street Traders, Inc., New York.

You may proceed.

Mr. HOPE. Mr. Chairman, my name is Robert Hope, I am counsel for this company, I wonder if it would be all right if I sat with Mr. Seid.

Senator BARTLETT. That is all right.

Mr. HOPE. Thank you.

STATEMENT OF DANIEL J. SEID, MANAGER, STEAMSHIP DIVISION, WALL STREET TRADERS, INC., NEW YORK, N.Y., ACCOMPANIED BY ROBERT S. HOPE, ATTORNEY AT LAW, KOMINERS & FORT, WASHINGTON, D.C.

Mr. SEID. Mr. Chairman and members of the committee, my name is Daniel J. Seid. I am manager of the Steamship Division of Wall Street Traders, Inc., a New York corporation, owner of the steamship *Glenbrook*, one of the ships that will benefit from the enactment of S. 3649.

The *Glenbrook* is a former T–2 tanker built in 1944 at Mobile, Ala. She has always operated under the American flag, without subsidy. In April 1962 we delivered her to the shipyard of Sociedad Espanola de Construccion Naval in Cadiz, Spain, for conversion to a modern dry-bulk cargo vessel, for operation under U.S. flag in the unsubsidized tramp trades. My company has owned and operated her since 1960, well before the enactment of Public Law 87–266, from which S. 3649 will afford relief. We have undertaken an investment of upward of a million dollars in the acquisition and conversion of the ship, and in her converted form she will have a market value of approximately $1,500,000. If the proposed legislation is not enacted, this modernized ship will, economically speaking, be a total loss; we shall be forced to abandon her to the Spanish shipyard for sale at auction.

If the legislation is enacted, she will join the U.S.-flag tramp fleet as a bulk carrier, a type of vessel of large and growing importance in world trade, available to the United States in case of emergency and meanwhile providing employment for American officers and seamen.

S. 3649 would amend section 901(b) of the Merchant Marine Act, 1936, the so-called 50–50 or cargo preference law, by continuing the *Glenbrook's* eligibility for cargoes under that law. Under section 901(b), as amended by Public Law 87–266, vessels rebuilt or converted in foreign shipyards lose their eligibility for 50–50 cargoes unless (*a*) before September 21, 1961, the effective date of Public Law 87–266, the owner notified the Maritime Administration of his intention to redocument the vessel under U.S. flag and unless (*b*) before September 21, 1962, 1 year later, the owner actually completes the conversion and carries out his intention to redocument the vessel.

We complied with the first requirement, having given notice before the effective date of the amendatory law of our intention to continue her U.S. documentation. We find, however, that despite our most diligent and even frantic efforts, we shall be unable to complete the work and have the vessel back in the United States for redocumentation as a bulk carrier by the September 21, 1962, deadline.

Our inability is due entirely to delays beyond our control in the Spanish shipyard where the conversion work is being done. The conversion contract called for placing the ship in the yard no later than April 30, 1962, and provided for completion no later than September 1, 1962. We actually delivered thhe ship 2 weeks early, in mid-April, forgoing a cargo and bringing the ship to Spain in ballast, at considerable expense, in order to have her there that much early. Ordinarily the work should have taken no more than 90 days, having the ship out of the yard by mid-July and leaving 2 months to meet the deadline for redocumentation.

Unhappily, the unsettled labor conditions in Spain, which have been much in the news this summer, permeated the shipyard.

At the outset of the vessel's conversion there were never more than 100 men available for work from the time of April 15 to approximately the middle of June, and on several days there were as little as 26 men working on the ship. As the labor conditions got better and as we got after the shipyard to do more and more, the labor force increased from 100 men to approximately 300 men between June and July, and from July to August, the force went from 400 to 600 men, and reached a peak of over 700 men at the end of August.

Essential steel which was needed for the vessel was held up in the Spanish customs for 52 days and none of the steel work could be done. In short, the yard's work is not yet complete, and the ship is not in condition to make a voyage to the United States for redocumentation by the September 21 deadline. This despite the expenditure of large sums of money in an attempt to expedite the work, and despite frequent trips to Spain by the principal stockholder of the company, Mr. Joseph S. Michaan, and by me, on which we spent many hours in pressing for completion.

Inspectors of the company have been on the job day and night; I myself have returned from Spain only late last night; and no effort has been spared in getting thhe vessel back to the United States in time. Our efforts have, however, been unavailing.

Therefore, under present law the *Glenbrook* will be ineligible for 50–50 cargoes. Such cargoes are virtually the only source of employment for bulk cargo ships of U.S. registry. Because of differences in operating costs between U.S. and foreign ships, there is no possibility that this vessel can compete with foreign-flag operators for commercial cargo not falling under the cargo preference laws. She is therefore doomed to remain idle, thus preventing the employment of a full crew of American seamen. The expenses of such idleness are so great that we shall find it preferable to sacrifice the ship and our investment in her rather than to incur them.

Enactment of S. 3649 will be consistent with the purpose of Public Law 87–266. Although that law was designed to protect the U.S.-flag tramp vessels against foreign-flag ships and ships built or rebuilt abroad which seek U.S. documentation in order to share in 50–50 cargoes, the law contained a proviso exempting owners who in good faith had previously made existing contracts for rebuilding American vessels abroad. The proviso was inserted for the purpose, as this committee said in its Report No. 667, 87th Congress, 1st session, of justice to such owners. My company falls within the group intended to be exempted. Our contract was made before the law became effective.

The proviso required such owners to notify the Maritime Administration, before the law became effective, of their intention to seek U.S. documentation, and we did that. Although the proviso also required these owners to accomplish the redocumentation within 1 year, the 1-year period was not basic to the foregoing purpose of the act. Any other reasonable period would have been, on the one hand, long enough to allow performance of existing contracts and, on the other, short enough to prevent owners of foreign-flag vessels from gambling by waiting to see whether it would be more profitable to go forward with U.S.-flag documentation or to retain their foreign documentation.

Now, in our case, as events have turned out, the 1-year period proved unreasonably short because it did not afford time for the performance of our existing contract. Extension of the deadline, as provided in S. 3649, will give us sufficient time to complete the work and redocument the vessel as originally intended. I might point out that it will not, on the other hand, result in our gambling upon market conditions. Not only have we no intention of doing anything but completing the conversion as promptly as possible and immediately returning the ship to the United States for documentation, but in addition, since our ship has always been a U.S.-flag, subject to the control of the Maritime Administration, we have never been in a position to take advantage of gambling on market conditions favoring foreign-flag vessels.

Accordingly, the bill will carry out the purpose of Congress to afford holders of contracts existing at the effective date of Public Law 87–266 the benefit of participation in 50–50 cargoes. It will result in the addition to the American-flag tramp fleet of an up-to-date bulk carrier in conformity with Congress merchant marine policy of upgrading the merchant fleet, available for operation on immediate call in case of emergency, and providing work for American seamen.

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On behalf of myself and Wall Street Traders, Inc., I wish to thank you very much for this opportunity of appearing before your committee and making these points known.

Senator BARTLETT. Thank you for appearing.

What will be the approximate cost of reconversion in the Spanish yard?

Mr. SEID. I would say the approximate cost is from seven to eight hundred thousand dollars for the particular work which we are doing.

Senator BARTLETT. What would that work have cost in an American yard?

Mr. SEID. Perhaps $1,200,000.

Senator BARTLETT. Where is this yard located?

Mr. SEID. This yard is located in Cadiz, Spain, the southern part of Spain. There are three shipyards in that particular area.

Senator BARTLETT. Three?

Mr. SEID. Three. This is in one.

Senator BARTLETT. Is this the cheapest contract you could get in Europe?

Mr. SEID. I wouldn't know that, sir.

Senator BARTLETT. How did you happen to go to the Spanish yard, then?

Mr. SEID. Well, the Spanish yards at the time were bidding on such work along with Italian yards, German yards, and all others. I was not with the Wall Street Traders at the time the contract was made.

Senator BARTLETT. Wouldn't you imagine there was a shopping around in Europe to find the lowest cost yard?

Mr. SEID. I would assume that might be true.

Senator BARTLETT. You said, I believe, that at one time 700 men were working on the ship?

Mr. SEID. That is true.

Senator BARTLETT. Should that have been the size of the crew throughout the process of reconversion?

Mr. SEID. No, sir; the normal complement of men for the job which is in progress would be around 250 men. When I say 700, there were—one day they had 797 men on there, of which 260-odd were overtime workers and were working two shifts of 10 hours each or 12 hours each, but 2 hours is lost for shift changes and so forth.

At the present time we are certain that it is absolutely impossible to get the vessel physically from there to here in time to get it documented, and we are back to one 10-hour shift.

Senator BARTLETT. Do you have any idea of what an ordinary worker in the Spanish yard receives when he works 10 hours a day, in American money?

Mr. SEID. Of the shipyard workers that I talked to over there, the lowest labor probably receives about 600—a sweeper on the dock will probably receive 600 to 700 pesetas a week for an 8-hour shift. The average shipyard worker, a welder or fitter, or a steelman, would get between 1,400 and 1,600 pesetas a week.

Senator BARTLETT. Translate between 1,400 and 1,600 pesetas into American dollars—how much would he be receiving?

Mr. SEID. Approximately $25 to $30 a week. That is his wage; the Spanish yard, of course, charges considerably more than that. But that is the actual shipyard worker's wage.

Senator BARTLETT. His counterpart in an American yard would receive somewhat more?

Mr. SEID. His counterpart in an American yard would probably receive about four times that, which in my experience seems to be about the general ratio of living expenses in Spain compared to the United States.

Senator BARTLETT. You said, Mr. Seid, in your statement, that if this bill doesn't become law you are going to be forced to abandon the ship and sell it at auction?

Mr. SEID. Yes, sir.

Senator BARTLETT. Isn't there any other trade you could put it in?

Mr. SEID. Sir, there is no trade you can put it in with an American crew, with the complement which is required for it, and operate it, and charter it out at the present rates which would have to be those which compete with foreign cargoes whereby you would not lose probably in excess of a thousand dollars a day to do that.

Senator BARTLETT. Could you document it abroad?

Mr. HOPE. Could I answer that, Senator?

Senator BARTLETT. Sure.

Mr. HOPE. I think the Maritime Administration would be very reluctant to permit that ship to be transferred to foreign flag because it is a new ship; I mean it is a rebuilt ship. In informal discussions with them I have been told that it would be outside of their policy to permit the transfer of this ship even under the circumstances that exist now, since she is still under U.S. flag. There wouldn't be any way you could do that, in my judgment.

Mr. SEID. She has a valid U.S. document at this time.

Senator BARTLETT. If she sold over there at auction is there any guarantee she will remain under U.S. flag?

Mr. HOPE. No. As a matter of fact, if the ship had to be abandoned and the yard were to sell it the chances are it would be sold to a foreign bidder and we would be in a jurisdictional problem which Maritime has been concerned about for a long time.

Senator BARTLETT. Well, if this result, unhappy as far as Wall Street Traders are concerned, should occur, actually the Maritime Administration will have no further authority. The ship will be over there and the new owner will be able to do what he chooses with her.

Mr. HOPE. I believe that would be the result. I think our Department of Justice and Maritime have been reluctant to exercise any control where these ships are sold by a court or sold under situations like this. Particularly, if she came back here she might be subject to forfeiture, but this is something that hasn't really been settled.

Senator BARTLETT. Tell us something about Wall Street Traders, Inc. How long has this company been in existence?

Mr. SEID. As I say, sir, I used to be with Coastwise Lines on the Pacific coast several years ago, and I can remember being in this hearing room in connection with ICC competition during that time. I have only been with Wall Street Traders since June of this year, so I am not qualified to answer too many questions about Wall Street Traders except what I know from having talked to its president and owner, Mr. Michaan; it has been in operation, as I know it, at least 4 or 5 years. It has various business operations.

Senator BARTLETT. Such as?

Mr. SEID. Such as financing and buying and selling and factoring—that's about it—some banking.

Senator BARTLETT. Are ships the principal operation of the company?

Mr. SEID. No; the operation of ships is an activity in which the owner is very desirous of becoming more active. At the present time he has had a very unsuccessful experience with this vessel.

Senator BARTLETT. How many ships did the company operate?

Mr. SEID. We have only this one American flag, and it is our intention to get several more.

Senator BARTLETT. Ship operation is rather a subordinate part of the company's activities at the present time?

Mr. SEID. At the present time it is. I was brought into the company to take care of the ship operation and build it up.

Senator BARTLETT. Do you have any foreign-flag ships?

Mr. SEID. Not to my knowledge, sir; I wouldn't know.

Senator BARTLETT. Could you furnish a definitive statement for that on the record?

Mr. HOPE. I think I can answer that, Senator. This company does not own any foreign-flag ships; however, Mr. Michaan has around 10-percent interest in two and possibly three foreign-flag ships, but he doesn't own any in this company or any subsidiary company.

Senator BARTLETT. What flags are those ships under?

Mr. HOPE. I think they are under the Dutch flag.

Senator BARTLETT. On page 2 of your statement you said that the company had indeed complied with the initial requirement in that it had given notice before the effective date of the law of an intention to continue documentation under laws of the United States.

Mr. SEID. Yes, sir.

Senator BARTLETT. When was that notice given?

Mr. HOPE. May I check my file?

Mr. Chairman, I will answer this if you don't mind.

Senator BARTLETT. Surely.

Mr. HOPE. The notice was filed with the Maritime Administrator on September 8.

Senator BARTLETT. The final date being September 21.

Mr. HOPE. September 21; yes, sir.

Senator BARTLETT. Now, why was steel held up in the Spanish customhouse? How does that relate to the labor disturbances over there?

Mr. SEID. Sir, the Spanish customs are most difficult to deal with. At the present time we have other things held up in customs right at this minute.

Senator BARTLETT. Why should that be so?

Mr. SEID. I can't answer for the laws of Spain, but I am certain they do not operate as efficiently as our own do. The steel was, of course, the first thing which was required for the ship. The deck was extended. It was not a midbody alteration as so many of these have been. The vessel is the same size as it always was, only the deck was raised, the midship house was moved aft, and it became a shelter deck vessel. The steel which was needed was held up in Spanish customs for 52 days which, of course, held up the prefabrication of the wing tanks and the new decking exactly that long. The work couldn't proceed until the steel got there.

Senator BARTLETT. And there was no way at all to expedite clearance?

Mr. SEID. Everything which could have been done I am sure was done, and if it had not been done it probably would have been held up a considerably longer period.

Senator BARTLETT. Where was the steel from?

Mr. SEID. I believe the steel is from Holland.

Senator BARTLETT. When did you sign the contract with the shipyard?

Mr. SEID. With the shipyard—it was in September of 1961; September 19.

Mr. BAYNTON. What day, please?

Mr. HOPE. September 19.

Mr. BAYNTON. Thank you.

Senator BARTLETT. Now, in further reference to dates, the contract, you said, provided for completion no later than September 1, 1962.

Mr. SEID. That's correct.

Senator BARTLETT. Wasn't that cutting it a bit on the fine side?

Mr. SEID. Yes, it was; but as I said in my statement, without the difficulty of the steel having been held up in the customs and with the normal labor force of about 250 men, one full shift, to be expected, the vessel could have been completed probably by the end of July, at the worst, and possibly mid-July.

Senator BARTLETT. All right. That leads to my next question.

Why didn't you put the ship in the yard during the early winter or late winter so that there would be no possibility of anything going wrong, and so that the ship could have been back here without the difficulty?

Mr. SEID. Sir, the contract which was signed with the yard was made in consideration of commitments which the yard had. The yard could not take the ship, they said, until April 30. As it turned out, we were able to get it there 2 weeks ahead of time.

Senator BARTLETT. All right. Notwithstanding, your company had this terrific investment—about a million and a half, I think you said.

Mr. SEID. It will be before it's finished.

Senator BARTLETT. So there must have been some apprehension on the part of the company officials that this was getting pretty chancy. I should think that prudence would have required the company to shop around and find another yard that could have taken the ship sooner so there would have been no possibility of failure to meet a deadline.

What would you have to say about that?

Mr. SEID. Sir, prudent operation showed that the shipyard should have been able to complete the conversion in approximately 90 days, and we had nearly 180 days for them to complete the conversion.

Senator BARTLETT. But the ship itself——

Mr. SEID. We thought 100 percent additional time was enough leeway in order to provide the job to be done.

Senator BARTLETT. Inevitably this question will be asked, for the opponents of the legislation will ask it: What commitments were there for the vessel in the winter and early spring months that might possibly have motivated the company in delaying its placing the ship in the yard?

Mr. SEID. There are no commitments for the employment of the vessel.

Senator BARTLETT. During last winter and early spring?

Mr. SEID. Last winter? No. Last winter she made some coastwise tanker voyages, two or three, and then would lay up for a period of 3 or 4 weeks, and she was not in any continuous operation.

Senator BARTLETT. Coastwise from where to where?

Mr. SEID. From the gulf to New Jersey, New York—that area, the Atlantic coast—with heating oils. She was operated as a tanker at that time.

Senator BARTLETT. Considering the period as a whole—winter and early spring—was that a profitable one in respect to the employment of this vessel?

Mr. SEID. I would say that it was not particularly profitable.

Senator BARTLETT. So you would say, then, that the reason for putting the ship in the yard at what turns out to have been too late a date was not occasioned by the fact that she was engaged in trades that were extremely profitable, or quite profitable, and whereby the company was making a lot of money and wanted to wait until the last possible moment before starting the reconversion work?

Mr. SEID. No, sir; it was not that reason at all. In fact, as I said in the statement, when we delivered the vessel—I mean we could have had a profitable cargo, but we thought that the option of delivering it 2 weeks earlier than our contract permitted was well worth losing this profit on this cargo.

The sole thing which governed the vessel getting into the yard on what you may call an early or late date was the fact that the yard had other commitments which it has after this. I mean, they were behind on account of the *Glenbrook* and right now their future commitments are behind on account of the *Glenbrook*.

Senator BARTLETT. Now let's say instead she had gone to a German yard, somewhat more expensive reconversion job, but had been returned here June 1. Would that have given the company, with this reconverted vessel, an opportunity for profit denied it on account of not being available this summer?

Mr. SEID. I would say not.

Senator BARTLETT. Senator Keating?

Senator KEATING. I have no questions at this point, Mr. Chairman.

Senator BARTLETT. Mr. Baynton?

Mr. BAYNTON. Mr. Seid, you had testified that you were not with the Wall Street Traders, so you had no background on why the Spanish yard was selected. I believe that is your statement?

Mr. SEID. That is correct, sir.

Mr. BAYNTON. Couldn't we get some information from your company to be submitted for the record? Apparently the Spanish yard's time schedule was very tight. You testified that the ship could not go in there until the end of April, although you obtained 2 weeks extra time by getting it there. But in view of a very tight time schedule why was the Spanish yard then selected when you were gambling, obviously, on time with your investment—the purchase of the ship originally and the investment in the enlargement of the vessel?

Mr. SEID. Sir, I would say that that was a matter of prudent business judgment which——

Mr. BAYNTON. It didn't turn out to be very prudent.

Mr. SEID. And as it certainly is, as we are all sitting here, it turned out to be a bad guess.

But at the time the owner put the vessel in the Spanish yard and selected the Spanish yard. He thought that a 6-month period for a 3-month conversion was an ample safety factor. This turned out to be not correct.

Mr. HOPE. Since I dealt with the owner at the time, I think it's fair that this record should show—and I think you gentlemen should know—it has already been brought out that Mr. Michaan has not been in the shipping business for a long time, and this is really a subordinate activity of his. If he had had somebody like Mr. Seid working for him at the time he might not have fallen into such a tight time schedule.

I think to some large extent some of these problems came from inexperience, but certainly not speculation.

He is a man who had been financing ships and has been engaged in international trade, and his desire here was to take this T–2 tanker that he had under U.S. flag and upgrade it. A large part of this could be charged off to experience.

