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90-47 EXCHANGE OF CERTAIN VESSELS IN  
NONSUBSIDIZED SERVICE

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HEARING  
BEFORE THE  
SUBCOMMITTEE ON  
MERCHANT MARINE AND FISHERIES

OF THE  
COMMITTEE ON COMMERCE  
UNITED STATES SENATE

NINETIETH CONGRESS

FIRST SESSION

ON

S. 2140

TO AUTHORIZE THE EXCHANGE OF CERTAIN VESSELS  
FOR CONVERSION AND OPERATION IN NONSUBSIDIZED  
SERVICE BETWEEN THE WEST COAST OF THE UNITED  
STATES AND THE TERRITORY OF GUAM

NOVEMBER 5, 1967

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EXCHANGE OF CERTAIN VESSELS IN  
NONSUBSIDIZED SERVICE

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**TO AUTHORIZE THE EXCHANGE OF CERTAIN VESSELS  
FOR CONVERSION AND OPERATION IN NONSUBSIDIZED  
SERVICE BETWEEN THE WEST COAST OF THE  
UNITED STATES AND THE TERRITORY OF GUAM**

FRIDAY, NOVEMBER 3, 1967

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

The subcommittee met at 10 a.m. in room 5110, New Senate Office Building, the Honorable E. L. Bartlett, chairman of the subcommittee, presiding.<sup>1</sup>

Senator BARTLETT. The subcommittee will be in order.

OPENING STATEMENT BY THE CHAIRMAN

Today we will hear testimony on S. 2140, a bill to amend section 510(i) of the Merchant Marine Act, 1936, to authorize the exchange of certain vessels for conversion and operation in nonsubsidized service between the west coast of the United States and the territory of Guam. (The text of S. 2140 follows:)

[S. 2140, 90th Cong., first sess.]

A BILL To authorize the exchange of certain vessels for conversion and operation in nonsubsidized service between the west coast of the United States and the territory of Guam

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of Commerce, acting by and through the Maritime Administration, pursuant to the provisions of section 510(i) of the Merchant Marine Act, 1936, is authorized to trade out in exchange for obsolete vessels two C-4-type vessels for the purpose of conversion and operation in a nonsubsidized service between the west coast of the United States and the territory of Guam.

Senator BARTLETT. Section 510(i) is known as the Vessel Exchange Act and was designed to upgrade that portion of the U.S.-flag fleet which has not been able to obtain construction differential subsidy. For this reason, the legislative history emphasizes that vessels traded out by the Maritime Administration are not eligible for operating subsidy, and may be used only in nonsubsidized services. One of the principal purposes of this emphasis was to prevent any of the subsidized lines from avoiding their contractual ship replacement obligations by converting war-built vessels.

There was one particular situation which was perhaps not fully considered at the time the act was passed or at the time of subsequent amendments. This is the situation where a shipowner operated both a

<sup>1</sup> Professional staff member assigned to this hearing; Stanley H. Barer.

subsidized and nonsubsidized service. This type of operation is a minor exception to the general rule as only one subsidized company directly operates a nonsubsidized service. There may be one or two other companies which operate nonsubsidized service through affiliates.

The particular service that this bill is designed to cover is that between the west coast of the United States and the territory of Guam. This service is not eligible for either operating or construction subsidy and it has been in existence for many years, operated on a nonsubsidized basis. This service is now provided by a company which receives subsidy for operations other than the Guam service. This bill would clarify the authority of the Maritime Administration to make two C-4 type vessels available for the Guam service.

There will be placed in the record a telegram directed to me by my friend the Governor of Guam urging favorable action on this bill.

(The telegram referred to follows.)

SAN FRANCISCO, CALIF., October 31, 1967.

HON. E. L. BARTLETT,  
Committee on Commerce,  
U.S. Senate, Washington, D.C.:

The government of Guam urges favorable consideration by your Senate Subcommittee on Merchant Marine and Fisheries of Senate bill 2140 enabling allocation of two C-4 cargo ships under the Vessels Exchange Act to Pacific Far East Line for use in the domestic trade of United States between the Pacific coast and the territory of Guam. The C-4 ships are to be converted to containerization and will greatly improve service to Guam from the West coast. Such improved American-flag transportation will provide better and more efficient service from American sources of supply, thereby serving as a catalyst to facilitate the increase of shipping from continental United States as well as reversing the growing tendency of procurement from foreign sources which increasing volume continues to aggravate the U.S. balance-of-payments problem. Government of Guam investing \$16 million in new commercial port facilities emphasizing containerization and modern cargo-handling methods. Passage of this enabling legislation is strongly urged so that the ever-expanding civilian and military requirements of this area may be appropriately served. The people of Guam appreciate your support and understanding of their problem.

MANUEL F. L. GUERRERO,  
Governor of Guam.

Senator BARTLETT. Likewise there will be incorporated in the record a letter to Chairman Magnuson from the Assistant Secretary of the Interior in favor of the bill.

(The letter referred to follows:)

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., October 16, 1967.

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

DEAR SENATOR MAGNUSON: This is in response to your request for the views of this Department on S. 2140, a bill "To authorize the exchange of certain vessels for conversion and operation in nonsubsidized service between the west coast of the United States and the territory of Guam."

We recommend the enactment of the bill.

The bill authorizes the Secretary of Commerce, acting by and through the Maritime Administration, pursuant to the provision of section 510(i), to trade out in exchange for obsolete vessels two C-4-type vessels for the purpose of conversion and operation in a nonsubsidized service between the west coast of the United States and the territory of Guam.

The ships will be taken from the reserve fleet and turned over to the operator, who will then convert them to containerized vessels, at a cost of \$1½ to \$2 million per vessel.

In recommending the enactment of this bill, we are aware of the fact that a specific ocean carrier is interested in acquiring two C-4-type vessels for the purpose of conversion and operation in a nonsubsidized service between the west coast of the United States and the territory of Guam, and we further understand that the enactment of S. 2140 or like legislation is a prerequisite to the exchange by that carrier of its obsolete vessels for the desired vessels because there is an uncertainty in present law as to whether the exchange authorized by this bill can be made in the case of an ocean carrier that is operating in both the subsidized and nonsubsidized service. This Department's support of this legislation is based solely on the hope that its passage will bring about improved shipping services to the territory of Guam.

It is our contention that improved shipping service to Guam, and in particular improved shipping service between Guam and the United States, is in the national interest. Guam's island economy is almost totally dependent upon imported goods, virtually all of which are transported by ocean shipping. About 70 percent of Guam's commercial imports now are obtained from the United States. Over the past 15 years, the dollar value of Guam's total imports has about doubled. On the basis of FT-800 reports of the Bureau of the Census on United States shipments to Guam, together with partially estimated data on Guam's imports from foreign countries, it appears that foreign imports, now transported mainly in foreign flag vessels, increased somewhat more rapidly over that period than did Guam's imports from the United States. Because of Guam's remoteness from the mainland, and the relatively high cost of transportation, it would not be surprising to find that a number of items can be landed in the free port of Guam at a substantially lower cost from foreign countries than from the United States.

It is our hope that if the modern containerized vessels are made available for the service to Guam, substantial economies of cost will result and that these economies will be reflected in lower ocean freight rates between Guam and the United States. Improved shipping service that moves cargoes faster, more frequently, and at the lowest possible cost between Guam and the United States will benefit the economy of Guam, which is an important concern of ours, and may also help to maintain the competitive position of United States-made goods in the Guam market.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HARRY R. ANDERSON,  
*Assistant Secretary of the Interior.*

Senator BARTLETT. Likewise there will be incorporated in the record reports from the Department of Commerce, from the Federal Maritime Commission, from the Comptroller General of the United States, and from the Department of the Navy.

(The letters referred to follow:)

GENERAL COUNSEL  
OF THE DEPARTMENT OF COMMERCE,  
*Washington, D.C., October 24, 1967.*

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

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department with respect to S. 2140, a bill "To authorize the exchange of certain vessels for conversion and operation in nonsubsidized service between the west coast of the United States and the territory of Guam."

Section 510(i) of the Merchant Marine Act, 1936, as amended (known as the Ship Exchange Act), now authorizes the trade-out of vessels without restricting their operation to either the domestic or foreign commerce. However, *subsidized operators* are not eligible to acquire ships under that program even though the ships are to be operated in unsubsidized *services*. At the time S. 2140 was introduced by request, Senator Bartlett's explanation made clear that its objective is to add to those shipowners presently authorized to receive traded-out ships those operators who operate both a subsidized and nonsubsidized service and to specify that the added qualified participants may acquire two C-4 type vessels for operation in the nonsubsidized Guam service.

Since 1953, Pacific Far East Line, Inc. (PFEL), a subsidized operator has been authorized to maintain an unsubsidized freight service between the west coast of

the United States and the territory of Guam for the carriage of commercial general, bulk and military cargoes. It is presently operating five vessels in that service. Charter of additional vessels to operate in the Guam service has been necessary to accommodate the demands of commercial shippers as well as the demands of the Defense Department for carriage of military cargoes. It cannot reasonably be anticipated when the termination of the conflict in Southeast Asia would reduce the need for shipping and with the development of new commercial port facilities at Guam there will be increased demands placed on the service. In these circumstances, we support the increase of shipping capability to Guam through either the replacement of existing vessels in that service with the larger and faster C-4 type ships or by the addition to that service of such ships.

However, if the C-4 type ships are made available to subsidized operators for operation in the nonsubsidized Guam service, it is necessary to recognize the existing contractual limitation upon them respecting their continuation of such service with the subject ships. Under their operating-differential subsidy contracts, subsidized operators are specifically prohibited from operating vessels in services or trades other than their subsidized services without the express approval of the Maritime Administration. The nonsubsidized Guam service being provided by PFEL is pursuant to such express approvals which have been granted each year.

The terms of the bill as we understand it in the light of Senator Bartlett's explanation contemplates that a subsidized operator (as well as an unsubsidized operator) would be eligible for acquisition of two C-4s so long as the operation of the vessels is in the described nonsubsidized service. As hereinabove noted, PFEL is presently such an operator but its continuation in that service is subject to an annual review of the approval granted. We would want it understood that if PFEL, or any other subsidized operator, acquires the ships, their operation in the prescribed service will continue to be subject to the annual express approval therefor. In other words, we view S. 2140 as primarily designed to provide two C-4 ships under the Ship Exchange Act for nonsubsidized service to Guam and to qualify a subsidized operator to apply for the allocation to it of those ships. If a subsidized operator acquires the ship but subsequently approval of its continuation of a nonsubsidized service to Guam is terminated, the vessels should be required to be made available for purchase by a successor in that trade at their fair and reasonable value as of the date of sale. The same requirement should be imposed if an unsubsidized operator is allocated the ships. Absence of such a requirement would not assure the continued operation of the C-4's in the Guam service.

Assuming our understanding of the objectives of S. 2140 is correct, we suggest that it could be made clear by adding to the end of the bill, before the period, the words "by a subsidized or unsubsidized shipowner" and adding another sentence immediately thereafter to read as follows "If the shipowner who acquires the two C-4 type vessels discontinues its operation in the prescribed service, the vessels shall be made available for purchase by its successor in the service at the fair and reasonable value as determined by the Maritime Administration."