Mr. BAYNTON. You don't know the difference, let's say, between the Spanish yard bid and the next?

Mr. SEID. No, sir. I think it's likely that it was probably the lowest bid because the Spanish yards are cheaper, generally, in my general experience.

Mr. BAYNTON. I don't have any more questions.

Senator BARTLETT. Mr. Bourbon?

Mr. BOURBON. Mr. Hope, would the owner of the ship have to pay the Government a tax on those alterations done abroad?

Mr. HOPE. Only on the work that is classified as repair. A large part of this work—and I think Mr. Seid could probably break it down—is repair, special survey repairs to the machinery. This alteration, as Mr. Seid said, was not a jumboizing or the addition of a section; it was the scooping out of the tanks and converting the existing hull to a bulk carrier.

On that repair portion there is a duty of 50 percent. I believe to the extent it's deemed to be alteration or conversion there will not be any duty. I think Mr. Seid probably has a breakdown of what the repairs amount to.

Mr. BOURBON. Have you any idea about how much tax you would have to pay on the work done that is taxable?

Mr. SEID. I don't have a breakdown from the shipyard at the present time, because the bulk of our repair work hasn't been completed. It's going on now. For instance, there is work to be done in refitting rooms, and all that sort of thing would all be dutiable. There have been certain waist plates, or longitudinals, in the vessel which, if they are not part of the conversion, have been replaced on the orders of the American bureau surveyor and on our own, and those replacements will be dutiable. But we don't have a breakdown from the yard at this present time on what they will be. I would say maybe it will amount to—I can be wrong, but maybe 20 percent of the entire job. It may turn out to be that, or it may be 10 percent or 25 percent. I'm guessing around 15 to 20 percent might be considered special survey and repairs, and on such items duty will be chargeable.

Mr. HOPE. I would like to add there, if I may, that at one point we discussed with the Bureau of Customs and also with the Maritime Administration as to whether this job was actually a rebuilding or an alteration, and whether it might not be construed as merely being a repair job. If it were ruled to be a repair job, this vessel could come back without this prohibition against carrying the 50–50 cargoes. By the same token, the owner would have to pay 50 percent duty on the whole work, which he was prepared to do at the time we talked to Customs. We didn't ask for a formal ruling, but informally they regard this, a large part of this, as actually being rebuilding, this scooping out of the tanks and making a bulk carrier out of it.

Mr. BOURBON. When the contract was under discussion with the Spanish yard, was there any suggestion at that time of the labor unrest in Spain? Had any of the strikes actually taken place up to that time?

Mr. HOPE. I don't believe so.

Mr. SEID. Sir, those took place—they started in April and became at their peak in May, and gradually subsided through the month of June. And the reason for it, the Spanish industries and Spanish—well, Spanish industries have legislative representation in the legislative bodies of Spain under what they call syndicates. In these syndicates there will be an industry—say, one for steel, one for fishing, one for agriculture, and so on and so forth. There are 30 or 40 of them. And these syndicates, to give representation to the workers, as there are no unions in Spain, the syndicate or the board of directors of the company—the syndicate requires that some of the board members of the company be elected from the workers, and the workers are allowed to put up a slate of their nominees. The owners of the company can refuse this slate one time, then the second slate which is presented to them they must take. And the bulk of the labor unrest was based on the fact that the workers were not putting up the slate which could do them the most good and give them proper representation with the management; that the slate was more or less dictated to and picked by the owners of the corporation, such as the shipyard or the steelyard, or the owner of the cottonfields, and so on. This is what brought the labor unrest to a head, and that is the basic thing which underlaid the whole labor unrest in Spain.

Mr. BOURBON. But the unrest was starting about the time you delivered your ship, then?

Mr. SEID. Just about then. Probably it was fomented 1 or 2 months before that. But it actually came to a head in May.

Mr. BOURBON. And it gave Mr. Michaan no worry? He wasn't at all worried about how that might affect his work?

Mr. SEID. I wouldn't say he wasn't worried. I would say it was more a matter of the fact we didn't know about it. I didn't know about it until I read it in the paper.

Mr. BOURBON. That's all I have.

Senator BARTLETT. Mr. Seid and Mr. Hope, either of you may be the proper recipient of this question:

On August 8, 1960, Mr. Earl J. Smith, chairman of the American Shipbuilders Association, addressed a letter to Mr. Alexander, Maritime Administrator, in opposition to this bill, and he propounded several questions in that letter. Whether Mr. Alexander has answered or not, I do not know. But I think these questions, or at least some of

them, are very pertinent, and I would like to put them to you with the hope that even though this is on the spur of the moment you might be able to, or willing to, give answers.

Let me read the paragraph immediately preceding these questions. It's in these words:

In view of the doubt surrounding many of these alleged rebuilding contracts, we respectfully request that you conduct an immediate and full investigation concerning them so as to determine which rebuilt vessels do not comply with the requirements of Public Law 87–266. We suggest that you require the following information under oath from each company notifying you under Public Law 87–266 that it has a rebuilding contract:

1. Whether any rebuilding has taken place or is taking place under the contract.

Now, in reference to this particular vessel, your answer would be what?

Mr. HOPE. Whether we have a contract?

Senator BARTLETT. Whether any rebuilding has taken place, or is taking place, under the contract.

Mr. HOPE. Yes. The rebuilding, I suppose, is 75 percent completed now.

Mr. SEID. It's a little more than that. I would say it's about 90 percent at the present time.

Senator BARTLETT. The second question, of course, answers itself, but I will put it anyway:

If not, why not? And were any penalties collected or was any legal action taken by the shipyard for your not performing?

You have answered that it is being performed, so we will skip that one.

Mr. HOPE. May I add to that, there is a demurrage, or liquidated damages clause in this contract which we could collect against the shipyard.

Mr. SEID. It's $1,000 a day.

Mr. HOPE. $1,000 a day for delay beyond September 1. But that will be little solace if we lose the ship.

Senator BARTLETT. According to what you said previously, Mr. Seid, about the economy there, a few days like that might wreck the whole Spanish financial establishment.

3. Has the rebuilding contract been sold or assigned to another company, or has it been modified or amended in any way in reference to the *Glenbrook*?

Mr. HOPE. The answer to that, Senator, is that this——

Senator KEATING. This is not the *Glenbrook*.

Senator BARTLETT. This is the *Glenbrook*.

Mr. HOPE. I can answer that, because I'm sure there is some confusion about it. I'm sure the opponents will raise this question. The original contract with the Spanish yard is between the Progressive Steamship Corp. and the shipyard.

Senator BARTLETT. Who is he?

Mr. HOPE. Progressive Steamship Corp.?

Senator BARTLETT. Yes.

Mr. HOPE. It's one of Mr. Wang's companies, who will be a later witness here. This Wall Street Traders then contracted with Mr. Wang, or Progressive Steamship Corp., to perform the conversion work.

Now, again, the principal reason for this was that Mr. Michaan had no experience in this sort of thing, and he didn't have a marine staff or marine engineers and that sort of thing.

Now, all these transactions took place before the deadline in response to a form letter that the Maritime Administration put out to all people who filed notice of intent under this statute. We submitted to the Administration these two contracts. We asked for a ruling on compliance with the statute, and we were given a ruling—we received a letter dated March 14, 1962, from the Maritime Administration addressed to myself as counsel, and it acknowledge receipt of both of these contracts and—may I read this?

Senator BARTLETT. I think you had better.

Mr. HOPE (reading):

Reference is made to your letter of February 21, 1962, transmitting the following:

(1) Agreement dated September 19, 1961, between Wall Street Traders, Inc., a New York corporation, and Progressive Steamship Corp., a New York corporation, which contains the warranty that Progressive Steamship Corp. has an existing agreement with Sociedad Espanola de Construccion Naval; and

(2) Agreement dated August 2, 1961, between Progressive Steamship Corp., Inc., and Sociedad Espanola de Construccion Naval, which is a contract to convert the tanker *Esso Syracuse*, or substitute vessel.

The above-described agreements have been examined by this office and the Office of the General Counsel. It has been determined that the T–2 tanker *Glenbrook*, if and when reconstructed in a Spanish shipyard as a bulk carrier and if redocumented under U.S. laws on or before September 21, 1962, would be eligible as a privately owned U.S.-flag vessel for the carriage of cargoes under section 901 of the Merchant Marine Act, 1936, as amended by Public Law 87–266 (46 U.S.C. 1241), inasmuch as Wall Street Traders, Inc., owner of the *Glenbrook*, by letter dated September 20, 1961, filed its intent to redocument the vessel, after reconstruction in Spain, under U.S. laws.

As I say, this was submitted in response to a form letter that they sent out to everyone who filed a notice of intent. I assume there will be no objection on the part of the Maritime Administration since it is addressed to us.

Senator BARTLETT. So, it's your statement to the committee that the third question is answered in the sense that you cleared this with the Maritime Administration and the Maritime Administration had no objection to this procedure?

Mr. HOPE. That is correct, sir.

Senator BARTLETT. All right.

Now, No. 4: The letter wanted the Maritime Administration, as I take it, to be sure that it had a copy of every agreement or document concerning such sale, assignment, modification, or amendment. Have all of these copies been furnished to the Maritime Administration on your part?

Mr. HOPE. To the best of my knowledge these contracts constitute the full agreement. There's nothing else except specifications, and I believe the outline specifications were attached to one of the contracts. But that was the purpose of submitting this, so that Maritime would have the complete contract.

Senator BARTLETT. I shall ask counsel to make contact with the Maritime Administration for a statement from them on that point.

Senator KEATING. May I inquire: Do we have, Mr. Chairman, any opinion from the Maritime Commission?

Senator BARTLETT. No. We are advised they are going to submit to us later a statement in lieu of a report. I don't quite understand what this means, but that is what has been said.

Mr. BOURBON. May I interrupt there?

Senator BARTLETT. Yes.

Mr. BOURBON. They asked if we required a witness. I said not unless they felt they wanted to supply a witness, and they said "No," but that they were preparing a letter which was being submitted to the Commerce Department, which would say that on the basis of the representations made to them by the proponents of the bill they would have no objection to enactment.

Senator BARTLETT. This will be in the nature of a report, then; not to be cleared with the Budget Bureau.

Now, the fifth question is this: Who is providing the money or financing for the rebuilding, and a full explanation of same?

Mr. HOPE. I think probably Mr. Seid can answer that.

Mr. SEID. Wall Street Traders.

Senator BARTLETT. I don't quite comprehend what "full explanation of same" would mean there.

6. Has the rebuilt vessel been sold; and, if so, a copy of the contract?

Mr. SEID. No, the vessel has not been sold, has no mortgages on it. It is owned free and clear by the corporation.

Senator BARTLETT. Is there any intention to sell it?

Mr. SEID. No, sir.

Senator BARTLETT (reading):

7. A list of any affiliate, subsidiary, parent, or associated company which notified the Maritime Administration that it has a contract.

Mr. HOPE. No. This is the only contract.

Senator BARTLETT (reading):

8. When was the vessel to be rebuilt acquired, and from whom?

Mr. HOPE. It was acquired in 1960 at a foreclosure, a marshal's sale.

Senator BARTLETT. Where?

Mr. HOPE. In New Orleans.

Mr. SEID. New Orleans or Galveston.

Senator BARTLETT. From whom?

Mr. HOPE. It was from the court. I don't know who the prior owner of that ship was.

Senator BARTLETT. Will you please supply that information for the record subsequently?

Mr. HOPE. Yes, sir.

(This information was not received by the committee.)

Senator BARTLETT. We have No. 9 answered, "When was it delivered to the shipyard?"

Mr. SEID. Yes. April 15, 1962.

Senator BARTLETT. "10. When was the rebuilding completed?" That question isn't pertinent because——

Mr. SEID. That's why we are here.

Senator BARTLETT. It hasn't been completed.

All right. Thank you very much.

Senator Keating, do you have anything?

Senator KEATING. No, I don't have anything.

Mr. SEID. Thank you very much.

Senator BARTLETT. The next witness is Mr. Wang.

Mr. BECKER. I am Arthur M. Becker, counsel for the Wang Companies and I would like to sit up here with him.

Senator BARTLETT. You shall be permitted to do so.

Mr. Wang.

STATEMENT OF SAMUEL H. WANG, PRESIDENT, AMERICAN BULK CARRIERS, INC., ACCOMPANIED BY ARTHUR M. BECKER, COUNSEL

Mr. WANG. My name is Samuel H. Wang. I reside at 7 Fairfield Road, Great Neck, N.Y., and I am president of American Bulk Carriers, Inc., a Delaware corporation, the stock of which is owned entirely by my family and by me, all of whom are citizens of the United States.

American Bulk Carriers owns all the stock of General Cargo Corp., the owner of the American-flag vessel *Spitfire*, and all the stock of Mercantile Steamship Corp., the owner of the American-flag vessel *Montauk*. I am appearing to urge passage of S. 3649 with two amendments. These amendments are:

(*a*) An amendment to include in the bill the U.S.-flag vessel *Spitfire*; and

(*b*) An amendment extending until June 30, 1963, the time for redocumenting these vessels upon their arrival in the United States.

The purpose of the bill is to extend the eligibility of vessels included therein for the carriage of cargo under section 901 of the Merchant Marine Act, 1936—the cargo preference law; that is, to give to such vessels the same privileges enjoyed by other U.S.-flag vessels owned by citizens of the United States; privileges they would otherwise lose because of supervening events beyond the control of their owners.

Under Public Law 87–266, U.S.-flag vessels converted abroad become ineligible for such cargoes unless before September 21, 1961, the owners notified the Maritime Administration of their intention to redocument the vessels under U.S. flag and unless before September 21, 1962, the owner completed the conversion work abroad, returned the vessel to the United States, and redocumented the vessel in the United States.

The owner of the *Spitfire* and the owner of the *Montauk* complied with the first of these requirements. They gave the Maritime Administration timely notice of their intention to convert the vessels abroad. They entered into timely contracts with a Spanish shipyard to assure that the conversions would be completed and the vessels returned to the United States well before the September 21, 1962, deadline. However, because of a strike in the Spanish shipyard in which the vessels were to be converted and subsequent and prior work slowdowns, it now appears that the conversion of the *Spitfire* will not be completed until shortly after December 31, 1962; and the conversion of the *Montauk* will not be completed until the late spring of 1963.

I should like to call to the attention of the members of this committee certain compelling equities in favor of passage of the bill:

1. The delay in completing the conversion of these vessels resulted from causes plainly outside the control of the owners.

(*a*) The *Spitfire* is a 25,000 deadweight ton bulk carrier made from two tankers, the *Esso Buffalo* and the *Esso Syracuse*. At the time reconstruction was begun in September 1961, these vessels were laid up in a shipyard at La Spezia, Italy. A single hull was there constructed out of portions of both vessels. This phase of the reconstruction was completed during November 1961. This new hull, renamed the *Spitfire*, was placed under U.S. registry and towed to Bilbao, Spain, for conversion to a bulk carrier. It was anticipated that the conversion would be completed and the vessel would be delivered to the owner at the shipyard about the middle of February 1962.

Unfortunately, this schedule has not been adhered to by the shipyard. In the entire history of the Spanish shipyards, under their present government, there had never previously been a strike or work stoppage. Strikes are forbidden, in fact, by Spanish law, and are considered a mutiny. For the past 8 months, however, there has been continuous labor unrest in the Spanish shipyards. The labor cataclysm exists generally in all of the basic industries of northern Spain, such as steel mills and coal mines. This social upheaval is a force which neither General Cargo Corp. nor any other maritime concern could conceivably anticipate.

There have been continuous work slowdowns, delays, and absenteeism, which finally culminated into a full-scale strike on the 30th of April which lasted for a full month. The workers have now returned to work, not as part of any settlement of their labor demands, but rather being forced by their economic needs, with no increase in their wages nor improvement in their working conditions being gained. This further depresses an already demoralized shipbuilding industry and substantially increases unproductivity and slowdowns.

Officials of General Cargo Corp. have visited the shipyard in Spain in an effort to expedite the conversion work, and even requested permission from management to offer incentive bonuses to the workers, which request was refused. General Cargo Corp. also offered a bonus to the shipyard to expedite the delivery of the vessel.

To reiterate, the strikes and slowdowns were events that were completely unforeseen by General Cargo and, we submit, were unforeseeable by any prudent businessman.

As recently as the middle of last month, it was anticipated that the vessel would be delivered in time to enable the owner to meet the September 21, 1962, deadline. It now appears, however, that the vessel may not even be completed and delivered before the end of the year.

(*b*) The *Montauk* was acquired by its present owner in the latter part of 1960 and immediately thereafter placed under American flag. Prior to September 21, 1961, the Maritime Administration was notified in writing (1) that a contract for the conversion of the *Montauk* into a bulk carrier had been entered into with Sociedad Espagnola de Construccion Naval, Bilbao, Spain; and (2) that upon completion of the conversion the vessel would be redocumented under U.S. registry. This notice was given in compliance with the provisions of section 901(b) of the Merchant Marine Act, 1936, as amended by Public Law 87–266.

This vessel was to follow the *Spitfire* in the Spanish shipyard, and in the normal course of events its conversion would have been completed so that it could have been returned to the United States for redocumentation well in advance of the September 21, 1962, deadline

set forth in Public Law 87–266. The labor difficulties described above have, of course, also adversely affected the delivery schedule of this vessel, and its delivery cannot be assured until the late spring of 1963. It is for these reasons that I respectfully ask the committee favorably to consider pending legislation with the amendments that I have suggested.

2. An additional reason why this bill should be acted upon favorably is the fact that these vessels are badly needed in the U.S. merchant marine. We are advised by the Maritime Administration that there are presently only 12 U.S.-flag bulk carriers—all conversions—over 20,000 deadweight tons and that there is not one such vessel in the U.S. fleet as large and as fast as the *Spitfire*.

The tendency of all of the maritime nations of the world has been to build large bulk carriers so as to obtain the resulting increased efficiency in use of manpower. Because of the higher labor costs in this country, such economies are even more necessary than they are in foreign countries. Yet these vessels cannot be operated under the American flag in competition with foreign vessels that operate at half their cost if these American vessels are denied the privileges enjoyed by other American-flag vessels. The legislation to enable these vessels to operate under the American flag should be enacted, because these vessels are needed in the U.S. merchant marine.

3. The enactment of the proposed bill would further the purposes of Public Law 87–266. In recommending the amendment of that part of Public Law 87–266 which is being considered in this bill, the House Committee on Merchant Marine and Fisheries said:

> In the course of the hearings on the legislation it was brought out that a number of owners had in good faith entered into commitments to rebuild vessels abroad and others had made plans to document such vessels upon the completion of current work. In order to protect these individuals, the committee amended the bill to provide that (1) where prior to the enactment of the bill the owner has notified the Maritime Administration of its intention to document such a vessel under U.S. registry and where such vessel is so documented on its first arrival at a U.S. port not later than 1 year subsequent to the date of enactment, or (2) where a contract for the rebuilding has been made prior to the enactment of this bill and the Maritime Administration has been notified and the rebuilding is completed and the vessel documented on its first arrival at a U.S. port not later than 1 year subsequent to the date of enactment, the provisions contained in the bill would not apply (Rept. No. 922 to accompany H.R. 6732).

The present owners who, in good faith, entered into these commitments to rebuild these vessels abroad, should not be deprived of the protection that Congress intended to give them in Public Law 87–266 because they were unable to complete the reconstruction of such vessels as a result of forces beyond their control.

It is respectfully submitted that the bill should be enacted with the amendments set forth herein.

Thank you for this opportunity to appear before your committee.

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

Senator KEATING. No, I have no questions.

Senator BARTLETT. Mr. Baynton?

Mr. BAYNTON. No.

Senator BARTLETT. Mr. Bourbon?

Mr. BOURBON. Might I ask, what type of cargo are these two vessels designed to carry?