With the suggested changes in the language of S. 2140, we recommend its favorable consideration.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

JOSEPH W. BARTLETT,  
*General Counsel.*

FEDERAL MARITIME COMMISSION,  
OFFICE OF THE VICE CHAIRMAN,  
*September 1, 1967.*

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

DEAR MR. CHAIRMAN: This is in reply to your request of July 25, 1967, for the views of the Federal Maritime Commission with respect to S. 2140, a bill "To authorize the exchange of certain vessels for conversion and operation in non-subsidized service between the west coast of the United States and the territory of Guam."

Inasmuch as the bill does not affect the responsibilities or jurisdiction of the Commission, we express no views as to its enactment.

The Bureau of the Budget has advised that there would be no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely yours,

GEORGE H. HEARN,  
*Vice Chairman.*

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COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, D.C., August 16, 1967.*

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

DEAR MR. CHAIRMAN: Your letter of July 25, 1967, invites our comments on S. 2140, a bill to authorize, pursuant to the provisions of section 510(i) of the Merchant Marine Act, 1936, as amended, the exchange of certain vessels for conversion and operation in nonsubsidized service between the west coast of the United States and the territory of Guam.

We have no special information or knowledge that would assist in the consideration of S. 2140, and therefore have no comments to offer.

Sincerely yours,

FRANK H. WEITZEL,  
*Assistant Comptroller General,*  
*of the United States.*

---

DEPARTMENT OF THE NAVY,  
OFFICE OF LEGISLATIVE AFFAIRS,  
*Washington, D.C., October 16, 1967.*

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

MY DEAR MR. CHAIRMAN: Your request for comment on S. 2140, a bill "To authorize the exchange of certain vessels for conversion and operation in nonsubsidized service between the west coast of the United States and the territory of Guam, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

This bill would authorize the Secretary of Commerce, acting by and through the Maritime Administration, pursuant to the provisions of section 510(i) of the Merchant Marine Act, 1936, to trade out in exchange for obsolete vessels two C-4-type vessels for the purpose of conversion and operation in a nonsubsidized service between the west coast of the United States and the territory of Guam.

The Department of the Navy, on behalf of the Department of Defense, defers to the views of the Department of Commerce concerning this proposed legislation.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the Administration's program there is no objection to the presentation of this report on S. 2140 for the consideration of the Committee.

Sincerely yours,

R. WRZESINSKI,  
*Captain, U.S. Navy,*  
*Director, Legislative Division*  
(For the Secretary of the Navy).

Senator BARTLETT. The first witness this morning is Mr. Carl C. Davis, General Counsel, Maritime Administration.

Mr. Davis?

**STATEMENT OF CARL C. DAVIS, GENERAL COUNSEL, MARITIME  
ADMINISTRATION OF THE DEPARTMENT OF COMMERCE;  
ACCOMPANIED BY MRS. SONYA L. GORDON, ATTORNEY, LEGIS-  
LATIVE DIVISION OF THE MARITIME ADMINISTRATION**

Mr. DAVIS. Mr. Chairman, I would like to be accompanied by Mrs. Sonya L. Gordon, attorney for the Legislative Division of the Maritime Administration.

Senator BARTLETT. Permission is freely granted.

Mr. DAVIS. Thank you. I appreciate the opportunity to present the views of the Maritime Administration and the Department of Commerce on S. 2140.

S. 2140 would authorize the trade-out of certain vessels for conversion and operation in nonsubsidized service between the west coast of the United States and the territory of Guam.

Section 510(i) of the Merchant Marine Act, 1936, as amended—known as the Ship Exchange Act—now authorizes the trade-out of vessels without restricting their operation to either the domestic or foreign commerce. However, subsidized operators are not eligible to acquire ships under that program even though the ships are to be operated in unsubsidized services. At the time S. 2140 was introduced by request, the accompanying explanation made clear that its objective is to add to those shipowners presently authorized to receive traded-out ships those operators who operate both a subsidized and nonsubsidized service and to specify that the added qualified participants may acquire two C-4-type vessels for operation in the nonsubsidized Guam service.

Since 1953, Pacific Far East Line, Inc. (PFEL), a subsidized operator, has been authorized to maintain an unsubsidized freight service between the west coast of the United States and the territory of Guam for the carriage of commercial general, bulk, and military cargoes. It is presently operating four vessels in that service. Charter of additional vessels to operate in the Guam service has been necessary to accommodate the demands of commercial shippers as well as the demands of the Defense Department for carriage of military cargoes. It cannot reasonably be anticipated when the termination of the conflict in Southeast Asia would reduce the need for shipping and with the development of new commercial port facilities at Guam there will be increased demands placed on the service. In these circumstances, we support the increase of shipping capability to Guam through either the replacement of existing vessels in that service with the larger and faster C-4-type ships or by the addition to that service of such ships.

However, if the C-4-type ships are made available to subsidized operators for operation in the nonsubsidized Guam service, it is necessary to recognize the existing contractual limitation upon them respecting their continuation of such service with the subject ships. Under their operating-differential subsidy contracts, subsidized operators are specifically prohibited from operating vessels in services or trades other than their subsidized services without the express approval of the Maritime Administration. The nonsubsidized Guam service being provided by PFEL is pursuant to such express approvals which have been granted each year.

The bill as we understand it, in the light of the explanation that accompanied its introduction, contemplates that a subsidized op-

erator—as well as an unsubsidized operator—would be eligible for acquisition of two C-4's so long as the operation of the vessels is in the described nonsubsidized service. As hereinabove noted, PFEL is presently such an operator but its continuation in that service is subject to an annual review of the approval granted. We would want it understood that if PFEL, or any other subsidized operator, acquires the ships, their operation in the prescribed service will continue to be subject to the annual express approval therefor.

In other words, we view S. 2140 as primarily designed to provide two C-4 ships under the Ship Exchange Act for nonsubsidized service to Guam and to qualify a subsidized operator to apply for the allocation to it of those ships. If a subsidized operator acquires the ships but subsequently approval of its continuation of a nonsubsidized service to Guam is terminated, the vessels should be required to be made available for purchase by a successor in that trade at their fair and reasonable value as of the date of sale. The same requirement should be imposed if an unsubsidized operator is allocated the ships. Absence of such a requirement would not assure the continued operation of the C-4's in the Guam service.

Assuming our understanding of the objectives of S. 2140 is correct, we suggest that it could be made clear by adding to the end of the bill, before the period, the words "by a subsidized or unsubsidized shipowner" and adding another sentence immediately thereafter to read as follows: "If the shipowner who acquires the two C-4-type vessels discontinues its operation in the prescribed service, the vessels shall be made available for purchase by its successor in the service at the fair and reasonable value as determined by the Maritime Administration."

With the suggested changes in the language of S. 2140, we recommend its favorable consideration.

Senator BARTLETT. Thank you, Mr. Davis.

Does your colleague have anything to offer in the way of a statement?

Mr. DAVIS. Mr. Chairman, I wouldn't have had anything to say without her assistance. She wrote the report, she prepared this testimony and she has told me all of the things to say. You are leaving me defenseless if you ask her to do the talking.

Senator BARTLETT. Well, I will ask her then if in your view this legislation is necessary in order for Pacific Far East Lines to obtain two C-4's for service to Guam.

Mrs. GORDON. Yes.

Senator BARTLETT. And the provisions of the bill could apply to lines other than PFEL? The provisions could apply to lines other than PFEL, according to what Mr. Davis has told us, right?

Mrs. GORDON. Yes.

Senator BARTLETT. Now, Mr. Davis, is there any connection whatsoever between the subsidized services provided by PFEL and this nonsubsidized service to Guam?

Mr. DAVIS. Only in an accounting sense, Mr. Chairman. Guam is not on an essential trade route. To be sure, the same corporation owns the vessels that are operated under the subsidy contract and the vessels operated in this nonsubsidized service, and there are some provisions for taking into account some of the profits made, but other than in an accounting sense, there is not.

Senator BARTLETT. These ships start out from a west coast port and go to Guam direct or in any case having had no connection on the voyage to Guam with any segment of the subsidized service provided by PFEL, right?

Mr. DAVIS. That is true.

Senator BARTLETT. Have any nonsubsidized operators applied for trade-out vessels for operation to Guam?

Mr. DAVIS. No, they have not.

Senator BARTLETT. How many vessels are for tradeout?

Mr. DAVIS. You mean of the C-4 type?

Senator BARTLETT. Yes.

Mr. DAVIS. I think I can speak to that without looking at the exact records. Years back, a few were made available to us. I cannot give the exact number. But you are asking how many are available right now. Twenty-five were made available to us during the course of this year. Fifteen of those were allocated, nine of them have been returned, so they will be up for reallocation, and six have not been allocated.

Senator BARTLETT. As vessels are retired from service to Vietnam are they going into the vessel exchange program?

Mr. DAVIS. Our vessels that are in the service—

Senator BARTLETT. Those have been in service to Vietnam and are being retired from that service, if that is the case, are they going into the vessel exchange program?

Mr. DAVIS. Some of them, yes, but most of them are being marked for scrap.

Senator BARTLETT. They aren't in the best of shape?

Mr. DAVIS. That is those that are being turned back are not in the best of shape.

Mr. BARER. Under the provisions of this bill, would the two C-4s be prohibited from making any other calls except directly to and from Guam?

Mr. DAVIS. Under the provisions of this bill, if they were operated by a subsidized operator, yes, they would, because the provisions of this bill plus the other requirements of getting the approval for a particular service from Maritime Administration.

Mr. BARER. The vessels being operated by Pacific Far East Lines currently to Guam, does Maritime Administration require that go only directly to and from Guam? Are they allowed to stop anywhere else?

Mr. DAVIS. No, this is a Guam service only.

Mr. BARER. If a nonsubsidized operator applied for the same vessels for Guam, and received them, would they receive them under the provisions of this section or would they receive them under the existing statute, so as not to have the same limitation?

Mr. DAVIS. Both, in the sense that we would now, if we were going to move them into that Guam service, we would put the requirements in respect of two vessels that they stay in the Guam service. The basis of our support is we are trying to improve the service to Guam which we think is merited.

Mr. BARER. Under the language you suggested as an amendment, or as additional language to the bill as it now reads, you provide that if for example Pacific Far East Lines did obtain the two vessels under this bill, and their approval was not renewed by the Maritime Admin-

istration, they would be required to sell the vessels to someone to operate them in the Guam service, right?

Mr. DAVIS. That is right.

Mr. BARER. If those vessels were sold to a nonsubsidized operator for use in the Guam service, would he acquire those vessels under the same limitations?

Mr. DAVIS. He would. In fact, I will go one step further: Even if a nonsubsidized operator acquired the two vessels under the provisions of this proposed legislation, and that unsubsidized operator wanted to go out of that business, we would require he sell them to a successor in that trade.

Mr. BARER. In summary then your legal view of this language, including the language you have suggested, is that once these two vessels are traded out, no matter who is owning and operating them, at any time in the future, they are to be used only for service to Guam?

Mr. DAVIS. That is right. These are for the improvements of the service to Guam.

Mr. BARER. How could you ever break that chain? What if the Maritime Administration subsequently determined that future service to Guam was adequate, or was not essential, how could these two vessels get out of the provisions you have suggested let's say 10 years from now, if the vessels are still operating? Do you think it would be advantageous to put them into some other service? Would it require special legislation?

Mr. DAVIS. These vessels are going into the Guam service, after which they will be terminated.

Senator BARTLETT. What do you mean?

Mr. DAVIS. Well, scrapped. We are trying to improve the Guam service. Of course these are old vessels, they are war-built vessels, and for the period of their lifetime, we do not see any chance that the service will not be needed to Guam.

Mr. BARER. As I understand it, whoever gets these contemplates some major changes in the vessels?

Mr. DAVIS. It would be absolutely necessary. C-4 type vessels are very strong vessels—

Mr. BARER. Will that add anything substantially to the operating life of the vessel?

Mr. DAVIS. About 5 years, but you couldn't operate them otherwise. You see they have troop accommodations. You in effect have to go in and take out the entire interior of the ship and make them into—you can make them into either break-bulk ships or you can make them into containerized vessels.

Mr. BARER. The point I am concerned about is if these ships are brought out and a substantial amount of money is spent upon their refitting, and if that is going to add substantially to their useful operating life, are the provisions that you suggest by your amendment going to be a limitation upon the operating life of that vessel if conditions should change so far as the adequacy of the service to Guam?

Mr. DAVIS. This is one of the factors that any applicant will have take into consideration and I think there will be applicants for these ships. You spoke in terms of PFEL, but this is not necessarily restricted to PFEL, even on the subsidized side.

Senator BARTLETT. Your point then, as I gather it, Mr. Davis, is that these vessels, these two C-4's, won't have a working life long

enough to place the Maritime Administration or anyone else in a position of great concern about future developments in the trade to Guam because they won't last too long in any case and then we will have to have another look at it. Is that it?

Mr. DAVIS. Our point is there will be adequate need for these vessels for their life. Our secondary point is that during that period of time I think it will be a good judgment for whoever wants to get into it. These are good vessels.

Senator BARTLETT. What does a C-4 bring on the open market now if it is in reasonably good condition?

Mr. DAVIS. First I would like to say there are none for sale. But I did make a little estimate on that. Well, a C-3 is about a million to a million one. I think predicated on that, I think you would have to say—of course this is a projection from that. I do have some information with respect to C-3's. I would say around a million five or a million six.

Mr. BARER. Are there C-4-type vessels now available on the market?

Mr. DAVIS. No, there are not.

Mr. BARER. How much did you say it would cost to build a comparable ship? Or maybe you weren't asked that question.

Mr. DAVIS. That wasn't the question I was asked. I was asked to give my opinion as to the valuation of a C-4 on the open market. And I started from the base of a C-3, which I do have some information with respect to which is from a million to a million one. And I would project that to a C-4 of a million five to a million six.

Mr. BARER. Title XI is available for guaranteeing the building of such vessels, is it not, up to 87½ percent in this instance?

Mr. DAVIS. Oh, yes.

Mr. BARER. So that could be built with a 12½-percent downpayment, right?

Mr. DAVIS. Yes.

Mr. BARER. Does the Maritime Administration have any intention of activating the direct construction aid program under section 509 at this time?

Mr. DAVIS. No, we do not. In fact I doubt that any vessel will be built again under that section because of the fact that the Government has to put up 100 percent of the money there.

Senator BARTLETT. And we are not going to confuse this issue with the *Delta Queen*, are we?

Mr. DAVIS. No.

Senator BARTLETT. Thank you very much.

Our next witness will be the distinguished elected representative of the territory of Guam, Antonio Won Pat.

We are happy to have you here, sir.

Mr. WON PAT. Thank you very much, sir.

#### STATEMENT OF HON. ANTONIO B. WON PAT, WASHINGTON REPRESENTATIVE, TERRITORY OF GUAM

Mr. Chairman, my name is Antonio B. Won Pat, and I am the Washington representative of the territory of Guam. I was born in Guam and have lived there all my life. As a member of the Congress of Guam, I participated actively in the preparation and passage of

the Organic Act of Guam in 1950. Subsequently, I was a member of the Guam Legislature and the speaker of that body for 12 of the next 14 years and was elected to my present post in March 1965.

My responsibilities include maintaining close liaison between the government of Guam and the executive departments and agencies of the Federal Government and representing the views and interests of the people of Guam before the U.S. Congress. In the course of my public career, I have been intimately involved in plans for the economic development of Guam, which is very dependent upon ocean transportation.

Guam, the largest of the Marianas, is the westernmost territory of the United States. It was discovered by Magellan in 1521 and ceded to the United States in 1898 as a result of the Spanish-American War. Guam is located 5,200 miles from San Francisco—1,350 miles south of Japan and about 1,500 miles east of the Philippines. Since the days of Magellan, Guam has been the crossroads of the Pacific and is now America's "showcase of democracy" at the edge of the Bamboo Curtain. The people of Guam are citizens of the United States. They elect their own legislators for their local unicameral legislature and their Representative in Washington.

The current population of Guam is approximately 86,000 including servicemen and other Government employees and their families. This is an increase of about 19,000—nearly 21 percent—since the 1960 census, and the per annum increase in population in the future is expected to continue at about its current 1960 through 1967 rate, or at about 2,200 persons per year.

The people of Guam and the neighboring islands of the Trust Territory of the Pacific, which is also under U.S. administrative jurisdiction, are almost completely dependent upon oceangoing vessels for building and industrial materials and consumer goods. Likewise, the military installations on Guam must be serviced by oceangoing vessels. For the past 20 years, most of the ocean service for the Guam domestic trade has been performed by Pacific Far East Line, Inc., which presently operates four unsubsidized vessels between the west coast of the United States and Guam. Foreign-flag ships are permitted to carry cargo from the Far East, Southeast Asia, Australia and New Zealand to Guam. But we are primarily dependent upon the service maintained by Pacific Far East Line, since most of our imports still come from the U.S. mainland. During fiscal year 1967, imports from the United States totaled 159,589.7 revenue tons with a total value of \$38,036,490; while imports from all foreign countries totaled only 126,269.84 revenue tons with a value of \$25,645,942.

In addition to these shipments directly to Guam, other goods are sent to Guam for transshipment throughout the trust territory. And although Guam serves as the transportation hub of the Western Pacific, most of the goods arriving there must be carried by Pacific Far East Line.

Pacific Far East Line has advised the Government of Guam that in order to continue to furnish efficient and dependable service, its fleet must be upgraded. The vessels presently operated are war-built vessels which are all over 20 years of age and are not suitable for the carriage of containerized cargo. After considerable study of all methods of replacing and upgrading their fleet, Pacific Far East Line has con-

cluded that the only practicable manner in which this can be done is to obtain two C-4 type vessels and convert such vessels by constructing a new hull section specifically designed to carry containers. This should result in more efficient cargo handling and in lower tariff rates in the Guam trade.

Pacific Far East Line has filed an application with the Maritime Administration to obtain two C-4 type vessels under the Vessel Exchange Act. The Maritime Administration has raised questions as to the eligibility of Pacific Far East Line to participate in the vessel exchange program because although the Guam vessels are not operated with subsidy, another service operated by Pacific Far East Line is subsidized.

I have been authorized by the Government of Guam to advise you of our wholehearted support of this legislation and to emphasize the absolute necessity for continuation of unsubsidized service from the west coast of the United States to Guam. We urge favorable consideration by this committee.

I appreciate very much your courtesy in permitting me to appear before your committee today.

I will be happy to answer any questions you may wish to ask.

Senator BARTLETT. We are very, very glad to have had you appear.

You omitted one word of your prepared statement. It states that you have been authorized by the Government of Guam that supports wholeheartedly this legislation and you emphasized the absolute necessity for continuation of service from the west coast of the United States to Guam. In the prepared statement the word "unsubsidized" appears. So I judge that I wouldn't object if a change were made—and there is no prospect, I guess, of this being done—and "subsidized" instead of "undubsidized" were substituted?

Mr. WON PAT. Well, the question of unsubsidized, principally the reason for getting these ships is to provide greater and better service and because it will be possible only for unsubsidized service. However, from the standpoint of the primary interest of Guam, we want better service whether it is subsidized or unsubsidized.

Senator BARTLETT. You want service and lower rates?

Mr. WON PAT. Right. So whether that would be done by subsidized or unsubsidized service, we don't know. I mean our interest is efficient service and lower tariff rates. Whether that could come about by subsidized or unsubsidized, we don't know.

Senator BARTLETT. In quoting the value of imports into Guam from the rest of the United States, you didn't include the value of military cargo, I assume?

Mr. WON PAT. No, these are all strictly civilian cargo.

Senator BARTLETT. How do the freight rates from the west coast of the United States compare with those from Japan?

Mr. WON PAT. The freight rates to Guam are higher than the freight rates from the west coast to Japan.

Senator BARTLETT. I beg your pardon?

Mr. WON PAT. The rates are higher from the west coast to Guam than from the west coast to Japan.

Senator BARTLETT. Do you have any idea how much higher, on a percentage basis?

Mr. WON PAT. Oh, I couldn't give any accurate figure on that, sir.

Senator BARTLETT. Notwithstanding the desire of the Government

of Guam to continue to base its economy on trade with the United States, right?

Mr. WON PAT. Yes, sir. We feel that the trade of Guam with the United States should be continued and increased.

Senator BARTLETT. Guam is an unincorporated territory?

Mr. WON PAT. Yes, sir.

Senator BARTLETT. And in your capacity as Washington representative you are, should I say, an employee of the Government of Guam and not of the Federal Government?

Mr. WON PAT. Yes. I am an employee of the Government of Guam and not the Federal Government. I am elected by the people of Guam, and paid by the Government of Guam.

Senator BARTLETT. Have efforts been made by Guam to have the territory formally incorporated, which would allow you a delegate in the Congress?

Mr. WON PAT. We have made attempts in the past to have legislation in Congress which will create a nonvoting delegate, or whatever term you may call it—

Senator BARTLETT. That is a good way to express it. I know I was one for 14 years. But of course it is useful if his salary and office expenses are paid by the Federal Government.

Mr. WON PAT. Yes, sir. Well, you know, Guam is so remote, as the saying goes, what is out of sight is usually out of mind. We feel therefore somebody has to be up here to remind the people that there is such a place as Guam and there are people, American citizens, living out there, too.

Senator BARTLETT. I am sure you are performing that service admirably. Is Guam directly south of Japan?

Mr. WON PAT. Yes, sir.

Senator BARTLETT. And Pacific Far East has given you good service?

Mr. WON PAT. Yes; they have done very good service.

Senator BARTLETT. I have no further questions.

Thank you very much.

Mr. WON PAT. Thank you very much, sir.

Senator BARTLETT. Mr. Al Maskin, director of research and legislation, American Maritime Association.