Mr. WANG. These vessels are general bulk carriers designed to carry any dry commodity.

Mr. BOURBON. On what dates was the Maritime Administration notified, concerning these two ships, of your intention to redocument them?

Mr. WANG. On the *Spitfire* we notified Maritime on July 15, 1961; on the *Montauk* we notified Maritime on August 26, 1961.

Mr. BOURBON. Now, you say that there are presently only 12 U.S.-flag bulk carriers, all conversions?

Mr. WANG. Over 20,000 tons.

Mr. BOURBON. Does that include the supertankers which are carrying grain?

Mr. WANG. The others are liquid cargo carriers, these are dry bulk carriers.

Mr. BOURBON. But you do have the competition of the tankers on the carriage of grain at least; do you not?

Mr. WANG. Well, a tanker is basically a liquid-carrying cargo carrier.

Mr. BOURBON. All right; that is all.

Senator BARTLETT. Now, Mr. Wang, when were these ships delivered to the yard or yards?

Mr. WANG. The conversion of the *Spitfire* was done in two yards. It was delivered to the first yard on September 20, 1961.

Senator BARTLETT. That was the Italian yard?

Mr. WANG. That is the Italian yard.

Senator BARTLETT. And that work was completed when?

Mr. WANG. That work was completed on November 13.

Senator BARTLETT. And when was it delivered to the Spanish yard?

Mr. WANG. By tow, under a tug, immediately thereafter, as fast as it could make it, and arrived in the yard on December 2.

Senator BARTLETT. 1961?

Mr. WANG. 1961.

Senator BARTLETT. And how about the other vessel?

Mr. WANG. The other vessel was delivered to the yard May 7, 1962.

Senator BARTLETT. To the Spanish yard?

Mr. WANG. To the same Spanish yard.

Senator BARTLETT. Now, why wasn't the work on the *Spitfire* completed at the Italian yard?

Mr. WANG. Because we had a contract signed on August 2 with the Spanish yard.

Senator BARTLETT. Because that submitted the lowest proposal, the cheapest proposal?

Mr. WANG. That is correct.

Senator BARTLETT. Are the Spanish yards—can work be performed at the Spanish yards at lesser cost than elsewhere in Europe as a general rule?

Mr. WANG. Evidently, yes.

Senator BARTLETT. Now, I didn't know anything about this situation until a few days before I introduced this bill on August 17 and didn't know anything about the *Spitfire* until this morning. Let me ask you this question: How many other ships are or might be in the same category? What if we pass this bill in the Senate and it is then learned that you or other owners went over to the House committee, for example, and said, "Now we have half a dozen more ships

in the same situation, we better amend the bill to add them." Are there any more ships in your company that might be needed to be brought under this legislation?

Mr. WANG. Sir, either our company or by others—there are no other presently American-flag ships that are in the same position.

Senator BARTLETT. These three make up the basket?

Mr. WANG. American-flag ships.

Senator BARTLETT. Right.

Mr. WANG. That are presently American-flag or were American-flag at the time of entering the yard.

Senator BARTLETT. And it is your best judgment that there would be no additional ships sought to be brought under this?

Mr. WANG. That are existing under the American flag.

Senator BARTLETT. Thank you, gentlemen.

The next witness is Mr. Coles.

STATEMENT OF MARVIN J. COLES, ON BEHALF OF COMMITTEE OF AMERICAN TANKER OWNERS, INC., ACCOMPANIED BY HOWARD PACK

Mr. COLES. Mr. Chairman, my name is Marvin J. Coles. I am an attorney having offices in Washington, and I appear today on behalf of the Committee of American Tanker Owners, a committee composed of companies owning large, modern, American-flag tankers. With me on my left is Mr. Howard Pack who is a member of the committee and both a dry cargo and tanker owner under the American flag.

Senator BARTLETT. And it is his intention to support the position you are about to take, whichever that may be?

Mr. PACK. Yes.

Mr. COLES. Mr. Chairman, I appear in opposition to this bill. The opposition is not based upon any ill will toward these proponents of the bill, but because of the adverse effect which its enactment would have upon my clients and upon other owners of American-flag tankers. If this bill were to be enacted and these two or three vessels were permitted to carry 50–50 cargoes, it would mean that existing American-flag vessels would be required to go into layup. It would further mean that additional American seamen would become unemployed. It would give to the owners of these two, now three, vessels covered by the legislation unwarranted benefits to which their actions do not entitle them. Such unwarranted benefits to them would be to the detriment of existing American owners.

May I also at this moment say that while Mr. Wang has stated that these would be the only three American-flag vessels which would not meet the deadline, we are informed that there are some other vessels which might also be kept out but which technically are under foreign flag but which have notified of intent to come back to American flag.

Senator BARTLETT. American owned?

Mr. COLES. They would have to be to come back to American flag?

Mr. Chairman, may I say further, while I have a statement which I should like to be incorporated in the record, I should like to move off from that statement and paraphrase it rather than read it verbatim.

Senator BARTLETT. Permission is granted. But before you do so will you tell the committee, if you know, how many vessels are in the category you just described?

Mr. COLES. We know of at least one. Mr. Pack informs me that there are probably several, but we do not have precise knowledge of it, I am sorry to say.

Senator BARTLETT. All right.

Mr. COLES. Let me briefly discuss the background of the law which the pending bill would amend.

Under section 901(b) of the Merchant Marine Act of 1936, as amended, at least 50 percent of Government-aid cargoes must go on privately owned American-flag vessels.

Early in 1961, it became evident that the American shipping industry was being disrupted by the practice of rebuilding vessels abroad and bringing them back under American registry to take advantage of this 50–50 provision. It was also obviously disrupting American shipyard work because no vessels would be rebuilt here when they could be rebuilt abroad. As a result, Congress was asked to pass legislation which would state that any vessel which was rebuilt abroad and brought back to American registry would not be privileged to carry 50–50 cargo as an American vessel.

During the course of the testimony, however, it was brought out that certain American companies and certain companies having vessels under foreign registry had already entered into contracts with foreign yards and had notified Maritime of intent to redocument and it would obviously be unfair to shut them out. So the Congress gave a period of grace in which they could bring them back, and that period of grace was decided at 1 year.

During the course of the testimony, I might add, on this bill, it was brought out by two witnesses, I believe, that they had previously made contracts with shipyards; they had previously made notification to Maritime, and I might add that the language which Mr. Wang read, which comes from the committee report and certainly came far before the September date on which the bill was enacted, said in the course of the hearings on the legislation it was brought out that a number of owners had in good faith entered into commitments to rebuild vessels. What he is talking about and what Mr. Seid has been talking about are commitments made after the congressional hearings and report but before the final date of signature by the President. In other words, the year of grace was intended to benefit those people who had previously made bona fide commitments.

Now, what happened was that after the committee hearings, after the action on the floor, before signature by the President, a number of companies rushed in and notified the Maritime Administration that they intended to redocument. To do so costs you a 4-cent stamp. There was no authorization that you would redocument.

In addition, many people had made contracts to convert these vessels to foreign flag. This gave them a privilege of playing the market either way, convert for foreign flag or convert and subsequently decide to bring it back to American registry. In other cases people made convenient contracts with foreign shipyards which provided that they could convert but there was no penalty if they failed

to undertake conversion under the contract. In other words, in a period between the time when this bill appeared likely to pass and, well, say from the period which the committees favorably reported on it until the signature by the President was a period of many, many weeks and a good many people rushed in.

The proponents of this bill contend that it should be enacted as a matter of fairness and equity to them. They allege that there have been delays beyond their control and therefore they should be given relief. We believe completely to the contrary. We believe that the delay in the delivery of the vessels was caused by the actions of the proponents of the bill; they caused their own delays. Moreover, we sincerely believe that at the time that the bill was enacted—that is, the basic law, Public Law 87–266—it was never intended by the owners of these two vessels that they would be rebuilt for American-flag operation. We believe not only is this bill not required to do equity to them, but were this bill enacted it would do tremendous inequity to my clients and other tramp owners.

We also question whether the *Glenbrook* would be covered and would be eligible under the law even if this bill were enacted, for reasons I will get to in a moment, Mr. Chairman.

Now, in support of these contentions may I give certain facts. May I say these facts are second-hand. We believe them and understand them to be true; if in any way they are incorrect I am certain the proponents can correct them.

First let me talk about the *Montauk*.

Mr. Wang has stated the *Montauk* was purchased from its prior owners as a tanker and brought back under American registry. In August of last year, after the hearings had been completed on both the House and Senate committee sides, but before the final enactment of the bill, notification was given to the Maritime Administration of the intent to redocument the *Montauk*. In the same month of August 1961, a contract was made with the Spanish shipyard whereby the *Montauk* and/or I believe four vessels could be converted into bulk carriers. It is our understanding that no payments were to be made under that contract until the vessel was actually delivered to the yard, leading to the possible impression that this was a contract of convenience; or in view of the fact that there was no requirement that it would be rebuilt for American registry, and in view of the fact that non-American vessels could be covered by it, that this was an intent to rebuild for foreign registry.

Now, there is a question in our mind as to whether it was ever intended to redocument as an American vessel the *Montauk*. In our opinion the notification to the Maritime Administration was merely to protect the "rights" under the statute should, at a future date, the owner decide to do it.

Let me give you the background for this impression, because it's not taken out of thin air. We believe we have definite proof that there was no intent to document the *Montauk* under the existing legislation by September 21 of this year.

In August 1961, while this bill was still pending before the Congress, but after the committee reports, the contract was made with the Spanish yard. But in that same month the *Montauk* was chartered by its owners to the Military Sea Transport Service, as a tanker, for

a period of 14 months. Now obviously there could have been no intent to convert the *Montauk* to come under this statute which has a 12-month deadline when the ship in August was chartered to the Government for a 14-month period.

Now, how can people claim that they were hurt by force majeure delays when obviously they had no intent to do this rebuilding of the vessel?

What happened subsequently? We are informed that about March of 1962 the owners of the *Montauk* had an opportunity to sell the vessel if she could be converted to a bulk dry cargo ship with 50–50 privileges under the American flag. The owners then went to MSTS and asked to be released from their charter. The tanker market had gone down so that MSTS could substitute tonnage cheaper, and MSTS gave the release.

We understand that a contract for the sale of the *Montauk* was executed in March of this year providing for the sale of this vessel upon its return to America, rebuilt, and with 50–50 privileges. In other words, the proponent of this bill has already sold the vessel which he is trying to get under this new legislation.

Now, in view of the fact that a charter was made for the vessel for 14 months, and in view of the fact that the vessel is sold, how in heaven's name can the owner claim inequity and claim that this bill should go through?

Let me add another point.

Claim is made that delay in the redelivery of the vessel is caused by force majeure and not by any fault of the owners. I disagree with this. The redocumentation bill was signed in September of last year. The contract was signed in August of last year. But the vessel didn't go into the shipyard until May 8, 1962——

Senator BARTLETT. What vessel are you referring to?

Mr. COLES. The *Montauk*.

Up to now, Mr. Chairman, I am dealing only with the *Montauk*. I will get to the *Glenbrook* in a moment.

Seven and a half months after the law was enacted, and 9 months after the date of the contract.

Now, had this vessel been delivered to the Spanish yard promptly, there is no question that she would have been completed and out long before any strikes in Spain occurred. In other words, the owner, for his own reasons, and because he had a charter on the vessel as the obvious reason, did not deliver this vessel to the Spanish yard in time to make the delivery.

Let me leave the *Montauk* for a moment and move on to the *Glenbrook*.

There's a little conflict in our information about what has been testified and what we believe to be the facts, and we will have to ask the committee to determine those.

We understand that the owners of the *Glenbrook* did not enter into any contract with the shipyard directly. We understand that they purchased the right to go under Mr. Wang's contract for a substantial profit for Mr. Wang, and I have no objection to his making the profit. We also question whether the September date on that contract is the correct date because it is our understanding, and I cannot say that we have firsthand knowledge of this, but that the actual negotiation and closing of that contract was made in February or March of

1962. I cannot state that as a fact, but ask that that be determined and the contract backdated.

We further understand, however, that as late as October 1961 the *Glenbrook* was offered for sale as a tanker. Further, from September to January of 1962 the *Glenbrook* engaged in the coastwise trade and touched at numerous American ports. In February 1962 it entered into a contract to carry grain to India. It is our understanding that about this time negotiations were begun for the contract to come under the contract Mr. Wang had with the Spanish shipyard.

We understand further that Mr. Wang gave no guarantee to the owners of the *Glenbrook* that this vessel would be able to get 50–50 privileges when converted at this time.

We ask you to determine, if you can, when this contract negotiation actually went on, when it was actually consummated, and whether the September 19 date submitted to Maritime is a correct one.

Now Mr. Michaan, we understand, has previously never engaged in the shipping industry, but has lent money in large amounts to vessels owned by Mr. Wang and others. I question whether the *Glenbrook* was obtained on a foreclosure of one of his mortgages. I think it would be interesting to know what the interest rate was charged by Mr. Michaan under that mortgage, because I think when people come here and claim equity they should come here and be able to prove clean hands in their case.

Let me follow through on the *Glenbrook*, which first arrived at Cadiz, Spain, in April 1962. That is almost 7 months after the President signed the law. Now there has been serious question raised as to whether a Spanish shipyard which is notoriously slow could complete the vessel in 5 months, permit the at least 15 days which it takes to get to the United States to sail the vessel, and still allow enough time for the vessel to go through Coast Guard inspection, the making of whatever repairs are necessary to meet Coast Guard requirements, and be documented. In other words, these people were cutting it awfully fine.

Secondly, we know of nothing under the contract as testified to by Mr. Seid which stated that these vessels could not go into the yard until April. It is our understanding—and again I have to ask you to go to the proponents of the bill—that the vessels could go in at any time, and the April 30 date was the last day in which they could go in; not the first.

Now, we submit that the failure to obtain delivery of these vessels by the September 21 deadline is the fault of the proponents of the bill (*a*) because they had no intention to go ahead with this, and (*b*) they delayed just too darn long.

I am reminded of a story of Winston Churchill years ago who was invited to a Sunday lunch at which the King of England was invited. He was extremely late and the King was upset. When Churchill arrived the King said, "Young man, I hope there's a good excuse and reason for your being late." Churchill said, "Sire, there is. I started too late."

That's the same problem here.

Now, Mr. Chairman, as I previously stated, we bear no ill will to these people and have no desire to injure them, but we don't want injury done to our clients. And let me tell you why enactment of this bill would seriously injure our clients.

At the present time the 50–50 cargoes, pursuant to Public Law 480, are substantially all of the cargoes available to American tramp ships. They also are a very substantial part, as Mr. Bourbon brought out, of the cargoes available to American tankers that are members of the Committee of American Tanker Owners. There are now more American-flag tramp and tanker vessels available to carry these cargoes than there are cargoes. As a result, American vessels are already in layup and going into layup as a result of unavailability of sufficient cargoes. We are now faced, moreover, with the fact that both the Senate and the House Appropriations Committees have substantially cut the amount of funds that are being made available for next year's Public Law 480 program, with the result that there will be still less cargoes available for American ships.

Now, if these vessels come in and take cargoes under 50–50, a commensurate and equivalent tonnage of existing vessels must go into layup; and they are my client's vessels.

Now, let's see what will happen.

If we keep in mind that these vessels will carry 23,000 tons at roughly 14.5 knots, or, let's say, about 35,000 ton-knots, a Liberty about 10,000 ton-knots, so these will each replace three Libertys. If these two vessels were to be redocumented with 50–50 privileges, six Libertys would go into layup.

These vessels each employ approximately 50 men, and a Liberty about 40 men. So that 240 men's jobs would be displaced for 100 jobs on these particular ships. These vessels would each replace approximately 1½ T–2 tankers. Each of these vessels would replace roughly two-thirds of a brandnew 32,000-ton tanker on which the Government has a mortgage.

In other words, if these vessels are given 50–50 privileges, as a practical matter other vessels are injured and driven out of the business because of the lack of sufficient cargoes for all.

An argument has been made that these vessels would be lost to the American-flag fleet. That is just not so. These are American-flag vessels. They will not be abandoned to the shipyard. If there's a million dollar investment or more in these vessels and the choice is to abandon it, or to lay her up, it is obviously that she will be laid up at a cost of perhaps $2,000 per month until the 3 years have gone by, at which time she can be made available to carry 50–50 cargoes under existing law.

If the vessel were to be foreclosed—and quite candidly that in my opinion is a complete red herring because I daresay the Spanish yard has already been paid most of what it is owed—these vessels will remain United States.

Another thing I would like to know: What is the actual amount owned to the Spanish yard? And if my information is correct that it's under a half million dollars per ship, obviously these ships are not going to be let go. If they were foreclosed there's some legal question as to whether they would still not have to remain under the American flag. So obviously I think that argument has no weight.

Mr. Chairman, to sum up rather briefly, we feel that this bill should not be enacted because there is no intent on the part of these proponents to convert the vessel under existing laws. Second, they caused by their own delay the result which they are seeking to alleviate, and,

thirdly, approval of this bill would injure American shipowners, as I have indicated.

Senator BARTLETT. Thank you, Mr. Coles.

Does that conclude your statement?

Mr. COLES. It does.

Senator BARTLETT. What, if anything, do you know about the *Spitfire?*

Mr. COLES. All I know about the *Spitfire* is that I am surprised today that they are trying to include it under the bill. I understood this would make the date. I understood further from the newspapers that the *Spitfire* was chartered a couple of days ago, and—indicative of what I am talking about—replaced three Libertys.

The owner of the *Spitfire* sought to delay the charter, and the Department of Agriculture gave them a delay of a week or more. In the meanwhile three Libertys were clamoring for this work. Finally the Department of Agriculture said "OK," and gave the work to the three Libertys which otherwise would not have had the work.

Other than that I know nothing.

Senator BARTLETT. Mr. Coles, do you know how many ships will come in under last year's law, not counting these? I don't think you would want to count these.

Mr. COLES. Mr. Chairman, let me give some background.

These fall into categories, some which were American and some which were foreign and were redocumented. The total number of notifications given, I believe, was 41, of which a little over half were foreign and the others American. I am going to make a guess, Mr. Chairman, if you will accept it as such, that roughly 20 rebuilt vessels have come in.

Mr. Pack has just invited my attention to the fact that within the last month four of these big rebuilt jobs have come in, or about to come in.

Senator BARTLETT. And before they came in there were, as Mr. Wang or Mr. Seid said, 12 carriers 20,000 tons or over?

Mr. COLES. My guess would be, sir, that these vessels are included in that number Mr. Wang meant. When I say "these vessels," I mean vessels rebuilt abroad, not the vessels covered by the pending legislation.

Senator BARTLETT. How many vessels in this trade of under 20,000 tons are there?

Mr. COLES. If you add in the tankers and the tramps, I would guess you would come fairly close to 100; but that's just a guess, Mr. Chairman.

Senator BARTLETT. Now, in the opening section of your statement—which you did not read but which you summarized very forcefully—you said that enactment of this bill would, among other things, mean that additional American seamen would become unemployed.

Now, I must confess I find a little difficulty in reconciling that with the letter written to Chairman Magnuson by Paul Hall, president of the Maritime Trades Department, AFL–CIO, who urges its passage and who has never been noted, in my experience, as a man who wanted to put American seamen out of work.

Mr. COLES. Certainly not. Mr. Hall is very, very stanch in his support of the American seamen—and quite properly, in his position.

I think that it's based upon a hypothesis which on the surface appears sound, and that is that the more American ships you get into operation, the more jobs you have. Unfortunately, under present and foreseeable conditions, that hypothesis is not a correct one, and I hope that if Mr. Hall were to analyze it he might come to a different conclusion today.

Let me give you the example of the *Spitfire*.