**STATEMENT OF AL MASKIN, DIRECTOR OF RESEARCH AND LEGISLATION, AMERICAN MARITIME ASSOCIATION, WASHINGTON, D.C.; ACCOMPANIED BY ROBERT ABLES, REPRESENTATIVE OF THE COMMITTEE OF AMERICAN TANKER OWNERS**

Mr. MASKIN. Mr. Chairman, I would like the permission of the Chair to be accompanied this morning by Mr. Robert Ables. Mr. Ables is a representative of the Committee of American Tanker Owners, and they have concurred in the statement which we will give.

Senator BARTLETT. All right.

Mr. MASKIN. I might also say that this statement has been concurred in by the American Tramp Ship Owners Association. I had hoped to be accompanied here this morning by a representative of that organization, but he has apparently been delayed. However, I would like the record to reflect the fact that the American Tramp Ship Owners Association has concurred in this AMA statement.

Senator BARTLETT. That will be noted.

Mr. MASKIN. The American Maritime Association, which consists of 91 companies operating 235 unsubsidized American-flag merchant ships of all types in both the foreign and domestic trades, is opposed to the enactment of S. 2140.

S. 2140, we understand, was introduced at the request of one subsidized shipping company and, if enacted, would make this subsidized operator eligible to acquire two C-4 troopships from the reserve fleet, under the provisions of the Vessel Exchange Act, and convert these ships to containerships for use in unsubsidized commercial service between the west coast of the United States and Guam.

This subsidized company has been engaged in this service for the past 20 years. Now it feels a need for two new vessels and, apparently unable or unwilling to build ships, or to purchase them from other companies, desires to acquire the vessels it needs by dipping into a pool of ships which, for the past 7 years, has been clearly reserved by law to unsubsidized operators, for the benefit of the unsubsidized fleet.

The Maritime Administration has already ruled that this subsidized operator is ineligible for the vessels he seeks, under present law; and, in fact, were he not clearly ineligible, there would be no need for him to seek the legislation we are considering now—legislation which, he apparently would like us to believe, would not be inconsistent with the original intent of the Congress, since the vessels in question would be operated in unsubsidized service.

This is a specious contention, since nowhere in the original legislation, its legislative history, or any previous testimony or committee report on this matter have we been able to discover any distinction between a subsidized or unsubsidized operator and a subsidized or unsubsidized service.

More important, however, is the fact that this specious argument has the effect of a diversionary tactic and beclouds the basic issues with which we should be concerned.

What are the basic issues here?

As we see them, there are two:

First, shall a subsidized operator, who is already deriving many benefits from the Federal Government, be permitted to benefit still further at the expense of unsubsidized operators by encroachment on one of the few areas in which unsubsidized operators are able to obtain any assistance from the Government at all?

Second, shall a law which has worked effectively for the past 7 years, and which has been of marked benefit to that segment of the industry which it has sought to assist, now be altered for the benefit of a single operator and at the expense of an entire segment of the industry?

In the light of these basic questions, the use to which these vessels would be put by the subsidized operator, the type of trade in which they would be employed—whether subsidized or unsubsidized—even the question of the effect upon commercial service to Guam—are extraneous considerations.

With respect to the first issue, we might point out that, aside possibly from private purchase of a vessel from another company—and short of new building which most unsubsidized operators are unable to carry on—the ability of an unsubsidized operator to acquire vessels from the reserve fleet under the Vessel Exchange Act represents virtually his only opportunity to replace and upgrade his fleet.

The C-4 vessels which we are considering here are thus extremely valuable properties; and, in fact, at the last offering of 10 such vessels by the Maritime Administration in May of this year, the Administration received applications from 14 companies, including the subsidized company we are concerned with here, for a total of 24 vessels.

Recently, in September, the Administration announced that these 10 vessels had been allocated to six unsubsidized companies which plan to spend some \$53 million for their conversion, and in making this announcement Acting Maritime Administrator Gulick stated:

We are pleased with the productivity of the designs of the proposed conversions. When completed, these ships should greatly improve the service available to U.S. shippers in several important trades.

Regardless of the use to which the vessels would be put, regardless of the trade in which they would be employed—whether subsidized or unsubsidized—the ability of a subsidized operator to obtain any of these vessels would reduce in equal amount the number of such vessels available to unsubsidized operators, and thus have an extremely detrimental effect on future operations of these unsubsidized operators.

With respect to the second basic issue, we might point out that the Vessel Exchange Act, since it became law in 1960, has worked out very well, and has been of great assistance not only to the unsubsidized fleet it was designed to serve, but also to U.S. shipyards, as a result of the millions of dollars of modernization and conversion work it has generated.

The law has also benefited the Government, not only by reducing the cost of maintaining vessels in the reserve fleet, but by providing the Nation with more modern and efficient ships, not only for commercial purposes but for defense purposes as well.

In this connection we might note that at least seven C-4's, allocated to unsubsidized companies last year, and since undergoing reconversion, will be ready for the carriage of military cargoes in the very near future. Three of these vessels, we understand, will be delivered to the Military Sea Transportation Service in about a week, and four others by February.

Now, as we have indicated, we are faced with the question of altering a law, which for 7 years has provided substantial assistance to an entire segment of the industry, for the immediate benefit of a single operator in a single trade, and with possible future benefits to other subsidized operators who could profit from the precedent set through the enactment of this legislation.

The American Maritime Association maintains that the law should not be altered, and particularly since, we believe, alternatives are available for achieving the desired goal.

Such alternatives might include the purchase of ships in the open market or the building of new ships under title XI or possibly under section 509 of the Merchant Marine Act.

Under section 509 the Maritime Administration could construct the vessels and sell them to an applicant who would make a down payment of 12½ percent of the cost of the vessel and who would be required to pay the unpaid balance under a preferred mortgage at an interest rate of 3½ percent per annum.

Furthermore, if new vessels were constructed for the Guam trade under this section, we believe that the Maritime Administration

could take steps to promote the participation of other operators in this trade, and thus enhance the service.

In conclusion, we would stress that the members of our association would support any reasonable steps to improve service to Guam, but we do not believe that such improvement should be by amendment of the Vessel Exchange Act as is being sought in the legislation presently under consideration.

The member companies of the AMA are desirous of seeing that some program is developed for improving the Guam trade. We do not believe, however, that it should be done at the expense of unsubsidized operators or by violating the principles of existing legislation.

Mr. Chairman, that is the conclusion of my formal statement.

Senator BARTLETT. Thank you, Mr. Maskin.

Do you know of any other company that operates a subsidized service plus an unsubsidized one, as PFEL does in this instance?

Mr. MASKIN. I am not aware of any, no, except possibly through an affiliated company or a subsidiary company.

Senator BARTLETT. This might be the only one?

Mr. MASKIN. I am not aware of any others.

Senator BARTLETT. Well in respect to service to Guam, how does PFEL differ from any other unsubsidized operator?

Mr. ABLES. That of course, Senator, could be best answered by PFEL. For reasons that we are not aware of it has chosen an unsubsidized service as a part of the subsidized company to provide that service from the west coast to Guam. There is this difference between the use of an unsubsidized service of a subsidized company as compared to the operation of a truly unsubsidized company. Not only is there the intermingling of administration in the organization to manage this service, but we understand that PFEL and other subsidized companies have the ability to purchase containers through the use of capital reserve funds and put those containers in service between the west coast and Guam as well as in its foreign commerce. This kind of advantage is not available to unsubsidized carriers.

Senator BARTLETT. Well, we will inquire about that of the following witness. But if that were the case, would it not be of benefit to the people of Guam—I think aside from everything else here, that we have to give principal consideration, aside from theoretical views, to what is good or what might be bad for the people of Guam. They are a long way out in the Pacific, they are American citizens. We have to try to make some arrangements, it seems to me, whatever it might be, to assure them of regular service at reasonable rates.

Mr. ABLES. We would certainly agree with that, Senator. We would hope that—

Senator BARTLETT. I think you didn't agree with it, and I was rather amazed, Mr. Maskin, to be very, very frank with you. And I wish you hadn't had that paragraph in your statement, because it affronted me, in which you said:

In the light of these basic questions, the use to which these vessels would be put by the subsidized operator, the type of trade in which they would be employed, whether subsidized or unsubsidized, even the question of the effect upon commercial service to Guam, are extraneous considerations.

Well, it isn't an extraneous consideration to me, because this Congress has a responsibility to the U.S. citizens of Guam and what might

happen to them isn't extraneous at all as far as I am concerned. I merely wanted to make that point in the record.

Mr. MASKIN. May I say something briefly to that point, Mr. Senator? We agree, and we have so stated, I believe in our statement, that we consider the matter of service to Guam to be an extremely important consideration. We would support any measures, reasonable measures to improve that service to Guam. However, I do not believe that the question of the impact on service to Guam has any direct relationship to the right, the legitimate right, of this operator to acquire these two particular vessels. It is related to the further question of whether we should have additional American-flag ships to service all of our trades. While it is true there may be a need for improving the service to Guam and I can see there is, and we should take every means to achieve that end, still it is also true that there are many people with many needs, many other trades which need service.

I understand for instance that at this moment there is concern about the trades between Alaska and Hawaii, our two newest States. So it may be that these same two vessels, which PFEL is desirous of acquiring, could be used to possibly service those trades and service the needs of the people of Hawaii and Alaska. So we are not arguing that point.

But I do believe that the mere impact on this trade to Guam really does not relate to the basic issue of whether this company has a legitimate right to acquire these two vessels.

Senator BARTLETT. Well, if these C-4's could be used to promote that trade now lacking between Hawaii and Alaska, I would say three cheers. But that is not to say that I would want that fact to affect my thinking regarding whatever Guam may need. However, the basic proposition here is that it is highly unlikely, in my opinion—and I certainly am no expert on this—that C-4's could ever be converted to the point where they would be regarded as satisfactory carriers for liquid gas. And that is what is proposed to be carried from Alaska to Hawaii, to increase American trade between American States and to benefit our balance-of-payments situation, because the gas now being used in Hawaii, as I understand it, comes in its original form from a point in Southeast Asia. But that is a different question.

Mr. Maskin, have any of the 91 companies you represent today applied for trade out vessels for service to Guam?

Mr. MASKIN. Not for service to Guam that I am aware of.

Senator BARTLETT. They have not?

Mr. MASKIN. Not for service to Guam.

Mr. ABLES. Typically, Senator, the applicants do not ask for vessels for a particular service and in that connection it might be appropriate to comment on the proposed amendment by the Maritime Administration. I am certain our people would not be unhappy if PFEL were to get these two vessels if they were required to keep these two vessels in that service, because it would not compete with other unsubsidized service. But the precedent that is implicit in the Maritime proposal is a very dangerous one, insofar as total unsubsidized service is concerned. It would make as a condition for being allocated certain vessels in the reserve fleet that the vessels be used in certain places at a certain time and under certain prescribed conditions.

Again to respond most directly to your question, the typical applicant for these vessels does not particularly tie himself to a service when

he asks for the vessels. At least he doesn't want to tie himself exclusively for all time. In any event, we have not had any applicants for these vessels for the Guam service.

Senator BARTLETT. Do you know any of your people who want to go into the Guam service, under whatever conditions?