The *Spitfire* was chartered to carry a cargo of grain. It would employ approximately 50 men. Mr. Earl Smith, who will testify, had three Liberty's which could not get business, and between them they employed 120 men. Because there was only enough business for either this one vessel or the three Liberty's, one or the other had to lay up. Now if the *Spitfire* had gotten the business, the other three would have laid up.

I use this purely as an example; but it goes through the entire system.

Now the three Libertys employ 120 men, roughly; the *Spitfire* roughly 50. Therefore, 70 men would have been laid off if the three Libertys laid up and the *Spitfire* operated.

Now, I think if Mr. Hall would consider this in the context of the lack of available cargo it would be my hope that he would come to the same conclusion I would.

Senator BARTLETT. I'm sure that if there's anyone in the room who is associated in any way with Mr. Hall your suggestion will be communicated to him, and if he desires to change his mind he will let Senator Magnuson know promptly.

Mr. Baynton?

Mr. BAYNTON. Mr. Coles, I believe you testified that you saw in the paper that the *Spitfire* had a charter?

Mr. COLES. Yes. There was a report of the charter to the carrying of grain, I believe it was to Pakistan—to the United Arab Republic; I'm sorry—and she was unable to meet her charter dates, and as a result three Libertys were taken instead.

Mr. BAYNTON. You covered the point I was after, because the testimony from Mr. Wang indicated that the ship had not been delivered.

Mr. COLES. That's my understanding, but nevertheless it had been chartered——

Mr. BAYNTON. That's all.

Mr. COLES. And indicates, Mr. Baynton, the damage which these ships can do.

Senator BARTLETT. Thank you, gentlemen.

(Complete text of Mr. Coles' statement follows:)

STATEMENT OF MARVIN J. COLES

My name is Marvin J. Coles. I am an attorney having offices in Washington, D.C. Today I appear as counsel for the Committee of American Tanker Owners, Inc., an association composed of companies which own modern American-flag tankers. On their behalf, I wish to express opposition to the enactment of S. 3649.

Opposition to the proposed legislation arises not from any ill will toward its proponents, but because of the adverse effect which its enactment would have upon existing American-flag tramp and tanker vessels. If this bill were to be enacted and these two vessels permitted to carry 50–50 cargoes, it would mean that existing American-flag vessels would be required to go into layup. It would further mean that additional American seamen would become unemployed. It would give to the owners of these two, now three, vessels covered by

the legislation unwarranted benefits to which their actions do not entitle them. Such unwarranted benefits to them would be to the detriment of existing American owners.

Let me briefly discuss the background of the law which S. 3649 would amend. Under section 901(b) of the Merchant Marine Act, 1936, as amended, privately owned American-flag vessels are to be used to carry at least 50 percent of Government-financed aid cargoes. Early in 1961, it became evident that the developing practice of redocumenting under American registry vessels rebuilt abroad to take advantage of this 50–50 provision was resulting in serious detriment to owners of American-flag ships, American seafaring labor, American shipyards, and American shipyard workers. While Congress had previously enacted legislation denying coastwise privileges to vessels rebuilt abroad, it was found that the loophole which it thought it had closed had not worked, as companies were basically interested in being permitted to carry 50–50 cargoes on these foreign rebuilt ships. Accordingly, legislation was introduced to provide that all vessels which were under foreign registry, or built or rebuilt abroad, which were brought back to the United States after the enactment of the proposed legislation, would not be entitled to 50–50 privileges as American vessels for a period of at least 3 years.

During the course of the hearings on that proposal, testimony was introduced that several American owners had previously notified the Maritime Administration of their intent to redocument their vessels United States and had previously entered into bona fide contracts with foreign shipyards for their rebuilding. Because of the time involved in rebuilding a vessel and returning it to the United States, these vessels could not have been redocumented under American registry by the date of the statute's enactment. Accordingly, the committees and the Congress approved an amendment which provided that where an owner of a foreign or American vessel being rebuilt abroad had notified the Administration of his intent to redocument United States, and such redocumentation was done within 1 year and on the first arrival of the vessel at a U.S. port, the ship would retain its privilege to be classified as an American-flag vessel for the carriage of 50–50 cargo (Public Law 87–266). You will note that the 1-year period was a year of grace designed to protect people who had previously made bona fide commitments.

After the hearings had been held by both the Senate and House committees, but before actual enactment of the bill and signature by the President, several companies rushed in and notified the Maritime Administration of their intent to redocument. To do so only cost a 4-cent stamp. There was no obligation imposed upon these owners to redocument if they later decided not to do so. Some people already had made or made contracts with foreign yards to convert their vessels for operation under foreign flag, as the foreign market at that time was profitable. In any event, the vessels would be converted; but the notification to the Maritime Administration gave the owners an opportunity to move either under foreign or into American registry. We understand some people made rebuilding contracts with foreign shipyards after the bill was well along in its progress through Congress, which contracts did not have any penalties against the owner in the event that he did not go ahead with the rebuilding but gave the owner in effect an option to take advantage of this legislation if he wished to do so under later market conditions. Thus we understand that certain people took advantage of the delay between the hearings on the bill and its final signature by the President to notify the Maritime Administration and contract for rebuilding. Was this intended by the Congress when it granted the year of grace?

The proponents of the pending bill contend that it should be enacted as a matter of fairness and equity to them. They allege that the delay in redocumenting the vessels by September 21 of this year, as required by the existing law, arises from the fact that strikes have delayed the vessels' completion. Basically, their argument is that, through no fault of their own, they have been deprived of rights under the existing law.

We believe completely to the contrary. We believe that the delay in the delivery of the vessels was caused by the actions of the proponents of the bill, and that they are not entitled to such relief. Moreover, we sincerely believe that at the time that the legislation was enacted it was not intended by the owners of these particular vessels that they should be rebuilt for returning to American registry. We believe further that the enactment of this bill would be most inequitable to other American shipowners. We also question whether the *Glenbrook* would be covered by the original statute even with this amendment. In

support of our position, may we give the following facts as we understand and believe them. May I add that our knowledge of these facts is secondhand; should they be incorrect in any detail, the proponents of the bill are here and can so inform the committee.

The *Montauk* was purchased by its present owner and returned from foreign to American registry as a tanker. In August of last year, after the hearings were held before both the Senate and House committees but before final enactment of the bill, notification was given to the Maritime Administration of the intent to rebuild and redocument the vessel under U.S. registry. In the same month, a contract was made with a Spanish shipyard whereby this and/or four other ships could be converted into bulk carriers. It is our understanding that no payments were to be made under this contract until such time as a ship was delivered to the Spanish yard, leading to the impression that this may have been a contract of convenience. The contract, we further understand, provided for the rebuilding of the vessels either as American or foreign flag. There is question in our mind, therefore, as to whether there was any intent to convert the *Montauk* at the time the contract was entered into and notification was given to the Maritime Administration, or whether this was merely a means of protecting rights should the owner at a future date desire to do so because of marketing conditions.

But we believe we have more definitive proof that there was no intent to convert the *Montauk*. In August 1961, while the bill was still pending and at the time the contract with the Spanish shipyard was signed, the *Montauk* was chartered to the Military Sea Transportation Service as a tanker for a period of 14 months. Obviously there can have been no intent to convert the *Montauk* under the existing law which had a 12-month deadline if there was a 14-month charter executed on the ship. We believe this is clearly determinative of the fact that there was no intent at that time to convert the *Montauk*. Obviously, therefore, the proponents of this bill cannot claim that they are hurt by force majeure when there was no intent at the time the bill was enacted to convert the ship to a dry cargo vessel for American documentation.

We are informed that about March of 1962 the owners of the *Montauk* had an opportunity to sell this vessel if she could be converted to a dry cargo bulk carrier and documented under American flag with 50–50 rights. The owners then went to MSTS and asked that the vessel be released from her charter. As the market had then fallen and tankers could be substituted at lower rates, MSTS granted this request. We further understand that a contract for the sale of the *Montauk* was executed, which contract provided for the purchaser to get the ship if it could be rebuilt and redocumented in time to obtain 50–50 privileges. Actually, we are informed that the proponent of this bill would thus not even be the owner of the *Montauk* if he were successful in having it enacted. In view of the fact that a charter for 14 months, which would preclude qualification under the act, had been made, and further in view of the fact that the vessel had been sold, we certainly believe that the proponent of the bill for the vessel *Montauk* has no reasonable ground to claim that he has been dealt with inequitably.

Proponents claim that the delay in the delivery of the vessels is caused by force majeure and not by any fault of their own. With this we further disagree. The redocumentation bill was signed by the President on September 21, 1961. The alleged contract was made in August of 1961 and the notification to the Maritime Administration was given in that same month. Nevertheless, the owner of the *Montauk* did not deliver the vessel to the shipyard until May 8, 1962, or 7½ months after the date of enactment of the bill and almost 9 months after the date of the contract. Had he delivered the vessel promptly to the shipyard, the vessel would have been redelivered and redocumented long before the strikes in Spain began. The fact that the owner preferred to delay and use the vessel elsewhere is not grounds for granting him the relief he here requests, particularly when this would be to the detriment of other American shipowners.

We understand that the owners of the *Glenbrook* did not enter into any contract for the conversion of the vessel prior to the date of enactment of the original legislation this bill would amend. We further understand that the *Glenbrook* was offered for sale as a tanker as late as October 1961, a month after the existing law had been enacted. From September 1961 to January 1962 the vessel engaged in the coastwise trades and touched at numerous U.S. ports; in February 1962 she took a grain cargo to India. We know of no contract for rebuilding then filed with the Administration on this ship. We further understand that in March 1962 the owners of the *Glenbrook* entered into an arrange-

ment with Mr. Wang, who owned the rebuilding contract with the Spanish shipyard for four vessels, whereby the *Glenbrook* would be rebuilt under that contract. We understand that Mr. Wang gave no guarantee that the vessel would, when so rebuilt, have 50–50 privileges. We are somewhat confused as we have been told that according to information filed with the Maritime Administration, the *Glenbrook* is owned by a company controlled by Mr. Wang; it is our further understanding that Wall Street Traders, Inc., is controlled by a Mr. Michaan.

The *Glenbrook* first arrived in Cadiz, Spain, on April 16, 1962, and subsequently entered the shipyard for conversion. Please note that this is almost 7 months after the law was signed by the President. Even without a strike, some people question whether the Spanish yard could complete the conversion in time to let the ship be sailed to the United States, pass Coast Guard requirements, and be redocumented in 5 months. Here again it appears that the owners had no intention of rebuilding the vessel at the time that the existing law was enacted, but merely spent a 4-cent stamp to notify the Maritime Administration. Moreover, there was obviously a substantial delay of 7 months before the ship entered the yard for rebuilding. We submit that failure to obtain delivery by September 21, 1962, as the law now requires, was the result of this delay rather than force majeure.

As I have previously stated, my clients have no desire to injure nor do they have any ill will toward the proponents of this legislation. But they do not want to have injury done to themselves. If this bill were enacted, there would be serious injury to my clients, and to other American-flag tramp and tanker owners, as a result of these two ships being privileged to carry 50–50 cargoes.

At the present time, the 50–50 cargoes shipped pursuant to Public Law 480 are substantially all of the cargoes available to American-flag tramp ships. In view of the serious conditions in the American oil market, these grain cargoes are also of great importance today to the American-flag tanker companies which comprise the membership of the Committee of American Tanker Owners. There are now more available American ships than there are cargoes to be moved by them, with the result that American vessels are presently in layup and more will probably have to go into layup soon because of lack of available cargoes. Because of the surplus of ships, rates are at extremely low levels. Our tankers cannot meet their mortgage obligations. We are now faced with future substantial cuts in the volume of Public Law 480 cargoes as the Appropriations Committees of the House and Senate have made large reductions in the amounts to be made available for Public Law 480 cargoes, with the result that the demand for American-flag tankers and tramps will be substantially curtailed in the coming years.

If the two vessels covered by the pending bill are given 50–50 privileges even though they arrive after the cutoff date of the statute, they will displace other American-flag vessels which will be forced into layup. If the privileges sought by the pending legislation were given to the *Montauk* and the *Glenbrook*, they could displace a total of six American Liberty ships which would be required to go into layup. As these two vessels would each employ about 50 persons and a Liberty employs approximately 40, it would mean that the jobs of 140 American seamen would be displaced. These two vessels could displace three T–2-type tankers, also causing a loss of jobs to American seamen. Each of these vessels would replace two-thirds of a modern 32,500-ton American tanker. In other words, with a limit on the amount of 50–50 cargo available to American vessels, each one of these two ships would replace other American-flag ships which will be required to go into layup. With a surplus of American-flag vessels both today and for the foreseeable future, the enactment of this legislation will benefit its proponents but will seriously injure other American-flag shipowners. In this connection, may we point out that a preponderance of the vessels which would be injured are those which were built in America and have remained under American registry at all times.

Argument has been made that it would be advantageous to the U.S. merchant marine to have these two vessels and therefore that the bill should be enacted. May we point out that this raises a completely false issue. Both the vessels covered by the pending legislation are American-flag vessels. They cannot be removed from American registry without the permission of the Maritime Administration, which we assume would not be given. Under these circumstances, there can be no argument that the American fleet would be injured if this legislation passed. May we also point out that these vessels could engage in all trades except 50–50 and coastwise trades as American vessels. At the end of 3 years, they would be eligible to carry 50–50 cargoes under the existing law.

As we have previously stated, we believe that any injury which may occur to the proponents of this bill as a result of not having their vessel delivered in time to meet the September 21 statutory deadline results from their own doing. Had they not delayed in putting the vessels into the shipyard, there is no question but that they would have been delivered in adequate time. Moreover, we respectfully submit to the committee that the owners of these vessels had no intention at the time that the basic legislation was enacted to redocument them as rebuilt vessels under American registry. We further point out that the fact that the vessel *Montauk* has been sold to another party further does not warrant relief as requested by the alleged present owner. As for the *Glenbrook*, we submit the fact that we know of no contract made by its present owners at the time that the existing legislation was enacted, which leads to a question of whether even if this bill were enacted it would still qualify under the law. As the vessels are American-flag ships and must remain so unless the Maritime Administration decides otherwise, there can be no injury to the American merchant marine by failure to enact this bill and no lessening in the number of American ships under our flag. If the bill were to be enacted, however, it is clear that other American shipowners would be injured in that their vessels would be replaced, that the total of American seamen employed would be reduced, that the building of new ships in American shipyards if required could be reduced, and that American shipyard labor could be deprived of future work. Under these circumstances, we respectfully submit to the committee that the proposed bill should be rejected.

Senator BARTLETT. Now, Mr. Smith.

STATEMENT OF EARL J. SMITH, CHAIRMAN, AMERICAN TRAMP SHIPOWNERS ASSOCIATION, NEW YORK, N.Y., ACCOMPANIED BY JAMES DUNAIF, PRESIDENT, CARGO SHIPS & TANKERS, NEW YORK, N.Y.

Mr. SMITH. Mr. Chairman, gentlemen, my name is Earl J. Smith. I am the chairman of the American Tramp Shipowners Association, an association composed of companies owning and operating American-flag vessels which engage in the carriage of bulk commodities in the foreign and domestic commerce of the United States and also upon occasion in the chartering of their vessels to other companies.

Senator BARTLETT. You are accompanied by whom, Mr. Smith?

Mr. SMITH. By Mr. Kurrus, who is attorney for the American Tramp Shipowners Association.

Senator BARTLETT. And who likewise, I understand it, is opposed to this bill?

Mr. SMITH. Yes, sir. The American Tramp Shipowners Association is composed of about 16 companies owning and operating 61 American-flag vessels. I am appearing here today to present the strenuous opposition of the tramp shipowners to S. 3649, which bill would allow the *Glenbrook* and *Montauk* as a special exemption from section 901(b) of the Merchant Marine Act of 1936 as amended by Public Law 87–266 to be documented under the laws of the United States and to engage in the carriage of cargo preference cargoes, despite the fact that they have not complied with the provisions of the existing law.

Our association submits that this special-purpose and special-interest legislation cannot be supported on any argument of equity, fairness, or logic; the purpose of Public Law 87–266 was made precisely clear at the hearings before this committee and before the House Merchant Marine and Fisheries Committee in July of 1961; the report on the bill filed by Senator Bartlett on behalf of the Senate Committee on Commerce, and then the similar report filed by Mr. Bonner,

chairman of the House Merchant Marine and Fisheries Committee. In this respect, the report of Senator Bartlett, Senate Report 667 on S. 1808, dated August 7, 1961, states the purpose of the bill as follows:

> The whole purpose of this bill is to provide protection to vessels of U.S. registry engaged in the bulk trades against foreign-flag vessels and vessels built or rebuilt abroad which seek documentation or redocumentation under the American flag for the purpose of sharing in the carriage of the 50 percent of Government-financed cargo reserved under the Cargo Preference Act for privately owned U.S. commercial flag vessels.

It was the intention of the legislation that it would encourage the construction and maintenance of American-flag vessels built in American shipyards.

I had the privilege of testifying before your committee and before Senator Bartlett during the hearings held on S. 1808 on July 10, 1961. At that time I stated my wholehearted support of the legislation and urged that it be passed quickly, without any amendments. During the course of the hearings before your committee on July 10, 1961, it was brought out that a few American companies had already made commitments to have vessels rebuilt abroad under existing contracts and that the legislation should not work retroactively so as to penalize those companies who had in good faith entered into such rebuilding contracts. Therefore, the savings clause was inserted in Public Law 87–266 providing that provisions of the amendment should not apply to a vessel originally constructed in the United States and rebuilt abroad where the contract for rebuilding had been entered into prior to the enactment of the amendment and the owner had notified the Maritime Administration in writing of his intent to document such vessels under the laws of the United States; and that the vessel was so documented on its first arrival at a U.S. port not later than 1 year subsequent to the date of the enactment of the amendment which was September 21, 1961.

You will no doubt recall the testimony before your committee during the hearings on S. 1808 that the savings clause in the amendment would result in only a few additional ships being brought back under the American flag and that a savings clause was necessary to protect owners who had, in good faith, already entered into commitments for rebuilding.

It was agreed by everyone at the hearings, both before your committee and before the House Merchant Marine and Fisheries Committee, which held hearings on a similar bill, H.R. 6732, on July 25, 1961, that 1 year would be more than ample time to allow anyone who had an existing contract to complete the rebuilding abroad and to document the vessel at a U.S. port.

At this point it was exceedingly important to point out that the passage of Public Law 87–266 came as no great surprise to the maritime industry. The eventual passage of this legislation was well known in the industry at least before July of 1961.

In this respect the relevant dates concerning the passage of Public Law 87–266 are significant.

On May 1, 1961, H.R. 6732 was introduced in the House. On May 4, 1961, S. 1808 was introduced in the Senate. On July 10, 1961, hear-

ings were held on S. 1808 before the Senate Commerce Committee. On July 25, 1961, hearings were held on H.R. 6732 before the House Merchant Marine and Fisheries Committee.

On August 7, 1961, the Senate Commerce Committee issued Senate Report 667, report of the favorable passage of S. 1808 with the savings clause above referred to. On August 15, 1961, House Report No. 922 was issued recommending the passage of the legislation in the same form as approved by the Senate committee.

On September 21, 1961, the Public Law 87–266 was approved and signed by the President of the United States and became law.

After the passage of this legislation became obvious several speculators, who are strangely enough now seeking special legislation, scurried about in order to obtain some illusory contracts for rebuilding abroad so that they could meet the technicalities of the statute in case they decided subsequently to go ahead with rebuilding.

It is our information that the contracts which were consummated did not necessarily bind either party, as witnessed by the fact that these same people and others have so-called contracts that are definitely not going ahead.

In the case of the *Montauk* and the *Glenbrook* the owners of the vessels played it fast and loose and held off until the last possible moment before delivering their vessels to a foreign shipyard for rebuilding. They were gambling on whether such building abroad would be feasible. If the market had turned up in the meantime and—that means the foreign market had turned up in the meantime—and had it been more feasible to operate vessels under foreign-flag registry, the contracts on these vessels would probably not have been exercised.