Mr. MASKIN. I cannot tell you definitely, Senator, that there are any plans and any sort of definitive statement of any of our operators to go into the Guam service. In informal conversations with some of my shipowners, some of them have indicated an interest in this service. However, I cannot, as I say, tell you about any definitive plans. I simply might say, adding to what Mr. Ables has said, that the operators are extremely interested in these ships. I do not believe that they would want to be restricted to their operation in any one particular trade. I do believe that since the number of ships is restricted, that an operator would prefer the ability if he were able to get one of these vessels to put it into that trade in which he felt it could be most effectively employed.

Senator BARTLETT. Well, you are here mainly then, as I infer, in defense of a principle?

Mr. MASKIN. Yes, sir.

Senator BARTLETT. Which was established 7 years ago?

Mr. MASKIN. The law was passed 7 years ago; yes, sir.

Senator BARTLETT. What was the situation before then?

Mr. MASKIN. With respect to the ability of the operators to obtain vessels from the reserve fleet?

Senator BARTLETT. Yes.

Mr. MASKIN. I do not know what the situation was prior to passage of the law.

Senator BARTLETT. Do you know whether it is better now under this law which has been in existence for 7 years than it was before or worse?

Mr. MASKIN. I can only voice an opinion on that, and I do believe that it is better now. And I think that this fact was recognized when the law came up for renewal a couple of years ago, when it was renewed for 5 years, that the law had been beneficial to the industry and I believe it was recognized that it had been beneficial to the Government as well.

Senator BARTLETT. Now you suggested some alternatives?

Mr. MASKIN. Yes, sir.

Senator BARTLETT. The use of section 509. Didn't Mr. Davis say that was not going to be funded, so we have to strike that I guess for the time being anyway. What if the Maritime Administration adopted your suggestion that new ships be built under title XI? Do you think any members of the association which you represent would care to purchase ships under that arrangement?

Mr. MASKIN. You mean for operation in the Guam trade?

Senator BARTLETT. Yes.

Mr. MASKIN. I cannot honestly say that they would. I have no knowledge of whether any of them would apply under title XI for a ship for the Guam trade. However, I would like to make this point, that we feel that it is incumbent upon Pacific Far East Lines at this point to demonstrate that they have made every effort to obtain ships through an alternative method. I do not believe the statement that they made yesterday before the House committee satisfactorily

demonstrated this. I have no way of knowing what statement they will make today before this committee. But I do know that title XI represents one possible alternative for this company.

We have checked with the Maritime Administration, we have been told that this company has never applied for title XI assistance for building a ship for the Guam trade, although they have applied for title XI help for building other ships.

As I say, I believe that one basic issue there is to establish that this company has made every effort to explore all of the possible alternatives available to it before dipping into this pool of C-4 vessels in the reserve fleet.

Senator BARTLETT. We shall probe as deeply as we can into that before the morning session is over.

Mr. MASKIN. Thank you very much.

Senator BARTLETT. I have no further questions.

Thank you, gentlemen.

Senator BARTLETT. Mr. Howard C. Adams, vice president, Pacific Far East Line, Inc.

Mr. ADAMS. Mr. Chairman, I would like approval to bring up Mr. Robert Hope, our counsel and Mr. Pilgram, manager of our Non-Subsidized Services in the Pacific.

Senator BARTLETT. All right.

**STATEMENT OF HOWARD C. ADAMS, VICE PRESIDENT, PACIFIC FAR EAST LINE, INC., WASHINGTON, D.C.; ACCOMPANIED BY ROBERT S. HOPE, COUNSEL, COMINONS & FORT, PFEL; AND A. MOORE PILGRIM, MANAGER, NON-SUBSIDIZED SERVICES, PFEL**

Mr. ADAMS. Mr. Chairman, we are very grateful for the opportunity of appearing today. Before starting my statement, I would like to mention that Mr. A. Pilgrim, who is manager of our Non-Subsidized Services, has lived on Guam for a period of 5 years. He went there when the Organic Act was signed in 1950, worked with our organization as an employee at that time, and is well acquainted with the Guam problems and the Guam service. I appreciate the opportunity of bringing him with me this morning.

Senator BARTLETT. We are glad to have him.

Mr. ADAMS. Mr. Chairman, Mr. Leo Ross, our president, was to testify today, but unfortunately last Friday he suffered an accident in which he broke his ankle and severely tore the ligaments on his leg, and while not hospitalized, the doctor requested he not make this trip, so he presents his apologies.

Senator BARTLETT. We understand and we are sorry.

Mr. ADAMS. My name is Howard C. Adams and I am a vice president and director of Pacific Far East Line, Inc. I am appearing before your subcommittee today in support of S. 2140.

We would also support the amendments as proposed by the Maritime Administration this morning. We are in Guam to stay; we have been there for 20 years and we see no wrong in these amendments as far as PFEL is concerned.

The purpose of this legislation is to eliminate the effect of a highly technical interpretation placed on the Vessel Exchange Act by the Maritime Administration. This interpretation is predicated not on the

language of the statute, but is based upon various comments found in the legislative history to the effect that the Vessel Exchange Act was enacted principally for the benefit of unsubsidized operators.

As you know, Pacific Far East Line operates a subsidized service on trade route 29 in the transpacific trade; however, PFEL has since 1946 also operated a regular unsubsidized berth service between the west coast of the United States—including Hawaii—and the territory of Guam, Wake, and Kwajalein Islands and at times other islands in the trust territories. This service is completely independent of the subsidized service and has never enjoyed any benefits from the operating-differential subsidy received on the transpacific vessels. Pacific Far East Line, therefore, is an unsubsidized, as well as a subsidized, operator. The Maritime Administration has, however, ruled that even though the vessels operating to Guam are unsubsidized, the fact that PFEL operates another service with subsidy renders PFEL ineligible to trade in the obsolete vessels presently operating in the unsubsidized Guam service for C-4-type vessels now in the reserve fleet.

It is PFEL's desire to convert the C-4 vessels, which are to be made available for commercial usage in the near future, to container ships which will give a more efficient and modern service to Guam. Pacific Far East Line has spent many months considering means by which its vessels now employed in this unsubsidized trade could be replaced with new and more modern tonnage. Since service from continental United States to Guam is considered a domestic service, construction of replacement vessels in the United States would be without benefit of any construction differential subsidy which in itself makes the cost of upgrading this fleet by new construction prohibitive. Our only alternative therefore is to improve our vessel equipment through the tradeout of C-4 vessels from the reserve fleet. These vessels have been and will be made available to other unsubsidized operators and we feel we should be equally privileged to improve our fleet in this vital unsubsidized service.

The three C-2 type and the one Victory-type vessels we now own and operate in this trade are all over 23 years of age and the cost of maintenance of vessels of this vintage will soon be economically unsound. The refurbishing and conversion of the C-4 vessels can serve this trade for many years into the future. We think perhaps 10 to 15 years.

I would now like to outline the historical background of our service to Guam and give a brief description of the schedules that would be operated with the converted vessels, the nature of foreign competition we face, and some economic statistics with respect to Guam.

#### HISTORICAL BACKGROUND

Pacific Far East Line was organized in July of 1946, and shortly thereafter commenced a regular berth service to Guam, recognizing the importance and the need for restoring the economy of the war-ravaged island. Regular service to Guam has been maintained by Pacific Far East Line since 1946, carrying both commercial and military cargoes. We are currently employing four vessels in this trade with a sailing frequency from the west coast of approximately every 12 days. This service has been maintained even though heavy financial losses were incurred during some years. Currently the financial re-

turns are minimal and continue to decrease due largely to the constant increase in cost resulting from operating nearly antiquated World War II vessels.

By virtue of its geographical location and the nature of the islands' economies, the trade depends entirely on outbound cargo movements to Guam and, to a lesser extent, to some of the other Pacific islands. There are virtually no tonnage offerings from Guam to the continental United States.

The regular PFEL service to Guam was seriously disrupted in January of this year when the tanker *Esso Seattle* collided with a PFEL ship, the *Guam Bear*. The *Esso Seattle* suffered only slight damage, but the *Guam Bear* began to sink almost immediately. With the assistance of Navy tugs, the vessel was grounded on a reef known as the Glass breakwater. Finally, during June of this year, after all attempts had been made to free the *Guam Bear* from the reef, all salvageable items of cargo and equipment were removed and Navy divers had no choice but to detonate explosives and sink the hulk of the vessel.

We believe it is essential to the economy of the territory of Guam, as well as to preserve the historical ties between the island and the continental United States, that the present shipping service from the mainland be maintained. Guam is now, and has been for many years, a strategic base for our military services, and obviously this regular liner service is important to the military for its logistic supply. Another important reason for the maintenance of service from the United States to Guam is the important role it plays in our balance of payments in that any curtailment of service would undoubtedly result in increased service from foreign areas carrying foreign products, at the expense of the U.S. manufacturers and shippers and the U.S. dollar position.

In order to keep abreast of mounting costs of operation in this U.S.-flag domestic trade, it is essential that Pacific Far East Line upgrade its fleet used in this unsubsidized service in such a manner that will result in providing a better service at reduced cost through utilization of the advantages inherent in new and more efficient cargo handling methods.

#### PROJECTED SCHEDULES

Pacific Far East Line proposes to convert two C-4 vessels into self-sustaining cellular container ships. The entire midsection from the wheelhouse to the afterdeck house plus No. 7 hatch would be fitted with cell guides for containers. No alterations would be made in hatches No. 1 and No. 2 which would be used for cargo not susceptible for containerization and for the stowage of automobiles and other vehicles. Estimated cost of the above-cited proposed conversion and restoration for commercial operation is \$4,500,000 to \$5 million per vessel. This cost, added to that of acquisition, totals an approximate cost of \$5,500,000 per vessel.

One converted C-4 container ship would operate on the Los Angeles-San Francisco-Guam-Los Angeles schedule, each voyage estimated to be of 33 days' duration. After providing 10 days for drydocking and out-of-service periods, the vessel will make an estimated 10.7 voyages per annum.

The second converted C-4 container ship will operate on a San Francisco-Kwajalein-Guam-San Francisco schedule, each voyage

estimated to be of 33 days, duration, and after time out for drydocking and other out-of-service periods, will also make an estimated 10.7 voyages per annum.

It is contemplated that the two self-sustaining cellular C-4 container ships will be operating on a 16½-day sailing frequency augmented by two C-2 basically break-bulk vessels and expanded container capability operating on a 24½ day frequency. Each C-2 vessel, with appropriate time out for drydocking and other delays, will perform an estimated 7.2 voyages per annum or a total of 14.4 voyages serving in addition to Guam, ports in the Puget Sound, Columbia River, Hawaii, Wake Island, and Kwajalein.

Recapitulation is as follows:

Two C-4's: 21.4 voyages per annum.

Two C-2's: 14.4 voyages per annum.

This proposed total of 35.8 voyages per annum by two C-4 container ships and two C-2 conventional ships will materially improve PFEL's cargo carrying capacity and frequency of service as compared with the present average of 30 voyages per annum by our current fleet.

It might be well to indicate the comparison of total carrying capacity of the proposed fleet versus our present fleet. With our present ships, the three C-2's and one victory vessel on 30 voyages, we have a total annual capacity of approximately 15,600,000 cubic feet, that is bale cubic feet, a year. With the two C-4's and two C-2's and 35.8 voyages per year, the capacity would increase to 23,500,000 bale capacity, cubic feet bale capacity a year. So it is an increase from 15 million to 23 million in capacity of the ships to carry the cargo.

In addition to that there would be an increase of 20 percent in the sailings.

#### FOREIGN COMPETITION

By Executive order in 1962, Guam was opened to foreign-flag vessels from foreign ports for the first time since it became a territory of the United States in 1898. Since then the dollar value of foreign manufactured and produced products imported to Guam has increased dramatically at the expense of traditional American producers and suppliers of the same consumer items.

As an example of the shifting patterns of imports which took place after the Executive order, the dollar value of imports from foreign countries which were carried entirely by foreign-flag vessels increased from \$4,108,100 in 1959 to \$9,200,600 in 1964. The revenue tonnage of foreign imports in 1964 had risen to approximately 60,000 revenue tons out of a total 179,000. In other words, over 30 percent of the imports in 1964 came from foreign countries and was carried in foreign bottoms and represents a serious net loss in U.S. dollars. In the fiscal year 1965, the total revenue tons originating in foreign countries amounted to 52,843 and the dollar value of such imports was \$10,407,000.

I would like to refer to Won Pat's statement in which he pointed out in 1967 imports from foreign countries were \$25 million, and imports from United States were \$38 million, which would indicate imports from foreign countries were approximately 40 percent of the total imports, 60 percent from United States, and 40 percent from foreign countries.

It is obvious that the regular American-flag shipping service from the continental United States to the American territory of Guam should be maintained, since, otherwise, foreign imports carried on foreign bottoms will increase substantially with continued adverse impact on our balance-of-payments position.

The geography of our American territory of Guam illustrates its remoteness from continental United States as opposed to the surprising proximity to foreign countries of the Far East and Australia. For example, the distance from San Francisco to Guam is 5,053 miles, whereas the distance from Guam to Yokohama is 1,352 miles, to Manila 1,499 miles, to Hong Kong 1,822 miles, to Brisbane 2,659 miles and to Sydney 3,006 miles.

Numerous foreign-flag steamship carriers operate on a north-south service to Guam from Australasia, Hong Kong, Philippines and Japan carrying ever-increasing quantities of consumer goods originating in these areas as well as other areas including Europe via transshipment. Some of these companies are as follows:

Dominion Far East Line (Australian)—Far East to Guam, monthly; Australasia to Guam, bimonthly.

Daiwa Navigation Co., Ltd. (Japanese)—Japan to Guam, monthly.

Crusader Line (New Zealand)—New Zealand to Guam, bimonthly.

M.D. Shipping (Panamanian)—Philippines/Taiwan to Guam, monthly.

The total sailings of these companies into Guam is approximately 48 per year.

#### POPULATION

The total population on Guam in 1898 was 9,000 persons. In 1950, the year of the Guam Organic Act, the total population was 59,500 persons of which 31,000 were civilians. It is estimated that in 1967 the total population is 85,000 of which 61,700 are civilians.

It should be noted in this connection that the population of the Trust Territory of the Pacific Islands, otherwise known as Micronesia, and dependent upon Guam as a transshipment, distribution, and communication center, had a population in 1951 of 54,600 civilians. Today in 1967, the civilian population of Micronesia amounts to 98,000 persons.

#### ECONOMIC DEVELOPMENT PROGRAM IN GUAM

As a result of the devastation in Guam caused by Typhoon Karen on November 11, 1962, Congress enacted Public Law 88-170 authorizing a \$45 million loan and grant program to provide for the rehabilitation and development of Guam's economy. Under date of February of 1966, the House Committee on Interior and Insular Affairs printed as Committee Print No. 16 an interim report of the Interior Department recording the progress achieved. I do not think it necessary to incorporate that report in this record, but I call it to the attention of this committee to indicate the interest and investment the United States has in Guam and more particularly the remarkable strides made in the last several years in economic development.

## CONCLUSION

In conclusion, I would like to reiterate the absolute necessity of obtaining the authority to acquire the C-4 type vessels. Unless we are able to upgrade our Guam fleet, it is just a matter of time before service will have to be suspended. It is obvious to you, and the same has been mentioned by witnesses from the Department of Interior and the government of Guam, that the population of the island is virtually entirely dependent upon ocean transportation. The people of Guam have proven themselves time and again to be excellent and loyal citizens of the United States and they deserve the best economic treatment that can be offered.

Actually, time is running out on us and we would urge that your subcommittee give this legislation prompt consideration so that it may be enacted during this session of Congress.

We would respectfully request that the comments which I believe have been received from Pacific American Steamship Association be made a matter of record.

Senator BARTLETT. That will be done.  
(The letter referred to follows:)

PACIFIC AMERICAN STEAMSHIP ASSOCIATION,  
*Washington, D.C., November 2, 1967.*

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

DEAR SENATOR MAGNUSON: The Pacific American Steamship Association is pleased to note that your committee is considering the bill S. 2140 which, when enacted, will clarify one aspect of the Vessel Exchange Act in order to permit one of our member lines to take advantage of the Act, and thereby provide improved steamship service between the United States and Guam.

We believe that the people of Guam are entitled to and deserve the economies of an improved ocean transport system, which the prime carrier is prepared to supply. This bill will simply confirm by legislative enactment that which was intended when the Vessel Exchange Act was enacted.

The Pacific American Steamship Association fully supports this legislation, and urges prompt and favorable consideration by the Committee.

Sincerely yours,

RALPH B. DEWEY, *President.*

Mr. ADAMS. Mr. Chairman, this concludes our statement and we appreciate the opportunity of being here.

Senator BARTLETT. Thank you.

The committee will be in recess briefly.

(Recess.)

Senator BARTLETT. All right.

Mr. ADAMS. Mr. Chairman, would it be possible for Mr. Hope to make an observation regarding the present language of the act and the applicability to our present position?

Senator BARTLETT. Surely.

Mr. HOPE. Mr. Chairman, I think you put your finger on this problem when you said in your opening statement that this was something, this situation was perhaps overlooked in the original enactment. This is truly one of those situations where a particular problem does not come into the overall enactment of the legislation originally.

Pacific Far East Line is the only subsidized line that operates a nonsubsidized service through the same company that operates a subsidized service. I believe you addressed that question to Mr.

Maskin. There is one other company that is in a similar situation and that is Matson.

Matson is the parent company of Oceanic, which is subsidized, but they are separate corporate entities. Maritime has ruled they are in the same position we are, as far as utilizing the Vessel Exchange Act.

Now I would like to call something very elementary to the committee's attention and that is that there has been a great play on this term "unsubsidized fleet," "unsubsidized operators." There is nothing in the statute that says anything about unsubsidized operators, or unsubsidized fleet. The very beginning of 510-I says:

In order to improve the type and suitability of vessels operating in the domestic and foreign commerce of the United States.

The fly in the ointment is subsection 1(1), which says:

The traded-in vessels shall have been owned by a citizen or citizens and shall not have been operated with operating differential subsidy under Title 6 of this Act by the applicant or any affiliate.

Now these vessels that are presently operating in the Guam trade and the two that would be traded in have never received operating differential subsidy through PFEL's contract or any other subsidized line's contract. So I think we have to urge the committee to consider that this is an unsubsidized service, these are unsubsidized vessels we are trading in. There is absolutely no possibility, without a change in the law, of getting construction subsidy or operating differential subsidy to assist this trade.

I thank you very much.

Senator BARTLETT. Well, an observation was made by one witness that the legislative history of the act as opposed to anything within the act itself, accounted for the fact that the Maritime Administration ruled that the present law does not permit the trade-in of these ships.

Mr. HOPE. That is correct. Mr. Adams said that in the beginning of his statement. That is why we are here today.

Senator BARTLETT. Yes, Mr. Adams said that.

Mr. HOPE. The legislative history is replete with this.

As you know, my partners and I participated rather actively in that legislative history. But this is why I say you put your finger on the problem when you said that his was something that—you have one company here that enters into this kind of situation, and at the time this Vessel Exchange Act was enacted, PFEL was concentrating on fulfilling its contractual replacement program for the subsidized service, and I don't think this particular problem occurred—I know it didn't occur to me. And we were very close to the original statute and the amendments.

Senator BARTLETT. Did you apply to Maritime Administration for these C-4's?

Mr. HOPE. Yes, sir. We have an application pending which is complete. And Maritime said we do not think we can do this, therefore, you should, the only solution to this is to seek legislation that would permit it to be done.

Senator BARTLETT. Did Maritime say this in a formal ruling or in a letter to you?

Mr. HOPE. I believe they did, Senator. I will be glad to furnish that for the record. I think there was something in writing. If not to us, they wrote to—they wrote a formal letter to Mr. Mailliard, Congressman Mailliard, which was inserted in the House record yesterday. But I am sure we have, I am sure they wrote a letter saying you will have to wait until your eligibility is straightened out.

Senator BARTLETT. What reason, if you recall, was given by Maritime for determining PFEL to be ineligible?

Mr. HOPE. The reason they gave is the one that, in a nutshell is, that the legislative history indicated that this should be limited to unsubsidized operators. There is more legislative history to that effect than there is—there is some legislative history, a lot of it, that speaks in terms of unsubsidized vessels.

Senator BARTLETT. But your contention here today is you are both subsidized and unsubsidized and the two operations are completely apart?

Mr. ADAMS. That is right, sir. We wear two hats, Senator, and the unsubsidized operator has no connection with the subsidized service financially.

Senator BARTLETT. I am going to ask the witness, the representative from the Maritime Administration, to come forward, please. I would like to get at this, if possible, right now.

Do you know why it was that the Maritime Administration ruled PFEL to be ineligible for these C-4's?

Mrs. GORDON. It was because of the legislative history.

Senator BARTLETT. Which said what?

Mrs. GORDON. I don't have a copy of it with me. I believe that it is in the letter that was sent to Congressman Mailliard.

Senator BARTLETT. I am not going to ask you to rely on your memory as this is a very technical matter, but I wish you would submit a statement for the record in connection with the question I put to you, because what I am chiefly aiming at here is an effort to arrive at a conclusion as to whether the Maritime Administration considered PFEL merely as a subsidized operator with its affiliate unsubsidized, and didn't make any clear distinction between the separate operations of the company. I would like to have a statement on that.

Mrs. GORDON. We will provide a clear statement for the record on that.

Senator BARTLETT. Thank you very much.

All right now, Mr. Adams, or whichever witness can respond, are there any C-4's or other available vessels, usable vessels available on the market?

Mr. ADAMS. We have sought these vessels without success on the market, Senator.

Senator BARTLETT. What efforts have you made?

Mr. Maskin is not sure you really made an exhaustive effort to discover suitable vessels.

Mr. ADAMS. We worked through a number of brokers, one of which is A. B. Burbank in New York. We talked with other operators, we covered the market the best we know how and we couldn't find any C-4's available in the market. I think that was confirmed by Mr. Davis this morning, as well.

Senator BARTLETT. Is the C-4 the only vessel suitable for this trade?