It is clear from the hearings and from the reports of the congressional committees that it was not the intention of Public Law 87–266 to protect such speculation. Certainly, any prudent businessman operating in good faith to comply with the requirements of the act, knowing that the vessel had to be documented at a U.S. port not later than September 21, 1962, would have delivered his vessel to the shipyard as soon as possible. He would also, as a normal business practice, have protected himself on the delivery date with damages being paid by the shipyard in the event the delivery date was not met.

It is, I believe, a well-known fact to this committee that the privately owned American-flag tramp vessel depends almost completely on cargo preference cargoes. At the time that the bills under which Public Law 87–266 is based were being considered in Congress, the circumstance was that there was only a limited amount of cargo preference cargoes and an oversupply of available U.S.-flag vessels ready and willing to carry these cargoes.

As observed in Senate Report No. 667 of Senator Bartlett:

> The result is an unhealthy shipping market which has discouraged new unsubsidized vessel registration for U.S. registry.

At the time legislation was being considered, vessels, especially Liberty vessels, were transferring back and forth between U.S. and foreign flag. Also, American-flag and foreign-flag vessels were being rebuilt abroad and documented under American registry for the sole purpose of carrying cargo preference cargoes. The following state-

ment concerning the purpose of the legislation as contained in the report of Senator Bartlett is, I believe, significant:

> As a result of this redocumentation of foreign vessels the American shipping market, so largely dependent on 50–50 cargoes, has become unstable. These foreign rebuilt and newly built vessels usually have a larger carrying capacity than the older American-built ships, thus they are able to take over a substantial volume of 50–50 cargoes. This results in the layup of American-built unsubsidized ships which are deprived of cargoes primarily reserved for American vessels under the 50–50 act.
>
> Moreover, so long as these foreign-built and rebuilt vessels can be brought into the United States duty free it becomes economically unfeasible for unsubsidized American operators to build new ships in American yards—

or to jumboize or otherwise alter them.

The above comments made in the report of Senator Bartlett accompanying S. 1808, the report being dated August 7, 1961, are more compelling today than they were at the time they were written. At the present time there are at least 15 American-flag tramp vessels laid up because of lack of business.

The compaines which I own and control have four vessels themselves which are laid up for lack of business; each of the two vessels involved in the present legislation before your committee, the *Montauk* and *Glenbrook*, would replace approximately three Liberty vessels. This would result in disaster for at least 6 American-flag vessels which have been under American flag and these 2 ships alone would put approximately 150 American seamen on the beach.

It should be pointed out that the legislation was agreed to by all segments of the American merchant marine, including the operators, the unions, and the shipyards. It was supported by all governmental departments. There is no merit to any contention by the proponents of this special interest legislation that anyone who would oppose these bills is against progress. It is not progress for the economy of the United States, nor does it promote the American merchant marine in accordance with our shipping legislation, to allow for vessels constructed abroad to return to the U.S. flag, throwing existing U.S.-flag vessels out of business by monopolizing the limited amount of cargo available to American-flag vessels.

It also affects the shipyards and all others affiliated with the industry for the same reason.

We are informed that the owner of the *Montauk* decided definitely to convert this vessel only after he had found a person to purchase it after the rebuilding had been completed and at a substantial profit to himself.

We are further informed that his decision was not made until March of 1962. As further evidence of the fact that the owner of the *Montauk* was speculating with no bona fide interest of definitely committing himself to rebuilding, is the fact that the *Montauk* was chartered to MSTS for a 14-month period beginning August 1961, which would have ended in October of 1962, after the savings clause of Public Law 87–266 had expired.

It is incredible that the owner of the *Montauk* would have the temerity to come before this committee with such a background of facts against him.

The *Montauk* was actually not delivered to the shipyard in Spain for conversion until approximately May of 1962. Certainly, no reasonable or prudent shipowner could have expected that the conversion

work would have been completed and the vessel could have been documented under the U.S. flag at a U.S. port before September 21, 1962, no matter how favorable the circumstances might have been.

Furthermore, it is comon knowledge in the shipping industry that for many months prior to May 1962 the Spanish shipyards were having considerable difficulty in making deliveries and that some contracts which they had understaken had been delayed many months.

I am further informed that the so-called rebuilding contract covering the *Glenbrook* was purchased by Wall Street Traders, Inc., as a speculation from the present owner of the *Montauk* or from one of his associated or related companies. In other words, the present owner of the *Glenbrook* did not have any contract, bona fide or otherwise, prior to September 21, 1961. Even if that vessel could have been brought back to the United States and documented before September 21, 1962, we submit that it would not have qualified under the saving clause of Public Law 87–266 and we intend to contest its right to carry cargo preference cargo in any event, before the Maritime Administration and before the courts, if necessary.

The American Tramp Shipowners Association has no desire to be unfair to owners which had bona fide existing contracts at the time the legislation embodied in S. 1808 was being considered. The proponents of the present legislation did not have such contracts and we submit did not proceed in due faith or due diligence to have their rebuilding work completed. There is no reason why the precise wording of the statute should not be enforced and there is similarly no reason why any exception should be made in the language of the statute.

If these two vessels being rebuilt abroad are allowed to return to the U.S. flag as a special exemption to the statute, they will put six vessels that have been under American flag out of existence, they will put approximately 150 seamen on the beach, and they will discourage rebuilding in American shipyards.

We urge, therefore, that your committee disapprove this attempt of private speculators to bail themselves out of gambling by the special device of special legislation.

Mr. Chairman, I have heard you ask several questions with regard to the *Spitfire*. I would like to point out to you just how these vessels—and I testified to this, if you will recall, in the hearing before you. I said at that time that the existing conditions made it possible for people to go out, make commitments abroad, where even the law only requires that 50 percent American money be involved, where coastwise vessels must have 75 percent American ownership; that they could go to one of the recipient nations and make a subject contract, put in ships for any length of time, and go out and acquire the ships against those contracts. If they didn't get them, no deal. It permitted all sorts of speculation.

Now, in connection with the *Spitfire*, we had offered to carry some grain to the United Arab Republic and the *Spitfire*, being the larger ship, took the business. She still was unavailable or unqualified to carry foreign aid cargo. She took these with a canceling date of August 15. It was then extended to August 25.

In the meantime, we had three of our ships laid up for lack of business, the men walking the beach. The United Arab Republic

through its brokers approached us and wanted to know whether or not we could lift the grain that they wanted to move on the 1st day of August. We said, "Yes, sir," and we offered to take the cargoes. Then we were advised that the Department of Agriculture wouldn't approve.

Well, there was a technical question as to whether the United Arab Republic actually charters our ship and then goes to Agriculture to get the approval or whether they were told unofficially to go ahead and see if you can get a performance bond and so forth.

I submit, gentlemen, that these foreign aid cargoes are supposed to be shipped when the foreign recipient nation needs them, and they wouldn't have chartered tonnage to meet the tonnage on the 1st day of August unless they needed it.

We fortunately got, and finally after much conversation with Agriculture through our representatives here, and the United Arab Republic, we finally were given the three cargoes. However, here they are using phantom ships which don't exist actually, they are not available, qualified to carry this cargo, and three of our ships laid up for a month.

I sent a telegram to Mr. Taney of Agriculture. He advised by telegram they had given up on the *Spitfire* and the United Arab Republic was going to be on the market. We had already arranged for a charter.

I thanked him for his cooperation but pointed out to him it had been very costly to us, because it cost us many thousands of dollars to lay these three ships up and it accomplished nothing except that it cost somebody a lot of grain storage charges on the cargo or grain that should have moved out of the country 30 or 40 days before it is moving.

Now, we have that experience; we have these other vessels that are not yet in. You have also asked considerable questions, sir, of other witnesses about the number of ships that can come in. I have before me a memorandum put out by the Maritime Administration. You will notice pencil marks on the end of here which shows those that have come back. These are available to your committee, sir, from Maritime. If you would like to have this I will be very glad to give it to you.

Senator BARTLETT. We will be happy to have that.

(The document follows:)

Ships to be documented or redocumented under U.S. laws as per letters of intent filed by present foreign or U.S. owner or prospective U.S. buyer, pursuant to Public Law 87–266

Date of letter, 1961	Vessel	Present flag	Type	Present owner of vessel	Proposed U.S. buyer	To be converted
Aug. 31	Abalone [1]	Liberian	Liberty	Cía. Maritima Columbella, S.A. (Panamanian).	Eastport Steamship Corp. or Rexford Steamship Corp.	No.
July 21	Adolph Sperling	do	do	Cargo Ships & Tankers, Inc. (United States).		Yes.
Aug. 14	Adoration	do	Tanker	Atlas Petroleum Transport Co., Ltd. (Liberian).	Undisclosed	No.
Sept. 21	Almena	United States	T–2	U.S. Tankers Corp. (United States)		Yes.
Aug. 30	Andros Hills	Panamanian	Tanker	Rio Venturado Compañía Naviera, S.A. (Panamanian).		Withdrawn.
Do	Andros Island	do	do	Rio Venturado Compañía Naviera, S.A. (Panamanian).		Withdrawn.
Aug. 21	Antonios G. Manolakis	Greek	do	Aivali Compañía de Vapores, S.A. (Panamanian).		Yes.
Aug. 4	Atlantic Robin [1]	Liberian	Liberty	Atlantic Robin Steamship Corp. (Panamanian).	American Foreign Steamship, Corp	No.
Do	Beaver Dan	Panamanian	T–2	Beaver Dam Tankers, Ltd. (Liberian)	Olga Konow, Inc	Yes.
Aug. 23	Captain Nicholas Sitinas	United States	T–2	Tramp Shipping & Oil Transportation Corp.		Yes.
Sept. 12	Edith	do	Liberty	A. H. Bull Steamship Co		Yes.
Sept. 6	Evelyn	do	C–2	do		Yes.
Sept. 8	Glenbrook	do	T–2	Wall Street Traders, Inc		Yes.
July 27	Green Harbour	do	Victory	Central Gulf Steamship Corp		Yes.
Do	Green Island	do	do	do		Yes.
Do	Green Valley	do	do	do		Yes.
Aug. 23	Henry	do	Tanker	Progressive Steamship Corp		Yes.
July 2	Hudson	Liberian	Bulk carrier	Overseas Bulk Carriers	Victory Transfer, Inc	No.
Aug. 23	Lyra [1]	do	T–2	Phoenix Steamship Corp	Seatrade Corp	Yes.
Sept. 11	Mae	United States	Liberty	A. H. Bull Steamship Co		Yes.
Aug. 30	Master Peter	Greek	Tanker	Bilbao Compania Naviera, S.A		Withdrawn.
Aug. 23	Maxton	United States	T–2	Transocean Petroleum Carriers, Inc		Yes.
July 20	Modal	Norwegian	T–2	Penn Export Co		Yes.
Aug. 28	Montauk	United States	Tanker	Mercantile Steamship Corp		Yes.
Sept. 6	Montauk Point	do	T–2	Seatrade Corp		Yes.
Aug. 9	Mount McKinley	do	Dry cargo	Mount Wilson Steamship Corp		Yes.
Do	Mount Rainier	do	do	Seagate Steamship Co		Yes.
Do	Mount Shasta	do	Liberty	Veritas Steamship Co., Inc		Yes.
Aug. 16	Oceanic	Liberian	do	Seatramp, Inc. (Liberian)	Cargo Ships & Tankers, Inc	No.
June 7	Peter Blix	do	do	Blix Steamship Co. (United States)		No.
Sept. 1	Petros	Greek	T–2	Belmar Shipping Corp. (Liberian)	Colonial Steamship Corp	No.
Aug. 3	Producer	United States	T–2	Marine Carriers Corp. (United States)		Yes.

See footnote at end of table, p. 38.

Ships to be documented or redocumented under U.S. laws as per letters of intent filed by present foreign or U.S. owner or prospective U.S. buyer, pursuant to Public Law 87–266—Continued

Date of letter, 1961	Vessel	Present flag	Type	Present owner of vessel	Proposed U.S. buyer	To be converted
Aug. 21	Rainbow	Liberian	Cargo	Gloria Shipping Corp. (Liberian)	Gloria Shipping Co	Yes.
Sept. 15	Rion	Panamanian	Bulk carrier	Alta Shipping Corp. (Panamanian)	Chester Marine Corp	No.
Sept. 6	Rocky Point	United States	T–2	Kulukundis Maritime Industries, Inc. (United States).		Yes.
Aug. 4	St. Christopher	Liberian	T–2	Beaver Dam Tankers, Ltd. (Liberian)	Olga Konow, Inc	Yes.
Sept. 1	Skiathos	Greek	T–2	Vicalvaro Compania Naviera, S.A. (Panamanian).	Colonial Steamship Corp	No.
Do	Skyros	do	T–2	Marcelebro Compania Naviera, S.A. (Panamanian).	do	No.
July 26	Spartan [1]	do	Liberty	Spartan Shipping (Piraeus) and A.E., Inc. (Panamanian).	Doric Shipping Trading Corp	No.
Aug. 24	Transarctic [1]	Liberian [2]	T–2	Compania Naviera Bahia, S.A. (Panamanian).	Huron Waterways Corp	No.
July 2	Transwarren	do	Ore/oil carrier	Cia. Naviera Patagonia, S.A	Transeastern Associates, Inc	No.
Aug. 23	Triton [1]	do	T–2	Red Canyon Corp. (Liberian)	Seatrade Corp	Yes.
Aug. 25	(2)			General Cargo Corp. (United States)		
Aug. 28	Wilderness [1]	Liberian	Liberty	Seatramp, Inc. (Liberian)	Cargo Ships & Tankers, Inc	Yes.
Aug. 23	World Crusader [3]		Tanker	Pavin Navigation, Inc	Overseas Carriers Corp	No.

Total number letters filed for period June 7–Sept. 21, 1961 45

[1] Approved by Maritime for redocumentation under U.S. ownership and registry pursuant to its contract with the owner.

[2] Unnamed bulk carrier to be built from *Esso Buffalo* and *Esso Syracuse*.

[3] Redocumented under U.S. registry Sept. 1, 1961, under ownership of Overseas Carriers Corp. and renamed *Globe Carrier*.

Source: Foreign Transfer Branch, Oct. 11, 1961.

Mr. SMITH. You asked a number of questions about the number of ships that might come back. We are advised they are substantial.

Senator BARTLETT. Over and above these three?

Mr. SMITH. Over and above these. Now, of course, Mr. Wang, I believe it was, testified "under American flag." Well, you see, that doesn't cover the situation fully because some of these vessels are not now under American flag.

Senator BARTLETT. How many would you estimate would be in this category?

Mr. SMITH. It is reported that there might be three or four more.

Senator BARTLETT. Three or four more?

Mr. SMITH. Yes, sir; and you don't know what people have in mind or what has been done, but Maritime certainly should be in position to give this information to your committee, sir. We sent them a telegram that you referred to earlier and we got a very general reply from them, that they were going to see that the law was administered, so forth and so on, but that is the kind of information we have been getting. So I am sure you will get any information you want and it is available right in Maritime's office.

Senator BARTLETT. Thank you. I have only one question. Are you through with your statement?

Mr. SMITH. Yes, sir.

Senator BARTLETT. I have only one question, and that is this: If the Spanish yard or yards were customarily able to complete a conversion job, such as these jobs are, in 90 days, and since there had never been a strike there in modern times, and since strikes were prohibited by Spanish law, even a prudent businessman might not think it necessary to get his ship into a yard before May 1; would he?

Mr. SMITH. If I were doing it, sir, I can only say this to you, sir: That if you will recall when this hearing was before you, sir, and I wanted to thank you at this time for the way you conducted it. I left Washington feeling here is a man who wants to get the facts. And when an amendment, I testified and, as you will remember, after most of the testimony was in there then this amendment was suggested, and if I may say, sir, by looking at your face you were surprised that there was no opposition to the amendment, apparently. You expected that there might be, I felt, by your attitude.

I sat there with the situation and said, "Well, if this becomes controversial maybe we will get nothing, and if we get nothing we are ruined." I also took into account, as I believe you did, sir, and the others present here, the statements that there could only be a few of these ships come back.

Now, Mr. Dunaif, I believe, introduced that amendment and he was acting in good faith and he had one of these ships converted or jumboized in the Spanish yard, and that ship was back and operating months before the deadline. I think that might answer your question, sir.

In other words, he was a prudent businessman. He sent his ships out and had them jumboized and has brought them back and they are operating.

Senator BARTLETT. Thank you, Mr. Smith.

Do you have anything to add?

Mr. DUNAIF. No, sir.

Senator BARTLETT. Do you have any questions?

Mr. BAYNTON. No questions.

Senator BARTLETT. Mr. Bourbon?

Mr. BOURBON. No.

Senator BARTLETT. In view of the statements made by Mr. Coles I think it would be well for Mr. Seid and Mr. Wang to return to the stand.

Mr. BOURBON. Mr. Wang, you heard Mr. Coles' testimony. Among other things he stated what he believed to be facts but stressed they were second hand, and he suggested that if they were incorrect the proponents of the bill could correct them.

One of his statements was to the effect that when arrangements were made with Maritime to redocument the *Montauk* it was then under contract for 14 months and could not meet the 1-year requirement if the contract had not been waived, indicating there was no intention at that time in your mind of putting the *Montauk* back under American registry, and participating and being qualified under section 901.

Now, would you for the benefit of the committee make some comment as to Mr. Coles' testimony.

Mr. WANG. Well, Mr. Bourbon, I would like to answer—do I have to answer your question or can I go over——

Mr. BOURBON. Make your comments on what Mr. Coles said and if we have further questions we can ask you about them.

Mr. WANG. Mr. Coles has so eloquently stated that he has—incidentally, Mr. Coles is my ex attorney—who has so eloquently stated he has no ill will toward me, but just a matter of justice.

Mr. Coles may know as a lawyer that before a man signs a contract with a yard, plans have to be drawn up, specifications have to be made and approved, negotiations are then being started, and it finally culminates, maybe sometimes 3 to 4 months later into a contract. The motion that is being set is not because of a certain date, it is a process that everyone goes through. Just to give you an idea, gentlemen, (1) my broker, my so-called exclusive broker who is also opposing this bill now, Mr. Dunaif is present in this hall, he sends out to 22 yards specifications and plans for the conversion of the *Esso Buffalo*. He went from Trieste, from the Yugoslavs, through all of Europe, all the way to Japan. There were various ranges of prices and no one dreamed that they would have a problem on the delivery within a month, within a year, and by the way there was no law in existence at that time.

As I say, this happened in July or August, early August, I think it was in July, that Mr. Dunaif sent out the 22 sets of specifications and plans. I would like to point out on the *Montauk* that I am prepared tomorrow to supply the committee with plans drawn up as early as February and March of 1961 by Donner Associates of Cleveland—they are very reputable architects—for the conversion of that vessel.

I am also prepared to supply a telegram showing data that we have negotiated as early as March with shipyards, Arsenale Triestino in Italy. That is March of 1961, with the Arsenale Triestino, with another yard in Italy; also with a yard in Yugoslavia——

Mr. BOURBON. Would you stop right there and give the committee the date on which you chartered the *Montauk* to the MSTS for 14 months?

Mr. WANG. I would like to give a little history if you would permit me to justify why this all happened.

We owned two tankers at that time, the steamship *Henry* and the steamship *Montauk*. I am one of a group of independent tanker owners who have started an antitrust lawsuit against eight major oil companies, and because of starting that antitrust lawsuit we are unable to get oil cargoes from any of the major oil companies.

A sister ship of the *Montauk* was laid up for 8 weeks with steam on board and was offered to any of the major oil companies, at any rate, just to break the fence of the boycott and we were unable to do it.

As a result, we were looking for employment wherever we could get it, and the only employment that was offered to us, at low rates, was from the MSTS. The ship was going to lay up while the law was being discussed and no one knew when passage was going to take place. There was also a certain discussion going on among the lawyers whether the grace period should be extended to 2 years as has previously been extended in a similar bill covering midbody importations, and I had hoped at that time that the grace period would be extended to 24 months.

In the meantime I was offered employment at low rates from the Navy, and we took the employment. And that is the answer on the charter.

However, not as Mr. Coles has stated——

Mr. BOURBON. Before we get away from that, could you give us the dates on which you made——

Mr. WANG. August 17, 1961, we made a charter with the Navy.

Senator BARTLETT. MSTS on August 17.

Mr. WANG. August 2 we signed the contract with the yard.

Mr. BOURBON. And that was for 14 months?

Mr. WANG. For 14 months, sir.

Mr. BOURBON. Now, the committee reports had both been submitted by that time; had they not?

Mr. WANG. I don't know.

Mr. BOURBON. Why could you infer that maybe the time would be extended to 2 years when the committee reports had already been made to the Senate and to the House?

Mr. WANG. Sir, I am unfamiliar when the reports were made.

Mr. HOPE. Mr. Bourbon, could I take a shot at that one? I wanted to make this point. During the discussions that led up to this legislation our firm represented Mr. Michaan specificaly, the Kulukundis group, and Maritime Overseas, and at that time all of the industry groups were meeting together with the labor people as well and the Shipbuilders Council to try to come up with something that would have no opposition. There was considerable talk about making it 2 years comparable to the midbody bill which you are familiar with.

Now, I don't think that those committee reports had finally come out by the 17th of August. I have them back here in my file.

Mr. BOURBON. I think the dates were testified to.

Mr. COLES. The Senate committee was August 7 and the House committee August 15.

Senator BARTLETT. Read those dates into the record, Mr. Bourbon, please.

Mr. BOURBON. Yes, the Senate report on defining the term "privately owned U.S.-flag commercial vessels" was submitted August 7,

1961. That report accompanied Senate bill 1808. The House report accompanying H.R. 6732 entitled, "Encouraging the construction and maintenance of American-flag vessels built in American shipyards," was submitted on August 15, 1961.

Mr. WANG. I can only tell you, sir, that I did not know the reports had come out by the time I made the charter.

Mr. BOURBON. Of course, that is one of those situations, I guess, where lack of knowledge is no excuse.

Mr. WANG. I would like to point out further that a statement was made by Mr. Coles that I had only sent the ship to the yard after I had sold the ship. This is not true. He is correct that he has gotten secondary information, and that is secondary information.

The fact is, which I am here going to leave with the committee the facts, that we have advised the Maritime on February 13, this is after 3 months of negotiation, to put it finally in form asking them to release the vessel. This is after 3 months of negotiations.

I am also submitting here for the committee on the 15th of February we were given the final sizes of the steel from the shipyard; that was February 15, 1962, the sizes of the steel which we have supplied the yard in order to avoid any problem with the supply of Spanish steel.

Senator BARTLETT. These papers will be made part of the files.

(This data was received and is in the committee files.)

Mr. WANG. And I would like to confirm that it was in late March that we had entered in the sale of the vessel and that it was Mr. Dunaif, the same gentleman, his firm, who was the broker in that transaction.

Mr. BOURBON. Is this the *Montauk*?

Mr. WANG. Yes.

Mr. BOURBON. And the contract of sale was entered when?

Mr. WANG. In March, late March.

Mr. BOURBON. Of 1962?

Mr. WANG. That is correct, sir.

Mr. BOURBON. So that actually you did not intend to operate the *Montauk* if it did qualify under this extension?

Mr. WANG. No, sir, we intended—we had nominated it to the yard, we had purchased the steel a month and a half before we had entered into a sale transaction. We intended originally to operate the vessel.

Mr. BOURBON. But then you changed your mind?

Mr. WANG. Yes, sir.

Mr. BOURBON. So that the inequity, then, if this extension were not granted, is that you would not be able to sell the ship rather than that you would not be able to operate it. Is that it?

Mr. WANG. The sale is off anyway and now it is intended for operation.

Senator BARTLETT. Why is the sale off, Mr. Wang?

Mr. WANG. Because we have changed the specifications in order to enable the yard to finish the ship faster, so actually it is no more the same ship that was originally contracted for.

Senator BARTLETT. What if this bill doesn't become law, what are you going to do with those two ships?

Mr. WANG. I would like here to answer Mr. Coles—Mr. Coles has stated that there is very little money due to the yard. On the *Spitfire* there is $903,000 due to the yard.

Senator BARTLETT. What is the total cost of the contract on the *Spitfire?*

Mr. WANG. The total cost of the vessel will run $1.8 million.

Senator BARTLETT. The total price to be paid to the yard.

Mr. WANG. The cost of the vessel—the price to the yard would be over $1 million.

Senator BARTLETT. How much over?

Mr. WANG. About $1.1 to $1.2 million.

Senator BARTLETT. And you owe how much?

Mr. WANG. $903,000 now. On the *Montauk* we have only paid $100,000, and by the time of the extras there will be another $500,000 due.

Senator BARTLETT. All right, if this bill doesn't pass, what are you going to do with these ships?

Mr. WANG. We just don't know.

Senator BARTLETT. There are two contrary stories told to the committee. One is that they will be auctioned off over there; another is that no such thing will happen, that they will be returned to the United States and laid up for a period of 3 years and then put in service. What would you do with yours?

Mr. WANG. Senator, I would like to contradict again. I am sorry that I have to contradict my opponents.

Mr. Coles was once associated with some Maritime phases of the industry, and he can find out from the Maritime Administration what it costs to lay up and reactivate a vessel. After 3 years layup costs about $400,000 to $500,000.

Senator BARTLETT. What do you think you would do with these two ships?

Mr. WANG. We have no way either to apply for transfer rights or to have them auctioned off. We have no money.

Senator BARTLETT. Mr. Wang, you must have contemplated and do now contemplate the possibility that because of the opposition, and because it is so late in the session, this bill may never make any progress, and you must have given business consideration to what you would do in case it didn't. Have you arrived at any judgment at all on that?

Mr. WANG. Senator, I have made no contemplation on the *Spitfire*, because I never knew that this ship was not going to make the date.

Senator BARTLETT. How about the *Montauk*?

Mr. WANG. On the *Montauk* we have figured that we will go and ask for an extension or somehow may have to resubmit further legislation at the next session. I would like to point out also for the record that on August 25, 1961, we had put up a surety bond with the Maritime Administration guaranteeing the redocumentation of the *Spitfire*. This hundred thousand dollar bond is subject to forfeiture. We have asked for an extension from Maritime, and we have obtained it. We asked for a further extension. Maritime was very anxious to have this vessel under the American flag, and that is why they imposed on us a guarantee for a hundred thousand dollars.

Senator BARTLETT. Let me approach my question from still another angle. Let us make this assumption whether it has validity or not. That this bill doesn't pass, that no legislation on this subject will ever be passed again. Have you any notion of what you might do with these ships?

Mr. WANG. I hate to think about it.

Senator BARTLETT. It has been said by Mr. Coles, I believe, that you have been financed in some measure or other, frequently or otherwise, by the principal owner of Wall Street Traders, Inc.; is that correct?

Mr. WANG. That was up to 1959.

Senator BARTLETT. No longer?

Mr. WANG. No longer.

Senator BARTLETT. Is there an active business association between you yet?

Mr. WANG. None whatsoever.

Senator BARTLETT. There was in connection with this contract; was there not?

Mr. WANG. No, sir.

Senator BARTLETT. Let me get that straight.

Mr. WANG. May I ask a clarification on the question?

Senator BARTLETT. Yes. You had this business association with Wall Street Traders in connection with the *Glenbrook*, did you not, the contract——

Mr. HOPE. They entered into the contract; yes, sir.

Senator BARTLETT. So, there isn't a lack of association? I mean there wasn't a divorcement in 1959 entirely?

Mr. WANG. No financing involved on the part of Mr. Michaan after 1959.

Senator BARTLETT. You are not mad at each other, though?

Mr. WANG. Not mad, no.

Senator BARTLETT. I have no further questions. Have you?

Mr. HOPE. Could I comment?

Senator BARTLETT. Yes.

Mr. HOPE. I think Mr. Wang has been confusing relationships and affiliation. I think other than the financing and the contract there has never been any partnership, no formal business affiliation or association. This was stated in Mr. Coles' statement, I believe, that Mr. Wang owned the *Glenbrook* or owned the company or something—which is certainly not true. The relationships have been arm's length business relationships, in other words.

Senator BARTLETT. I didn't infer that Mr. Coles had said otherwise.

Mr. HOPE. I know you didn't. Whatever Mr. Wang's answer might have been I would not have been surprised, disconcerted, or shocked, because it seems certain associations that previously prevailed in this very area have been severed.

Mr. BECKER. Mr. Chairman, I wonder if I might make a short statement.

Senator BARTLETT. You might.

Mr. BECKER. I would merely like to state that both Mr. Coles, for whose opinion I have a tremendous respect, and the other opponents to the bill have stated that there was some thought here of seeing which way the cat would jump, of either putting these vessels under foreign flag or putting them under American flag, and I would like to point out that this was impossible as a matter of law. Both of these vessels had been documented under the laws of the United States; the *Montauk* as early as, I believe, December of 1960; the other vessel in November of 1961. And as a result, they are covered by sections 9 and 37 of the Shipping Act of 1916, and owners could not transfer them to foreign flag without the consent of the Maritime Administration—

which consent, we believe, would not be forthcoming because they do not consent to the transfer of any of these converted vessels. This has been their policy for several years.

Now, if the vessel is laid up, if this bill does not pass, I would be less than candid if I would not tell you that we would certainly try and we would hope that Maritime would consider the equities. I mean, if the vessels were not foreclosed; but as a matter of law, not discretion, these vessels cannot be transferred by the owners to foreign registry without the consent of the U.S. Maritime Administration. This is under sections 9 and 37 of the Shipping Act, 1916.

Senator BARTLETT. You are referring there to the *Montauk* and the *Spitfire*?

Mr. BECKER. All three of them. All three of them are under U.S. registry—the *Montauk*, *Spitfire*, and *Glenbrook*—and cannot, as a matter of law, be transferred to foreign hands.

Senator BARTLETT. Let me interrupt you there, if I may.

Don't you in that statement contradict what Mr. Seid said? Didn't he say in his statement that if this doesn't go through the *Glenbrook* might be auctioned off over there? And I suppose that that would contemplate the possibility that a foreign buyer might purchase.

Mr. BECKER. No. If the committee please, I would like to point out this: There has been a jurisdictional conflict between the laws of the United States and foreign laws in this respect. When a foreigner seizes a ship—and they have in a few cases—and auctions it off in a foreign court and says, "We are going to sell it to anybody without regard for the laws of the United States," this is against American law. And the question as to whether or not the United States can exert extraterritorial jurisdiction where a foreign court does it without the owners doing it, is an open question. I personally think that in this conflict—and I have studied this matter for some years—that in this conflict the foreign court would prevail. I do not believe the U.S. law could stop a British court, or any other court who seized a ship, from selling it to anyone they pleased.

But nevertheless, the exact wording of the statute says the vessel may not be transferred and is subject to forfeiture in the United States if it is transferred. And if these owners transfer it, it is a crime under the Shipping Act of 1916. Now the act says a misdemeanor, but under the 1948 amendment to the criminal code it is a felony for any owner of an American-flag ship to sell this ship to foreigners or to change its registry without the consent of the Maritime Administration.

Senator BARTLETT. All right. You have clarified that.

You say, as I understand it, that (*a*) only the future would determine what might happen if there were a foreclosure abroad; (*b*) the Wall Street Traders could not arise in the shipyard in Spain in the capacity of auctioneers and sell this ship to a foreigner without the possibility of facing prosecution here at home?

Mr. BECKER. That's right. And if the Senator recalls, there have been several cases in recent years of criminal prosecutions started by the Department of justice. I think they were all compromised, with large fines paid. There is no question about this. This act was passed in 1916, and broadened in 1918, and is very plainly and definitely the law of the United States, and I think your counsel is familiar with this section.

Senator BARTLETT. If I were to say that I recalled those cases, I would be confusing the record.

Mr. BECKER. Well, sir, the act is the Shipping Act of 1916, and sections 9 and 37.

Senator BARTLETT. I meant the specific cases you referred to.

Mr. BECKER. Well, the specific cases, there were some involving, as you remember, the Greek shipowners—I would rather not interject all their names. Mr. Baynton is familiar with them, I'm quite certain.

I also want to point out, if I might—and I just will ask the committee to indulge me for another half a minute. I should like to point out that the fact that these owners took these hulls and registered them under U.S. registry is the most convincing evidence of their good faith, because they put the future disposition of these ships wholly outside of their control, and I don't know when the *Glenbrook* was put under registration. She has never been out of it. All right. But Mr. Wang placed the *Montauk* under American registry the moment he acquired it, the moment, I say——

Mr. WANG. Yes. The moment.

Mr. BECKER. All right. He took title to it, and that was in December 1960. And so far as the *Spitfire* is concerned, when these two hulls were cut in half and put together into one hull, which was the earliest moment under which he could document the ship, he documented it while she was in Italy under American flag, and that was in November of 1961. And he lost all control of the vessel at that point.

Now this is not—the reason I am bringing this out is the thrust of the arguments of Mr. Coles and the other gentleman was that there's something speculative, something shady. If the Senator please, nothing whatsoever could have been done to these ships. All speculation ceased the moment they were registered under American flag, because Congress placed the control of those ships in the U.S. Maritime Administration. And insofar as the flag or the nationality of those ships, these gentlemen had nothing further to do, and no power whatsoever to alter it.

Now it seems to me that shows their extreme good faith when they did this, because they no longer could dispose of these ships in any other way. And all that has happened is not that the United States has lost control of the ship; the United States got control of these ships, but there was not a technical observance as to the period within which they were reconverted.

That's all I have.

Senator BARTLETT. You have been very helpful.

Mr. Wang, two final questions: Do you operate any foreign ships now?

Mr. WANG. None whatsoever.

Senator BARLETT. Have you ever?

Mr. WANG. Only at one occasion I operated two ships that had a charter with the Government of Israel, where originally we asked for permission to maintain that charter—we asked permission from the Maritime Administration to maintain the charter under American flag, and we were denied that request. Mr. Coles was counsel during the handling of that matter at that time.

Senator BARTLETT. Thank you, gentlemen, very much.

It is the chairman's—Mr. Coles?

Mr. COLES. Mr. Chairman, I would like to clarify one or two things, if the committee will permit, and briefly.

In the first place, I think Mr. Becker has misconstrued what I said. It was to keep these as American-flag tankers or to convert them.

No. 2, as far as the two vessels, the two vessels that were made into the *Spitfire*, those vessels were required to be scrapped. The Maritime Administration, as a condition permitting them to become operating vessels, permitted it only on the condition that they be converted.

In other words, I think Mr. Becker has set up a straw man and then knocked it down. The speculation was that they could be kept as tankers—they were chartered as tankers—or they could have gone the other way.

Mr. BECKER. This did happen in November of 1961. They were put under American flag and the conversion there started in Lesbaysia in September of 1961; and we will submit the contracts if the committee wants.

Mr. COLES. He is confusing the two ships. The *Montauk* was brought back. But this was good business, to bring it back in 1960 as an American tanker. The *Spitfire* at a later date, because of the scrapping condition.

Senator BARTLETT. I thank all of you gentlemen.

The committee will stand in recess.

(Whereupon, at 12:35 p.m., the subcommittee was recessed, to reconvene at the call of the Chair.)

(Subsequently Mr. Wang furnished the subcommittee copy of his proposal of February 13, 1962, to convert the *Montauk* or the *Henry* into a modern U.S.-flag dry cargo bulk carrier, and of the surety bond, dated September 23, 1961. The documents were made part of the committee files.)

AUTHORIZING CARRIAGE OF 50–50 CARGOES BY VESSELS "MONTAUK" AND "GLENBROOK"

THURSDAY, SEPTEMBER 13, 1962

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

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 1318, New Senate Office Building, Hon. Warren G. Magnuson (chairman) presiding.

The CHAIRMAN. The committee will be in order.

We will resume consideration of S. 3649.

There will be placed in the record a letter addressed to Mr. Baynton, chief counsel of the committee, from Robert S. Hope, giving certain information as to the prior ownership of the steamship *Glenbrook*.

(The letter referred to follows:)

KOMINERS & FORT,
Washington, D.C., September 11, 1962.

Re S. 3649.

HAROLD I. BAYNTON, ESQ.,
Chief Counsel,
Merchant Marine and Fisheries Subcommittee,
Senate Commerce Committee, Washington, D.C.

DEAR MR. BAYNTON: During the course of hearings on S. 3649 before the Subcommittee on Merchant Marine and Fisheries of the Senate Commerce Committee, our client Wall Street Traders, Inc., was requested to furnish information as to the prior ownership of the steamship *Glenbrook*.

This will confirm that this vessel was purchased at a U.S. marshal's sale following foreclosure of a ship mortgage held upon the vessel by Wall Street Traders, Inc. The vessel at that time was known as the steamship *Ozark* and was owned by Ozark Navigation Corp. which we are informed is one of the companies owned by Mr. Wang.

We reiterate that the only relationship that existed at that time between Wall Street Traders, Inc., and Mr. Wang was the fact the Wall Street Traders held the mortgage on the ship. Further, we have been asked to reconfirm that Mr. Wang has no interest in Wall Street Traders, Inc., or the vessel *Glenbrook*.

Please advise this office if any additional information is desired by the committee.

Very truly yours,

ROBERT S. HOPE.

The CHAIRMAN. Likewise, a letter addressed to me by Mr. Arthur M. Becker, in which the statement is made that no vessels other than the *Montauk*, *Spitfire*, and the *Glenbrook* would be eligible for entry under this bill; and Mr. Becker asks me to obtain official confirmation of this from the Maritime Administration in the hearing which is now underway. That will also be included in the record.

(The letter referred to follows:)

BECKER & GREENWALD,
Washington, D.C., September 11, 1962.

Re S. 3649.
Hon. E. L. BARTLETT,
U.S. Senate, Washington, D.C.

DEAR SENATOR BARTLETT: Last Thursday, at the hearings on this bill, you raised the question of whether there were any vessels other than those referred to at the hearing which were similarly situated so as to be entitled to the same equitable relief as that requested by the proponents of the proposed legislation.

I have today checked with the Maritime Administration and I have been advised informally that there are no vessels similarly situated to the steamship *Montauk*, the steamship *Spitfire*, and the steamship *Glenbrook*.

I would appreciate your obtaining official confirmation of this from the Maritime Administration at the hearings now scheduled for September 13, 1962.

Sincerely yours,

ARTHUR M. BECKER.

The CHAIRMAN. When we recessed last week, it was with the understanding that no further testimony would be taken except from the Maritime Administration. And therefore the witness today will be Mr. J. W. Gulick, Acting Maritime Administrator, who is appearing not only in behalf of the Maritime Administration but the Department of Commerce.

Mr. Gulick.

Mr. GULICK. Thank you, Mr. Chairman.

If I may, I would like to have Mr. Graydon Andrews, Deputy General Counsel, appear with me.

The CHAIRMAN. Surely.

Mr. ANDREWS. Thank you, sir.

The CHAIRMAN. You may proceed at your pleasure, sir.

STATEMENT OF J. W. GULICK, ACTING MARITIME ADMINISTRATOR, ON BEHALF OF THE MARITIME ADMINISTRATION AND THE DEPARTMENT OF COMMERCE

Mr. GULICK. Thank you, sir.