Mr. ADAMS. The C-4 is uniquely qualified for this type of service, Senator, because it offers a large forward space unencumbered for the handling of containers. All of the engine spaces are aft. And it is particularly and peculiarly qualified for the service that we need in Guam at this time.

Senator BARTLETT. You think the Vessel Exchange Act provides your only opportunity to obtain vessels for the Guam service?

Mr. ADAMS. It offers the only economically feasible method, Senator. To build a vessel under title 11 we estimate would cost somewhere in the neighborhood of \$14 to \$16 million for this service. We believe that this cost would result in prohibitive rates. The rate would have to be made in keeping with the amortization of the vessel, and carrying charges of the vessel. We think this would impose an unnecessary burden on the people of Guam.

We know under section 509, Maritime are not using this program at this time, nor do they anticipate using it. It would require Federal appropriations if they did use it. And we do not think either one of these procedures are feasible.

Senator BARTLETT. As I recall it, you said that the total cost of a C-4 from the Vessel Exchange Act to you would be in the neighborhood of \$5½ million?

Mr. ADAMS. The cost of modernization, conversion of the vessel, taking out the passenger spaces, the cost of that conversion from its present condition to a container vessel would be between \$4½ million and \$5 million per vessel.

Senator BARTLETT. Now you are going to use these ships, if you do acquire them, for container service to Guam?

Mr. ADAMS. Yes, sir.

Senator BARTLETT. Would this be the first such service?

Mr. ADAMS. Of this type; yes, sir, for Guam or for Pacific Far East Line. I might state in 1950 and 1952 we were the pioneer users of containers in the Pacific area. We constructed approximately 2,000 containers at that time. And have used them in our regular break-bulk service. That doesn't afford you the efficiency of operation with a container that a cellular-type ship offers. It is much less expensive to operate, much quicker turnaround, much better for the shipper.

Senator BARTLETT. If PFEL were to obtain possession of these C-4's, under this proposed legislation, would capital reserve funds be used to purchase containers for the Guam service?

Mr. ADAMS. Mr. Hope can answer that, I believe, better than I, Senator.

Mr. HOPE. Without meaning to hedge at all, I am not sure, as a legal matter, whether we can use those funds for unsubsidized services. There is a provision in title 6 that permits capital reserve funds to be used for containers in the construction of CDS vessels. I mean that is specifically provided in there.

Now, to my knowledge there has been no ruling on whether or not we could do this. I think, as a practical matter, they probably would permit us to do it, because these containers are interchangeable.

I might point out, however, that Mr. Maskin's clients have the same possibility under the section 511 construction reserve fund. I mean if they choose to establish that fund, they could then, by

depositing the proceeds of sale, they could then have the same privilege. So I think that that doesn't give us any greater benefit than is available to them.

Senator BARTLETT. Well, I don't know what the interpretation might be—

Mr. ADAMS. I might add, Senator, that the funds that were received as a result of the *Guam Bear*, the proceeds from salvage of the *Guam Bear* were deposited in 511 funds, not in our capital reserve funds.

Senator BARTLETT. 75 Stat. 570, 75 Stat. 571, Public Law 872-271 says, "Amendments for the purchase of cargo containers delivered after June 30, 1959, of the type approved by the Administrator for use in connection with any of the contractor's subsidized vessels,"—

Mr. HOPE. That probably would be so construed. We would probably be limited to the 511 fund they have from *Guam Bear*.

Mr. ADAMS. I think that is true, it would be the 511 funds, the same as any other subsidized operator who participated.

Senator BARTLETT. Now, is the divorcement between the two operating groups of PFEL absolute? In the home office, for example, are there officials and employees of the nonsubsidized line who might in one way or another be receiving part of their pay by reason of the subsidized operation on other routes?

Mr. ADAMS. The accounting services which are conducted by the Maritime Administration divorce completely the costs of the operation of the Guam service. For example, Mr. Pilgrim is manager of the unsubsidized service division and his salary is completely from the unsubsidized operation and is not pooled in with the subsidized services.

Senator BARTLETT. Where is your office, Mr. Pilgrim?

Mr. PILGRIM. San Francisco.

Senator BARTLETT. Do you have a separate office for which the Guam service pays the rent?

Mr. PILGRIM. No, sir. The overall allocation of overhead is based upon a desegregated calculation stipulated by Maritime.

Senator BARTLETT. Maritime keeps very close supervision over this and doesn't allow you to include any expenses that might be intermingled with the subsidized operators?

Mr. PILGRIM. That is correct, Mr. Chairman.

I might add that Maritime in so doing have anywhere from four to five resident auditors in our office all of the time. They have their own separate office on our premises.

Senator BARTLETT. It might be cheaper for them to build some ships and just give them to you.

Mr. ADAMS, do you concur in the amendatory language suggested by the Maritime Administration?

Mr. ADAMS. Yes, sir; we find no problem with that, Senator.

Senator BARTLETT. Mr. Barer?

Mr. BARER. With respect to the language suggested by the Maritime Administration, which requires that these vessels always be used for service to Guam, and also the language in the bill right now, which provides that the vessels will be traded out for the Guam service, do you anticipate any problem with your Los Angeles to San Francisco to Guam to Los Angeles route? Do you carry any cargo that is destined for San Francisco when you leave Los Angeles?

Mr. ADAMS. No, sir; it wouldn't be involved in coastwise operations at all, unless they carried empty containers back and forth or something of that sort. But no cargo is carried coastwise. It is all intercoastal. There is cargo carried from Hawaii west to the various islands. But nothing carried between San Francisco and Hawaii.

Mr. BARER. In other words, you don't feel the limitation imposed by the words "for the Guam service" is going to—

Mr. ADAMS. I don't think so, Mr. Barer. The Guam service as stipulated by Maritime consists of service west of Hawaii, the west coast to the Guam area, Marianas and Marshall Islands, and the service west of San Francisco begins at Hawaii. The service that would begin at Hawaii would include Hawaii westbound, with stops at Wake, Midway, Marshall Islands, including Kwajalein Island, and Mariana Islands including Guam.

Mr. BARER. That would be within the definition of Guam service?

Mr. ADAMS. Yes, sir. That is presently defined by the Maritime Administration and we must adhere to that.

Senator BARTLETT. Is the subsidized segment of PFEL an entirely independent organization or is it associated with or an affiliate or a subsidiary of any other company?

Mr. ADAMS. It is not affiliated with any other company. We have one subsidiary in Guam called "Pacific Far East Lines Guam, Inc.," which acts as an agency service for PFEL, a wholly owned subsidiary, but otherwise no connection with any other company as a subsidiary. We are owned by a group who also own American President Lines and American Mail Line, and may be considered an affiliate as a subsidized line with other subsidized lines, but we are not directly controlled by any other line, nor directly affiliated with any other line.

Senator BARTLETT. You have association with American Mail and American President?

Mr. ADAMS. We have no direct association with either one of them, sir. There is common ownership to a limited extent between PFEL and American President Line. American President Line owns, I think, 92 percent of American Mail Line.

Mr. BARER. Mr. Hope, you may want to answer this question.

As I understand your position, you are not suggesting that PFEL is not already within the provisions of the Vessel Exchange Act. Rather you are pleading in the alternative, that you think you are within the provisions, but in case the Administrator or officials involved think not, then you support this legislation.

Is that a fair summary?

Mr. HOPE. That is correct. I mean we sponsored this legislation as a last resort, because as Mr. Adams said we had explored every other avenue. Our firm gave PFEL at least three legal opinions, that under the language of the statute—and as a lawyer I do not think legislative history should change clear language of a statute—that we are within the purview of the act as it is on the books now. But we ran into a deadend, we were faced with legal opinions from Maritime that we are not eligible, so we come to you as a last resort.

Mr. BARER. But in coming you do not abandon your other position, that you are unsubsidized and therefore within the provisions of the act?

Mr. HOPE. No, sir.

Mr. BARER. But this legislation would be good insurance anyway, right?

Mr. HOPE. Not only good insurance, but time is running out on the company. I mean we can't take them to court on this kind of thing, as you I am sure would agree. And we can't change their minds. And we can't appeal to the Secretary of Commerce. So here we are.

Mr. ADAMS. I would like to introduce in the record, if I may, Senator, the picture record of—I should say the photographic record of the *Guam Bear* casualty, which reduced our fleet from five ships to four. We have been living on this basis since January. We are in desperate need of augmenting this fleet and updating the fleet and we hope, sir, it will be possible to conclude this legislation in this session.

Senator BARTLETT. That will be placed in the file.

Explain to me a little more the statement on the first page about the unsubsidized berth service between the west coast of the United States, including Hawaii. How does Hawaii get in the act?

Mr. ADAMS. Yes, sir. We carry cargo from Hawaii westbound. We carry no cargo from United States to Hawaii. I think Mr. Pilgrim can explain that in detail for you.

Mr. PILGRIM. The reference to including Hawaii only has to do with cargoes loaded at that port.

Senator BARTLETT. I beg your pardon?

Mr. PILGRIM. It only has reference to cargo being loaded in Hawaii for ports beyond on the Guam service. That would be to Wake Island, Kwajalein, Guam, or ports beyond Guam in the trust territory.

Senator BARTLETT. You don't load any cargo in the west coast ports, you load it all in Hawaii?

Mr. PILGRIM. No, sir, we load both west coast ports and Hawaii for the ports beyond.

Senator BARTLETT. How does it get to Hawaii?

Mr. PILGRIM. I imagine it gets there by Matson Navigation Co., sir.

Mr. ADAMS. He means the ship.

Mr. PILGRIM. Our ships.

Senator BARTLETT. Yes.

Mr. PILGRIM. Our ships go from San Francisco to Hawaii and leave space in them for the required loading in Hawaii.

Senator BARTLETT. All of the cargo is—none of the cargo loaded in Hawaii comes to Hawaii aboard a PFEL ship?

Mr. PILGRIM. No, sir, it does not. We have no knowledge of how the cargo gets to Hawaii, that which is loaded onboard our ships.

Senator BARTLETT. Well, what percentage of the west-bound cargo is carried by you directly from the west coast and what percentage do you load at Hawaii?

Mr. PILGRIM. I would say it is a very, very negligible quantity which is loaded in Hawaii and it is more an accommodation for certain Federal agencies who are operating in the mid-Pacific. It is perhaps maybe a thousand tons which would be maybe 5 percent of the cargo.

Senator BARTLETT. What are the freight rates under those circumstances? Greater?

Mr. PILGRIM. Those freight rates are the same freight rates as the west coast freight rates.

Senator BARTLETT. Who owns this Panamanian shipping company?

Mr. PILGRIM. The MD Shipping Co.

Senator BARTLETT. What nationality are the owners, do you know?

Mr. PILGRIM. It is my understanding it is a Philippine corporation which purchased the Panamanian registered vessel *Serena* from an American corporation in Guam.

Senator BARTLETT. Now you told us, Mr. Adams, that an Executive order was issued in 1962 permitting foreign-flag vessels to operate from foreign ports to Guam. Was there prohibition in effect there for security reasons?

Mr. ADAMS. Yes, sir.