Mr. Chairman and gentlemen, section 901(b) of the Merchant Marine Act, 1936, as amended by Public Law 87-266, provides that for purposes of determining eligibility for participation in cargoes reserved for "privately owned United States flag commercial vessels" under that section—the cargo preference law—the term "privately owned United States flag commercial vessels" shall not be deemed to include any vessel which subsequent to the date of enactment of that amendment, September 21, 1961, has been rebuilt outside the United States, until such vessel has been documented under the laws of the United States for a period of 3 years.

The section, as amended, makes an exception if prior to enactment of the amendment (1) the owner of a vessel, or contractor for the purchase of a vessel, originally constructed in the United States and rebuilt abroad or contracted to be rebuilt abroad, has notified the Maritime Administration of its intent to document such vessel under U.S. registry and such vessel is so documented on its first arrival at a U.S. port not later than 1 year subsequent to the date of enactment of the amendment or (2) the owner of a vessel under U.S. registry has made a contract for the rebuilding abroad of such vessel and has notified the Maritime Administration of such contract and such re-

building is completed and such vessel is thereafter documented under U.S. registry on its first arrival at a U.S. port not later than 1 year subsequent to the date of enactment of the amendment. The date of enactment of the amendment was September 21, 1961.

The bill would provide that the vessels *Montauk* and *Glenbrook* shall be deemed to be "privately owned United States flag commercial vessels" for purposes of section 901(b) if such vessels are registered under U.S. laws on their first arrival at a U.S. port prior to December 31, 1962. At the hearing before this subcommittee on September 6, 1962, the owner of the *Spitfire* requested that the bill be amended to include that vessel and to extend the final date for documentation to June 30, 1963.

All three of these vessels were being rebuilt in a Spanish shipyard, and the reason the owners gave in testimony before this subcommittee for their inability to meet the September 21, 1962, deadline for documentation of the vessels was the slowdown and strikes in Spanish shipyards, and in addition, in one case, a 52-day delay in obtaining clearance of steel through Spanish customs.

When the amendment—Public Law 87–266—to section 901(b) was enacted, on September 21, 1961, the Maritime Administration had on file letters of intent from the owners of 38 vessels for reconstruction of their vessels in foreign shipyards and redocumentation of their vessels under U.S. flag. In October 1961, the Maritime Administration sent to each owner who filed such a letter of intent a letter outlining the requirements of the Maritime Administration under Public Law 87–266. These letters required the owner furnish to us (1) a certified copy of the contract with the shipyard for reconstruction of his vessel, (2) the date rebuilding was completed, (3) the first port of arrival of the vessel in the United States after September 21, 1961, and (4) a certified copy of abstract of title, Customs Form 1332.

As of this date, owners of 11 vessels have not responded to our inquiries, and we assume that contracts for reconstruction of their vessels have not been entered into.

Owners of 14 vessels have complied with the statute and have been certified to be "privately owned United States flag commercial vessels" for purposes of the cargo preference statute.

Owners of four vessels have complied with the statute but the ships have not yet been certified.

Five vessels have completed their reconstruction and are en route to the United States or are in U.S. ports completing their redocumentation. These five ships will undoubtedly meet the deadline of September 21, 1962.

One vessel, the S.S. *Henry*, owned by Progressive Steamship Corp., which is in turn owned by Mr. Wang, has filed a certified contract for reconstruction. We think it is clear from Mr. Wang's testimony, however, that the vessel has not been reconstructed.

The other three vessels are the *Glenbrook*, the *Montauk*, and the *Spitfire* which are the subjects of the bill, with the proposed amendment, which is before the subcommittee.

With respect to the *Glenbrook*, the records of the Maritime Administration show that on September 8, 1961, the owner of the vessel, Wall Street Traders, Inc., filed its notice of intent to reconstruct this T–2 tanker in a Spanish shipyard as a 23,000 deadweight ton bulk carrier

and to document the reconstructed vessel under U.S. flag. On February 21, 1962, in response to our request of October 26, 1961, the owner filed a copy of the shipyard contract to reconstruct the vessel. This consisted of a contract, dated August 2, 1961, between Progressive Steamship Corp., Inc., and a Spanish shipyard for the conversion of the "*Esso Syracuse* or substitute," and a contract dated September 19, 1961, between Progressive Steamship Corp., Inc., and Wall Street Traders, Inc., for the conversion of the *Glenbrook* in the Spanish shipyard. In a letter dated March 14, 1962, the Maritime Administration notified Wall Street Traders, Inc., that it had examined these documents and that if the *Glenbrook* is reconstructed and redocumented under U.S. laws on or before September 21, 1962, it would be eligible as a privately owned U.S. flag commercial vessel for the carriage of cargo reserved to such vessels under section 901 of the Merchant Marine Act, 1936.

With respect to the *Montauk*, the records of the Maritime Administration show that on August 29, 1961, the owner of the vessel, Mercantile Steamship Corp., filed its notice of intent, dated August 28, 1961, to convert this tanker to a dry cargo bulk carrier in a Spanish shipyard. On January 24, 1962, in response to our request dated October 26, 1961, the owner filed, by letter dated January 22, 1962, a copy of the shipyard contract to convert the vessel. This contract, dated August 2, 1961, is between Progressive Steamship Corp. and the Spanish shipyard, and it provides for the conversion of the "*Montauk* or substitute." The testimony at the hearing was that both Mercantile Steamship Corp. and Progressive Steamship Corp. are owned by Mr. Wang. If the vessel were reconstructed and redocumented prior to September 21, 1962, we would certify that the vessel would be a "privately owned United States flag commercial vessel" for purposes of section 901.

With respect to the *Spitfire* the factual situation is more complex. This vessel is being reconstructed from parts of the *Esso Buffalo* and *Esso Syracuse*. We consented, on February 1, 1961, to the sale of the latter two vessels to an Italian corporation for scrapping. This corporation applied to us for permission to sell the vessels, instead of scrapping them, to General Cargo Corp., a Delaware corporation owned by Mrs. Gloria Wang, a citizen of the United States, which proposed to construct from them a 25,000 deadweight ton bulk carrier for U.S. flag documentation. In consideration for the carrying out of this proposal we consented to this sale on August 25, 1961, and General Cargo Corp. contracted with us for completion and documentation of the vessel before August 25, 1962. Because of the strike and slowdown in the Spanish shipyard performing the work, we granted an extension to September 24, 1962.

The notice of intent which General Cargo Corp. filed with the Maritime Administration is the August 25, 1961, contract with the Maritime Administration to convert the vessel, and on October 10, 1961, we so notified that corporation. That corporation has filed with us a copy of an assignment to them, dated August 16, 1961, of a contract between Progressive Steamship Corp., Inc., and a Spanish shipyard, dated August 2, 1961, for conversion of the "*Esso Buffalo* or substitute vessel." If the *Spitfire* were reconstructed and redocumented on or before September 21, 1962, we would certify that the

vessel would be a "privately owned United States flag commercial vessel" for purposes of section 901 of the 1936 act.

Statements were made at the hearing that there may have been delay in placing these vessels in the shipyard so as to give the owners time to judge the freight market and to determine whether they would prefer to operate these vessels under foreign flag. In this connection, it should be noted that none of these vessels could operate under foreign flag without our approval.

On the basis of testimony given on September 6, 1962, it appears that but for the development of factors beyond the control of the owners, these ships would have been completed and would have qualified before the deadline date under the terms of the existing statute. Furthermore, the extension of time would not increase the competition beyond that authorized by the statute. Under the circumstances we would have no objection to enactment of the bill as introduced with the addition of the *Spitfire*. We have no information on which to base an opinion as to the need for an extension beyond December 31, 1962, the date specified in the bill.

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

Mr. Chairman, this concludes our prepared statement.

We should be delighted to be of any service we can to the subcommittee.

The CHAIRMAN. Thank you.

Mr. Baynton, do you have any questions?

Mr. BAYNTON. Not at this time, Mr. Chairman.

The CHAIRMAN. Mr. Bourbon?

Mr. BOURBON. No, sir.

The CHAIRMAN. Mr. Becker, by this letter dated September 11, said that on that very day he checked with the Maritime Administration and had been advised informally that—I am quoting now—

> * * * I have been advised informally that there are no vessels similarly situated to the steamship *Montauk*, the steamship *Spitfire*, and the steamship *Glenbrook*.
>
> I would appreciate your obtaining official confirmation of this from the Maritime Administration at the hearings now scheduled for September 13, 1962.

Is Mr. Becker's understanding correct?

Mr. GULICK. Mr. Chairman, we have to preface our statement by saying that, to the best of our knowledge and under the facts which we have, his statement is probably correct.

You will recall that on page 3 of the formal statement, the owners of 38 vessels filed notices of intent with the Maritime Administration, and of this number we can account for all but 11 who have not responded to any of our inquiries. Whether they have completed contracts for reconstruction or have in fact even entered into contracts for reconstruction, we cannot say. To our knowledge, we do not know of any such contracts.

The CHAIRMAN. Will you be good enough to furnish to the subcommittee copy of the October 1961 letter sent by the Maritime Administration to each owner who had filed a letter of intent?

Mr. GULICK. Yes, sir; we will be glad to do that.

(This and other data requested by Senator Bartlett were provided by the Maritime Administrator in a letter dated December 13, as follows:)

U.S. DEPARTMENT OF COMMERCE,
MARITIME ADMINISTRATION,
Washington, D.C., December 13, 1962.

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

DEAR MR. CHAIRMAN: At the hearing before the Subcommittee on Merchant Marine and Fisheries of the Senate Committee on Commerce, on S. 3649 (a bill to provide that the vessels *Montauk* and *Glenbrook* may be U.S.-flag commercial vessels for the purposes of section 901(b) of the Merchant Marine Act, 1936) we were asked to furnish (1) a copy of the October 1961 letters which we sent to owners who had filed letters of intent, (2) our estimate of the tonnage that has come in or is certain to come in under Public Law 87–266, (3) the impact of this tonnage on the existing tramp fleet, (4) the number of Liberty vessels operating as tramp vessels, (5) the number of Liberty vessels in the national defense reserve fleet, and (6) the number of AP–5's that could be converted to cargo vessels, together with their speed and size.

We used three forms of letters in the October 1961 mailing referred to above. Attached is a copy of each.

Twenty ships have become eligible under the proviso of Public Law 87–266 for the carriage of cargo reserved to privately owned U.S.-flag commercial vessels by section 901(b) of the Merchant Marine Act, 1936. Thirteen of these were formerly foreign-flag vessels and seven are reconstructed American-flag vessels. The total tonnage of the 13 that were formerly foreign-flag vessels is 198,355 deadweight tons. The increase in tonnage of the seven American-flag vessels is 35,064 deadweight tons. The total deadweight tonnage that has become eligible under the proviso, therefore, is 233,419 deadweight tons.

The speed and deadweight tonnage of the foreign-flag ships redocumented under Public Law 87–266, plus the increase in deadweight tonnage of the U.S. ships reconstructed and redocumented under the same law, will produce competitive factors which will place pressures on marginal vessels in the tramp fleet. As a class, the standard Liberty ship will be affected the greatest. How great this effect will be depends, of course, on the availability of cargoes under the cargo preference laws. On the basis of availability of preference cargo in recent years, it is reasonable to assume that some of the standard Libertys will be laid up due to the lack of employment.

There were 43 Liberty ships operating as tramp vessels as of November 1, 1962. We have 970 standard Liberty vessels in the national defense reserve fleet, with 751 of them earmarked for scrapping. There are 103 AP–5 Victory ships in the reserve fleet; 54 would be available for conversion to cargo vessels, and the other 49 are earmarked for Navy use.

At the present time the AP–5 has no deadweight capacity inasmuch as all spaces are reserved for troops. The hull, however, is the same as the AP–3 cargo ship with a deadweight capacity of 10,800. The speed is 17 knots. Upon conversion and lengthening the AP–5 would have a capacity of 13,500 deadweight tons with the same speed of 17 knots.

We hope this information will be of assistance to you.

Sincerely yours,

DONALD W. ALEXANDER,
Maritime Administrator.

U.S. DEPARTMENT OF COMMERCE,
MARITIME ADMINISTRATION,
Washington, D.C., October 26, 1961.

On _____ you advised that the U.S.-built steamship _____ had been reconstructed abroad and it was your intent to redocument the vessel under U.S. registry in order to be eligible for cargo reserved for U.S.-flag shipping under section 901(b) of the Merchant Marine Act of 1936, as amended by Public Law 87–266.

As you are aware, vessels built outside the United States, rebuilt outside the United States, or documented under any foreign registry are not eligible for

cargo reserved under section 901(b) for U.S. shipping until such vessel shall have been documented under the laws of the United States for a period of 3 years, subject, however, to certain exceptions. It appears that your claim of eligibility for cargoes reserved under section 901(b) is based on the reconstruction of the steamship _____ abroad and your advice in the letter of _____ that the vessel will be documented under U.S. registry.

In order to determine the eligibility of the steamship _____ the following is requested:

1. A certified copy of the contract with amendments for the rebuilding of the steamship _____.
2. Date rebuilding was completed.
3. The first port of arrival of the vessel in the United States after September 21, 1961, or tentative time and first port of arrival in the United States after September 21, 1961. (The first port of arrival is deemed to be the first port where customs services, Coast Guard inspection, and ship repair facilities are available.)

Sincerely yours,

M. I. GOODMAN,
Chief, Office of Ship Operations.

U.S. DEPARTMENT OF COMMERCE,
MARITIME ADMINISTRATION,
Washington, D.C., October 26, 1961.

On _____ you advised of your intent to redocument the steamship _____ under U.S. registry in order to be eligible for cargo reserved for U.S.-flag shipping under section 901(b) of the Merchant Marine Act of 1936, as amended by Public Law 87–266.

As you are aware, vessels built outside of the United States, rebuilt outside of the United States, or documented under any foreign registry are not eligible for cargo reserved under section 901(b) for U.S. shipping until such vessels shall have been documented under the laws of the United States for a period of 3 years, subject, however, to certain exceptions. Inasmuch as there is no mention in your letter that the steamship _____ has been reconstructed abroad or that there was a contract for reconstruction, it appears that you base your claim of eligibility for cargoes reserved under section 901(b) on the provision that prior to the enactment of Public Law 87–266 (which was September 21, 1961) the steamship _____ was redocumented under the U.S. flag.

In order to determine the eligibility of the steamship _____ please submit a general index or abstract of title, customs form 1332, issued by the collector of customs at the vessel's home port.

Sincerely yours,

M. I. GOODMAN,
Chief, Office of Ship Operations.

U.S. DEPARTMENT OF COMMERCE,
MARITIME ADMINISTRATION,
Washington, D.C., October 26, 1961.

On _____ you advised of your intent to reconstruct the U.S.-built Steamship _____ and redocument under the U.S. registry in order to be eligible for cargo reserved for U.S.-flag shipping under section 901(b) of the Merchant Marine Act of 1936, as amended by Public Law 87–266.

As you are aware, vessels built outside the United States, rebuilt outside the United States, or documented under any foreign registry are not eligible for cargo reserved under section 901(b) for U.S. shipping until such vessels shall have been documented under the laws of the United States for a period of 3 years, subject, however, to certain exceptions. It appears that you base your claim of eligibility for cargoes reserved under section 901(b) on the provision that prior to the enactment of Public Law 87–266 (prior to September 21, 1961) a contract for the reconstruction of the Steamship _____ had been entered into.

In order to determine the eligibility of the Steamship _____ the following is requested:

1. A certified copy of a contract for rebuilding abroad entered into prior to September 21, 1961.
2. Estimated completion date of rebuilding.

3. Tentative first port of arrival in the United States after rebuilding. (Any reconstructed vessel must be redocumented at the first port of arrival in the United States. The first port of arrival is deemed to be the first port where customs services, Coast Guard inspection services, and ship repair facilities are available.)

Sincerely yours,

M. I. GOODMAN,
Chief, Office of Ship Operations.

The CHAIRMAN. How many ships have come in under Public Law 87–266?

Mr. GULICK. To date—let me total up here—14 have complied with the statute. Nine more will certainly meet the deadline of September 21. That leaves only four other vessels—the Steamship *Henry*, the *Glenbrook*, the *Montauk*, and the *Spitfire*. And it does not appear likely that the Steamship *Henry* will make the deadline. So that would be 11, 14, 25, 29, 5 is 34.

The CHAIRMAN. Can you give an estimate of the tonnage of the ships that have come in or are certain to come in?

Mr. GULICK. We would have difficulty at this moment doing this, but we will be glad to endeavor to give you information on this.

The CHAIRMAN. If you will do that for the record.

Mr. GULICK. Yes, sir.

(See Maritime Administrator's letter of December 13, 1962, on p. 54.)

The CHAIRMAN. Can you state in general terms the percentage of that tonnage to the existing competitive tonnage already under the American flag prior to the effective date of Public Law 87–266, and the consequences which flow from it?

That is a very roundabout way of asking you what has been the impact or what will be the impact of this added tonnage on the existing fleet?

Mr. GULICK. We will endeavor to furnish this information.

(See Maritime Administrator's letter of December 13, 1962, on p. 54.)

The CHAIRMAN. Will you be able to state now, in a general way, whether the competition will be considerable as a result of this public law?

Mr. GULICK. I think the best we could say would be that, as the statements were made in the September 6 appearances before this committee, that maybe some effect; in fact, there probably will be some effect upon the older, slower, smaller type ships which are in the existing tramp fleet.

We can only say that it seems to us that the upgrading of the tramp fleet is going to be the only way these ships can retain or improve their competitive position. We have plans underway within the agency, which are now being considered by the Government in general, which would offer some hope to the owners of existing ships, and would, we feel, place them in a better competitive position with respect not only to their foreign competitors but also these new ships which will be coming in.

The CHAIRMAN. And do you——

Mr. GULICK. Of the total—excuse me.

The CHAIRMAN. Go ahead.

Mr. GULICK. I was just going to add that, of the total of the so-called tramp fleet of approximately 108 or 109 ships, the 30-some-

odd ships which would be coming in under this bill should not have a disastrous impact upon the tramp fleet. It would certainly be hoped that, with the newer type ships, increased carrying capacity and increased speed, these things alone will assist them to generate cargo outside the cargo preference area.

The CHAIRMAN. Now, you said on page 5 of your statement in reference to the *Montauk* that you, the Maritime Administration, had requested information on October 26, 1961, and the owner had replied January 2, 1962. Would you have any idea of why so many months elapsed before the owner replied?

Mr. GULICK. No, sir; I am unable to say.

The CHAIRMAN. Particularly so in view of the fact that the contract was dated August 2, 1961. No explanation was made in the letter?

Mr. GULICK. No explanation was made, and it did not incite any curiosity on our part because the date of the contract is really the controlling factor. This was just a matter of documenting the record.

The CHAIRMAN. Based upon experience in the past, is it the policy, in a general way, in the Maritime Administration to permit vessels such as these three especially here considered to operate under foreign flag?

Mr. GULICK. Under the present policies of the Maritime Administration and the Department of Defense, it would be contrary to that policy to permit the transfer of these vessels to foreign flag.

The CHAIRMAN. Then would you care to speculate, for the information of the committee, what might happen to the investment made in these ships by the American owners if a bill such as S. 3649 were not enacted?

Mr. GULICK. I think this would be pure speculation, Mr. Chairman, and all we could do would be to point the possible courses of action which might be taken by the owners of these ships in their present condition. This would be, of course, an endeavor to sell them. There might be some action by the shipyards or other parties in connection with moneys owed them.

The upshot would probably be an effort to finish the conversion work and place them under foreign flag. At that time Maritime and the Department of Defense would have the task of deciding whether, under all of the circumstances of the case, this would be a matter which should be approved. At this moment I could not say what the action would be.

The CHAIRMAN. Mr. Wang testified that his company has a $100,000 surety bond with the Maritime Administration guaranteeing the redocumentation of the *Spitfire;* that the company asked for an extension from Maritime, obtained it, and now request is pending for a further extension.

Now, what if this bill is not passed; what happens to that bond?