Senator BARTLETT. Now you do have some container service to Guam and farther west at this time?

Mr. ADAMS. Yes, sir. It is very small, however. We load about 25 to 30 containers on our C-2 vessels and Victory vessel. We propose with the new program to convert them to carry about 80 containers all together, per ship.

Senator BARTLETT. What size containers do you now use?

Mr. ADAMS. We now use—we have sizes, Senator, from 8 feet to 12 feet, and 17 feet to 24 feet at the present time. We also have some 20-foot containers. We will use whatever container we think is most appropriate for this service, and I hope that Maritime will—I do not believe, I should say, that Maritime will pose any objection to whatever size we may want to use.

Senator BARTLETT. If we get a certain bill through, they won't.

You have no fixed plan, though, as to the size of the containers for the C-4's?

Mr. ADAMS. The container we would build for the C-4 in our opinion at this time would be a cellular type—it would be a container that will fit a cellular-type ship, it may be 20-foot or 40-foot size, we don't know yet. That is our present thinking. It will be a single size for the purpose of quick loading and quick discharging.

Senator BARTLETT. I think you made a very valuable point there, you don't know, no one in the transportation world knows what the real answer ought to be for the future as to the size of containers.

Thank you, gentlemen, very much.

The committee will recess, subject to the call of the Chair, and the record will be held open 5 days, principally for the receipt of a letter from Maritime.

(Whereupon, at 11:55 a.m., the subcommittee was adjourned, subject to the call of the Chair.)

U.S. DEPARTMENT OF COMMERCE,  
MARITIME ADMINISTRATION,  
Washington, D.C., November 9, 1967.

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

DEAR SENATOR BARTLETT: On November 3, 1967, during the hearing on S. 2140, a bill "To authorize the exchange of certain vessels for conversion and operation in nonsubsidized service between the west coast of the United States and the Territory of Guam," you posed two questions to the Maritime Administration. They are as follows:

1. Does the Maritime Administration consider PFEL merely as a subsidized operator with its affiliate unsubsidized and not make a clear distinction between the separate operations of the Company?
2. Why was it that the Maritime Administration ruled PFEL to be ineligible for C-4s?

We wish to submit the following answers for the record:

1. The fact that PFEL operates vessels without subsidy in the Guam service is not sufficient to qualify it to acquire vessels under the Ship Exchange Act as a

nonsubsidized operator. As stated by the Federal Maritime Board in Docket No. S-55 (5 FMB at p. 298): "In contrast [with Matson Navigation Company], PFEL is primarily a subsidized operator in the foreign commerce of the United States, \* \* \*"

PFEL operates ten subsidized vessels between ports in California and ports in the Far East on Trade Route 29, as provided in its current Operating-Differential Subsidy Contract, No. FMB-81 dated October 24, 1958, and it is presently operating five vessels without subsidy in the Guam trade. PFEL conducts its subsidized and unsubsidized operations through the same corporation, not through affiliated corporations. Its application under the Ship Exchange Act, therefore, is an application by a subsidized operator.

2. The Ship Exchange Act (Section 510(i) of the Merchant Marine Act, 1936) authorizes the Secretary of Commerce to acquire at any time before July 5, 1970, vessels of 1500 gross tons or over which were constructed or contracted for by United States shipyards before September 3, 1945, in exchange for more modern or efficient war-built vessels owned by the United States. Subsection (1) of Section 510(i) provides that the traded-in vessel "\* \* \* shall not have been operated with operating-differential subsidy under title VI of this Act by the applicant or any affiliate of the applicant for at least three years immediately prior to the date of the exchange."

The legislative history of the Ship Exchange Act makes it clear that the above-quoted provision was included in the Act so that the exchanges would be *limited* to *unsubsidized* American steamship operators. For example, House Report No. 597—89th Congress on H.R. 728 referred to the above quoted provision of the Act and stated that "Section 510(i) (1) prohibits any vessel from being traded in if the vessel has been operated by anyone under an operating-differential subsidy contract within 3 years of the date of the exchange. The purpose of this provision was to *confine the exchange authority to the unsubsidized operators*. It has developed, however, that the restriction in its present form can work to the detriment of the nonsubsidized operators, in certain instances. For example, a non-subsidized operator might acquire either in the open market or under the vessel exchange law a vessel operated by a subsidized operator within 3 years of acquisition and before the 3 years has expired wish to trade in that vessel for a better and more efficient one. The committee amendment would apply the 3-year prohibition to the operator of the vessel, rather than to the vessel itself, as is presently the case. The committee amendment preserves the intent of the original provision and at the same time provides increased incentive for unsubsidized operators to use the authority for continuing upgrading of their fleets."

Other references to the legislative history of the Ship Exchange Act showing that Congress clearly intended to limit the application of the Act to nonsubsidized operators exclusively are set forth in "Exhibit A" enclosed herewith.

While there are authorities to support the so called rule of statutory construction that where a statute is clear and unambiguous on its face it cannot be construed by reference to its legislative history, the weight of authority supports the rule that a statute should never be applied in a manner contrary to the clear Congressional intent, and that the legislative history of an Act should be considered to ascertain Congressional intent, whether or not the language of the statute is thought to be clear and unambiguous (Sutherland, *Statutory Construction*, 3rd Ed., Vol. 2, Sec. 4502.); and that the Supreme Court of the United States has made it clear that there is no rule of law that forbids reference to the legislative history in construing a law no matter how clear the words appear to be.

In *Harrison v. Northern Trust Co.*, 317 U.S. 476, 479 (1943), Mr. Justice Murphy, speaking for the Court, said:

"\* \* \* the court below refused to examine the legislative history of section 807, on the ground that the section was unambiguous.

"But words are inexact tools at best, and for that reason there is wisely no rule of law forbidding resort to explanatory legislative history no matter how 'clear the words may appear on 'superficial examination'." *United States v. American Trucking Assns.*, 310 U.S. 534, 543-44. See also *United States v. Dickerson*, 310 U.S. 554, 562."

In view of the foregoing, it would be directly contrary to the clear intent of Congress to construe the Ship Exchange Act so as to permit subsidized operators to take advantage of its provisions.

Sincerely yours,

CARL C. DAVIS, *General Counsel.*

## EXHIBIT A

## EXCERPTS FROM THE LEGISLATIVE HISTORY OF THE SHIP EXCHANGE ACT SHOWING THAT CONGRESS INTENDED TO LIMIT THE ACT TO NONSUBSIDIZED OPERATORS

House Report No. 1652—86th Congress on S. 2618 which became the Ship Exchange Act, states (p. 3):

"All segments of the country's shipping industry currently are having their troubles, but the owners most severely affected are *those operating without subsidy*—the coastal and intercoastal lines, and the bulk carriers in the foreign tramp trades. Replacement of the vessels engaged in these trades—most of them war-built—is essential if they are to continue to be truly competitive in these vital areas. Construction costs are high, however, and shipping profits in recent years have barely sufficed to assure continued operation, much less to permit provision for building the more modern vessels required.

"It is unlikely that many *unsubsidized operators* will find it possible to engage in new construction for U.S.-flag operation with these heavy outlays, in view of present and prospective market conditions.

"This bill would assist these *unsubsidized operators* to upgrade their fleets without the vast outlays that new construction would entail. It would do this by permitting them to trade in their less efficient vessels as part payment for more desirable vessels from the reserve fleet, or which may be turned in to the reserve fleet within the 5 years during which the act would be effective.

"In addition to helping the *unsubsidized vessel operators* to improve their service to shippers, the bill would advance the interests of the Government in several ways \* \* \*" (Italic added.)

The report of the Under Secretary of Commerce dated February 19, 1960 (contained in House Report No. 1652, pp. 4-5) states:

"The bill would enable *unsubsidized American steamship companies operating in U.S. domestic and foreign commerce* to exchange vessels (mostly war-built vessels) which have received long usage and are no longer as well suited for the services involved, for other vessels of better condition in the U.S. reserve fleet or which will be turned in to the reserve fleet under the building programs of the subsidized lines. The greater utility value and lower operating costs of the traded-out vessels would aid these *unsubsidized companies* in meeting their competition and continuing their American-flag operations. From a financial viewpoint, it appears present conditions in the shipping industry discourage investment in new ship construction by *American-flag steamship companies not receiving operating-differential subsidy*. The proposed legislation would help to upgrade this *unsubsidized segment* of the U.S. merchant fleet, and would make available ships of a higher defense potential in active operation in the event of a national emergency." (Italic added.)

The report of the Chief of Legislative Affairs for the Secretary of the Navy dated February 19, 1960 (contained in House Report No. 1652, p. 6) states:

"The proposed bill would authorize the Secretary of Commerce to exchange certain war-built vessels for more modern and efficient war-built vessels owned by the United States. These exchanges would be *limited to certain unsubsidized U.S.-flag operators* who would thus have an opportunity to upgrade their vessels by replacing those that are older and less desirable with those that are more modern and efficient to operate. (Italic added.)

Comparable statements appear in Senate Report No. 1275—86th Congress on S. 2618 (pp. 3, 5, and 6).

A comparable statement appears in House Report No. 597—89th Congress (p. 2).

Subsection (1) of Section 510(i) provides that the traded-in vessel—  
 " \* \* \* shall not have been operated with operating-differential subsidy under title VI of this Act by the applicant or any affiliate of the applicant for at least three years immediately prior to the date of the exchange."

Senate Report No. 373—89th Congress on H. R. 728, stated, regarding the above quoted provision of the Act that—

"The purpose of this provision was to provide an advantage in improving the fleet of the *nonsubsidized operators over the subsidized operators.*" (Italic added.)

House Report No. 597—89th Congress on H. R. 728 referred to the above quoted provision of the Act and stated that p. 3—

"Section 510(i)(1) prohibits any vessel from being traded in if the vessel has been operated by anyone under an operating-differential subsidy contract within 3 years of the date of the exchange. The purpose of this provision was to *confine the exchange authority to the unsubsidized operators*. It has developed, however, that the restriction in its present form can work to the detriment of the nonsubsidized operators, in certain instances. For example, a nonsubsidized operator might acquire either in the open market or under the vessel exchange law a vessel operated by a subsidized operator within 3 years of acquisition and before the 3 years has expired wish to trade in that vessel for a better and more efficient one. The committee amendment would apply the 3-year prohibition to the operator of the vessel, rather than to the vessel itself, as is presently the case. The committee amendment preserves the intent of the original provision and at the same time provides increased incentive for unsubsidized operators to use the authority for continuing upgrading of their fleets."



The report of the House Committee on Commerce, dated February 19, 1960, contains the following text: "The bill would amend the existing law to require that a vessel be operated by a nonsubsidized operator for a period of 3 years before it can be traded in. This would apply to vessels acquired by a nonsubsidized operator either in the open market or under the vessel exchange law. The purpose of this provision is to ensure that the exchange authority is used to upgrade the fleet of unsubsidized operators. The committee amendment would apply the 3-year prohibition to the operator of the vessel, rather than to the vessel itself, as is presently the case. The committee amendment preserves the intent of the original provision and at the same time provides increased incentive for unsubsidized operators to use the authority for continuing upgrading of their fleets."