Mr. GULICK. If the vessel is not redocumented under the U.S. flag, then action against the bond would be a possibility, and I assume that the bond would be forfeited.

But this is not a matter which would be done lightly, and I think there would be considerable conferences between the parties to attempt to arrive at a satisfactory solution under the circumstances.

The CHAIRMAN. In that case the Seaboard Surety Corp., with offices at 100 William Street, New York, N.Y., ought to have observers at this meeting.

Mr. GULICK. Yes, sir.

The CHAIRMAN. Mr. Gulick, how many dry bulk carriers built within the last 5 years are under U.S. registry?

Mr. GULICK. From the general figures I have, I do not know how many of these ships have been built within the last 5 years. But there has been a total of 13 T–2's converted to bulk carriers with a total dead weight of 250,000 tons.

In addition, one T–3, which is a slightly larger ship, was converted to bulk carriage. This was a dead weight of 15,000 tons.

The CHAIRMAN. Do you know how many Liberty-type ships are operating as tramp vessels under U.S. registry?

Mr. GULICK. We could furnish this information. I am sure that it would be available.

The CHAIRMAN. Will you do so, please?

Mr. GULICK. Yes, sir.

(See Maritime Administrator's letter of December 13, 1962, on p. 54.)

The CHAIRMAN. And if you do not know, would you also supply the committee with information as to how many Liberty-type vessels are retained in the Government's reserve fleet?

Mr. GULICK. Yes, sir.

(See Maritime Administrator's letter of December 13, 1962, on p. 54.)

The CHAIRMAN. Is it or is it not the present policy of the Maritime Administration to permit scrapping of both privately owned and Government-owned Liberty-type vessels?

Mr. GULICK. At present there is only a limited program of scrapping, taking the ships out of the reserve fleet when their condition or suitability indicates that they are no longer needed for purposes of national defense or otherwise.

I am not aware of any recent permission to permit owners of Liberties to scrap their vessels in general. I do not thing we have had any applications. I will be glad to check and see that the record reflects the situation.

The CHAIRMAN. If such applications were to be made, what do you think the attitude of the Administration would be?

Mr. GULICK. This would be purely speculative, because, of course, we would have to consult with the Department of Defense to find out what their views are. Purely as a guess, I would hazard the opinion that there would probably be not too much objection.

The CHAIRMAN. Have any plans for upgrading the American dry bulk cargo fleet, either by new construction or conversion in American shipyards, been presented?

Mr. GULICK. Mr. Chairman, I am so glad you asked me that.

The CHAIRMAN. And I want to insert for the record that you did not furnish me with that question.

Mr. GULICK. We are delighted to say that we have, for the past 6 months, been working on a program which would offer to the tramp carriers a very definite opportunity to upgrade their ships so as to get an increased carrying capacity and an increased speed, two very essential elements in this particular trade.

This proposal envisions the use of certain AP–5 vessels in the reserve fleet which were originally built for military or naval purposes, which would have some of their innards ripped out because they are now suitable for troop carriage and this sort of thing, but which have excellent engines, excellent hulls. And we would hope to be able to work out an arrangement, with the approval of all concerned, which would secure the financing of the conversion and reconstruction of these ships without the aid of Government subsidies.

The CHAIRMAN. How would this be done?

Mr. GULICK. I question whether I should outline too much of this program, because the matter is still pending in the Bureau of the Budget.

Very briefly, we would operate on the basis of a request, of course, for legislation on an extension of the present Libertys for the AP–5. This would be a downpayment proposition.

Then the matter of conversion of these ships, which would be fairly costly, could be extended over a number of years, with the Maritime Administration putting up the money for the conversion and taking a mortgage on the ships to secure repayment.

I may say that this was drafted only after discussion with the principal parties concerned, and there is a considerable amount of interest expressed in the industry in this particular program. We would hope next year to be able to come before you with this package.

The CHAIRMAN. As of now, the program is planned?

Mr. GULICK. Yes, sir.

The CHAIRMAN. And has progressed to the point where it has left the Maritime Administration and is lodged in the Bureau of the Budget?

Mr. GULICK. Yes, sir.

The CHAIRMAN. And I use the word "lodged" advisedly, because in the Bureau of the Budget I know it just exactly is.

But you look forward to this program, if approved by the Bureau of the Budget, as having a useful effect on this entire upgrading program which you favor?

Mr. GULICK. Definitely; yes, sir.

The CHAIRMAN. Now, did you say that this program would require some years for accomplishment?

Mr. GULICK. No, sir. If we get statutory authorization to pursue this program, I would venture a guess that the program could be fairly well along the way in a year or 18 months, with some ships coming out of the yards and being placed in service.

The CHAIRMAN. Sir, when S. 3649 came on for hearing before this subcommittee a few days ago, I thought it was going to develop into a relatively noncontroversial bill concerning which comparatively little testimony would be presented. But I was wrong. Apparently a storm of controversy has been aroused and is increasing rather than diminishing.

Among other puzzling features, so far as I am concerned, is the testimony offered by the opposing sides at the previous hearing relating to the effect of the legislation on American seamen. The opponents of the bill stated, and very vigorously, that entry to U.S.-flag competition of these vessels would diminish employment for American seamen and, for that reason among others, the bill should not be favorably considered.

On the other hand, the AFL–CIO group, maritime group, chiefly concerned as a labor organization with this type of legislation, favors the bill.

Do you have any views as to the impact upon American seamen and, if so, would you care to state them?

Mr. GULICK. I think it might be said, in general, sir, that we adopt in this instance the labor view that obviously any new ships of this type added to the fleet would provide additional jobs. The only way that one can come to the conclusion that jobs would be reduced would be to accept the premise that immediately upon the advent of these new ships certain of the Liberty ships would be done away with. We do not feel that this will be the case, but that these ships, or certainly most of them, will endeavor to remain in operation.

Another view is that if the tramp fleet continues with its present equipment, it is facing the end of the road anyhow. This is the representation that was made to us with a request that we do something about the situation, and this resulted in our own house program to endeavor to upgrade the tramp fleet.

So that it seems if you come to the final alternative, it is a choice between a gradually deteriorating situation in which there will be no ships and obviously no jobs; between that choice and bringing in new ships, we would join with labor in favoring the new ships.

The CHAIRMAN. Tell me, if they were to come in, would there be any beneficial effects to American shipyards by reason of such repair work and the like?

Mr. GULICK. I would certainly hope that any necessary repairs would be accomplished in the United States.

The CHAIRMAN. In your opinion, can these three vessels operate under U.S. flag without the right to carry foreign aid cargoes—operate profitably, that is?

Mr. GULICK. From the information given in the previous hearing before this committee on September 6, and also from representations made to us from the tramp fleet, we draw the conclusion that the cargo preference program is what is keeping the tramp fleet alive at the present time. Under these circumstances, we would be inclined to the view that without this program there would be very little hope for their employment.

The CHAIRMAN. According to your records, the records in the Maritime Administration, and according to your personal opinion, have the *Glenbrook*, *Montauk*, and *Spitfire* complied with all the conditions of Public Law 87–266 except that of returning to the United States on or before September 21, 1962?

Mr. GULICK. Yes, sir; they have.

The CHAIRMAN. You concluded your written statement, Mr. Gulick, by saying that, and I quote:

> Under the circumstances we would have no objection to enactment of the bill as introduced with the addition of the *Spitfire*.

And subsequently you stated that the Bureau of the Budget advises there is no objection to the submission of your statement.

And I interpret this to mean that the bill has your blessing but not your strong blessing. Would that be a fair interpretation?

Mr. GULICK. I think that that would be a fair inference. We have not been one of the motivating parties behind this legislation. By

the same token, we would have no objection to it because we can see some advantages from its enactment.

The CHAIRMAN. If the Congress should see fit to move, then, it would do so without any fear of a veto on account of the position taken by the Bureau of the Budget, right?

Mr. GULICK. Certainly there would be no cause for concern about a veto on the part of the Maritime Administration or the Department of Commerce.

The CHAIRMAN. Thank you.

Mr. Bourbon?

Mr. BOURBON. Mr. Gulick, with regard to these contracts that are signed, some of them seem to be carried out and some of them transferred and some of them not finally carried out. Would you say these are firm contracts as the contract is considered in this country? I mean on this basis—is there a certain amount of money that has passed when each one of these contracts was signed to make it a real contract?

Mr. GULICK. We would certainly say so, Mr. Bourbon. As far as we are concerned, these contracts are perfectly valid, binding agreements between the parties. And on the basis of this conclusion we have certified, in the case of some of these ships already, that they are within the statutory limits.

Mr. BOURBON. And there was a certain amount of money paid by the shipowner to the shipyard so that if the contract were not carried out, he would sacrifice that payment?

Mr. GULICK. We do not have any information as to exactly when and where or how much money passed hands. We made our review on the basis of the contracts themselves which were presented to us as executed contracts in the sense that they had already been entered into, and certainly these contracts had binding legal effect. So any violation or departure from the terms would seem to open up rights of action on the part of the parties.

Mr. BOURBON. In your letter that you sent out in October you did not specify any time by which they have to submit their contracts, I take it?

Mr. GULICK. That is my recollection, yes.

Mr. BOURBON. Now, while you were not too anxious to say too much about the AP–5 reconversion project, would it be all right to ask how many you have in your fleet that could be changed and about what speed they are and how big they are?

Mr. GULICK. I think we would have to furnish you that information. I would be going strictly on recollection, and in a matter as important to us as this I would rather be accurate.

If you do not mind, we would like to furnish this to you for the record.

(See Maritime Administrator's letter of Dec. 13, 1962, on p. 54.)

Mr. BOURBON. One further thing. It was testified the other day that if a 23,000-ton ship that goes 17 knots were brought into this country, it would replace maybe five Libertys because of the increased number of trips it can make, and 2½ times the cargo. I take it it is Maritime's feeling that sooner or later—and it may be very soon—the Liberty ships now operating will have to get out of the field, and you are satisfied to see some of them sacrificed now, a few years ahead

of their expected demise, to get the improved ships into the American fleet?

Mr. GULICK. Yes, sir.

Mr. BOURBON. That is all I have.

Mr. BAYNTON. Mr. Gulick, I believe you are familiar with the testimony of a week ago in connection with this bill. During that testimony, some charges were made that indicated bad faith on the part of the handling of the *Montauk*, in that, as I recall, it was chartered to MSTS on August 17, 1961, for 14 months but the Maritime Administration just a few days later, August 26, was notified of the intention to have this ship converted. Do you have any comment on that situation?

Mr. GULICK. In reviewing the record, sir, it appeared to me that this was simply the act of a normal business organization which would file a notice of intent in order to safeguard its rights under the legislation but would not intend by this action to interfere with the normal earning power of the ship and the possibility of bringing in income.

As developed later on, in the case of this charter, and as is common in the case of charters, so I understand, in general, they knew that later on they could come to some agreement about termination of the charter. This might have resulted in some loss to them, some premium payment.

But under the facts as indicated by the record, MSTS was very glad to get out from under the charter, because at the time it was terminated, by common consent MSTS could get a cheaper charter rate with other ships.

So, to sum it up, it seemed to me to be just the normal business transaction, and I read nothing unusual into it.

The CHAIRMAN. You do not consider, then, Mr. Gulick, that the companies were dilatory in any way at all in placing their ships in the Spanish yard?

Mr. GULICK. I cannot say that of my own knowledge, Mr. Chairman. This is a matter that requires considerable business and operating experience in this particular field, which is extremely tender, and these were men who had been in the business for some time and presumably knew what they were doing.

I can only point to some other examples or so, and I believe a check of the record would reveal that a ship was put into a Japanese yard for this same type of work around May 1, and somewhere around August 20 it was out of the yard. So my conclusion is that it can be done.

The CHAIRMAN. My recollection is that the opponents say that 90 days is the ordinary period for conversion in one of these Spanish yards and, in view of that, they thought that they had ample time.

Do you have any knowledge of the normal time required for work of this character in a Spanish shipyard?

Mr. GULICK. We have no particular knowledge about the operation of the Spanish yards.

The CHAIRMAN. Your only comparison relates to the Japanese yard, where the work was done in about—that would be about 120 days, would it not?

Mr. GULICK. Approximately. A little under 4 months. Three months and around 20 days, as I recall, although these are not specific, exact figures.

I may say that this conversion work would be difficult to put in a straitjacket in the sense that you can say categorically it will take 90 days or 120 days at any given time in any given yard.

We have reports to us which indicate that ships have gone into some yards and have taken 6 months. What the circumstances were we do not know. But we certainly assumed that this was within the terms of the agreement between the shipowner and the shipyard.

The CHAIRMAN. Does the Maritime Administration have any information as to whether or not a strike had ever occurred previously in a Spanish yard in modern times?

Mr. GULICK. We have no information, sir, other than that which has been given to this committee.

The CHAIRMAN. Does the Maritime Administration have any information relating to the period of 50 days, as I remember, that it required for the steel to clear through Spanish customs?

Mr. GULICK. We have no information on that, other than the fact, of course, as reported in the record here.

The CHAIRMAN. All right.

Any further questions?

Mr. BOURBON. I have no more.

The CHAIRMAN. You have no more?

Mr. BAYNTON. No, sir.

The CHAIRMAN. Thank you very much for your appearance.

Mr. GULICK. Thank you, sir.

The CHAIRMAN. The committee will stand in adjournment.

(Whereupon, at 11 a.m., the subcommittee adjourned.)

(The following letters were submitted for the record:)

AMERICAN MERCHANT MARINE INSTITUTE, INC.,
Washington, D.C., September 17, 1962.

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

MY DEAR SENATOR MAGNUSON: I am writing you in behalf of the American Merchant Marine Institute, Inc., a national trade association composed of U.S. steamship companies operating a substantial majority of U.S.-flag vessels in the foreign and domestic trades of the United States, to express our opposition to S. 3649, a bill on which the Merchant Marine Subcommittee has recently held 2 days of hearings. Two bills have been introduced in the House which would accomplish the same objective. The facts involved in this proposed legislation are of a confused and contradictory nature.

S. 3649 would permit two vessels, the *Glenbrook* and *Montauk*, now being converted abroad, to be eligible to carry Government-sponsored cargo contrary to the requirement passed by the Congress last year (Public Law 87–266) barring such vessels from cargo preference participation for a period of 3 years, unless on date of enactment of that law a contract to rebuild abroad existed and the Maritime Administration was notified of intent to redocument such vessel under U.S. flag. An additional qualification was that the redocumentation must be effected within 1 year after enactment of the law, i.e., September 21, 1962.

You will recall, I am sure, that the 1961 legislation was widely supported and to the best of my recollection there was no opposition. It was intended to protect the interests of American owners and American shipyards. Undoubtedly, the law has had salutary effect.

At the hearing held on S. 3649 testimony was presented indicating that in some instances rebuilding contracts were entered into in 1961 after the legislation was introduced but before it was enacted. This allowed the owner the possibility of taking advantage of the legislation if market conditions later became such that it was to his advantage to do so. It was further brought out at the hearing that enactment of the legislaion could affect the steamship *Spitfire* and perhaps vessels other than the two specifically named in the bill.

Proponents of the legislation base their plea for relief on the ground that the impossibility of redocumenting the vessels by September 21 of this year is because of strikes in foreign shipyards which have halted work. However, testimony was given that the *Montauk* was not delivered to the Spanish shipyard until May 8, 1962, and the *Glenbrook* was not delivered until after the middle of April 1962.

If, in accordance with the legislation pending before your committee, the vessels *Montauk*, *Glenbrook*, and others, are granted the special privilege of participating in 50–50 cargo after the specified cutoff date of Public Law 87–266, they will obviously displace other American-flag vessels which have not sought this special privilege. This could be consequential to existing owners and perhaps as many as 150 or more American seamen.

A variety of facets which developed during the course of the hearing were such that we think there is serious question about the validity of the claims of the advocates of this legislation. You will doubtlessly recall that it has always been our position that when special privileges were sought through custom-tailored legislation, the case must be one of genuine hardship without any question as to the validity of the claim. These factors do not exist, in our opinion, in the present cases. Frankly, we feel that the Congress of the United States should not be pressed into passing special legislation to relieve parties of difficulties and problems which were created virtually entirely by their own doing.

We certainly hope that, considering all the circumstances involved and the pressure of time because of efforts to adjourn, your committee will not give the bill serious consideration.

Sincerely yours,

ALVIN SHAPIRO.

KEYSTONE SHIPPING CO.,
Philadelphia, Pa., September 18, 1962.

S. 3649.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce, Subcommittee on Merchant Marine, Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: The purpose of this letter is to register our opposition to the above bill, upon which we understand hearings have been held. Since we did not know about the hearings, we were unable to attend or submit a memorandum.

This company, together with certain affiliated organizations, owns and operates a large fleet of U.S.-flag vessels, some of which are employed in the carriage of so-called 50–50 cargoes under the Cargo Preference Act. At the present time employment for U.S.-flag vessels is extremely limited; rates are demoralized to the point where such business as is available returns little, if any, profit, there are numerous ships in layup, and the shipyards need business to keep their men employed. This is not a new condition, and it was against this background that Congress passed Public Law 87–266, which was intended to put a stop to the practice of rebuilding or jumboizing vessels abroad at low cost for competition with vessels built or rebuilt in the United States. At that time it was believed that passage of the law was essential to protect U.S. shipyards, and also to protect existing U.S. operators from unfair competition which would have a further demoralizing effect on the market.

The Senate report on Public Law 87–266 contained the following statements: "Now, however, there is only a limited amount of these 50–50 cargoes, and an oversupply of U.S.-flag vessels in relation to the amount of cargoes to be moved. The result is an unhealthy shipping market which has discouraged new unsubsidized ship construction for U.S. registry," and "This results in the layup of American-built unsubsidized ships which are deprived of cargoes primarily reserved for American vessels under the 50–50 act."

The proviso giving an additional year to register a vessel under U.S. flag was added by amendment, and was intended to protect owners who, in good faith, had entered into contracts before the legislation was introduced, and who faced postponement for 3 years of the right to use their vessels in the event that they could not be completed before the effective date of the act. Anyone who entered into a contract after the bill was introduced assumed the risk that he might not be able to complete his project in time.

We are advised that three vessels are primarily concerned in this legislation; that the contracts under which they are being rebuilt were not entered into until after the legislation had been introduced; and that at that time the vessels had other possible plans for employment. We submit that the making of these contracts under such circumstances was a speculation and a gamble.

The U.S.-flag merchant marine today is at a low ebb; not because it does not have enough ships, but because employment is so limited and rates are so low that existing owners cannot earn profits on their present ships. We accept, as part of the American business system, competition from vessels built or rebuilt in this country, but we see no reason why the industry should be further demoralized by the admission of these three foreign rebuilt vessels to the carriage of 50–50 cargoes. We know that at least two of these vessels are under U.S. flag so that their admission will not accomplish additions to the U.S. fleet.

We see no element of injustice if the special privilege sought under this legislation is denied. The time limitation in Public Law 87–266 was generous, and owners who had actual contracts at that date, and who proceeded with the idea of rebuilding vessels rather than speculating on developments had ample time to complete the work and document their vessels. The other people gambled and apparently lost.

We think it would be a great injustice to owners like ourselves, to American shipyards, and to the employees who would be displaced, to grant this special privilege, and to permit these vessels to compete with the present fleet. Obviously, the additional tonnage will further demoralize the market and result in more laid up vessels. The vessels which have been rebuilt will have an advantage over existing vessels because they were built at lower foreign cost, so the possibility is that the vessels that will suffer are the vessels that have been competing for the business since the Cargo Preference Act was passed.

Accordingly, we urge that this bill should not be favorably reported by your committee, and that it should not be passed by Congress.

A copy of this letter is being sent to each member of your committee.

Very truly yours,

KEYSTONE SHIPPING CO.
BY CHARLES KURZ, *President.*

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