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LIMITATIONS ON OCEAN CRUISES

HEARING

BEFORE THE

SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES

OF THE

COMMITTEE ON COMMERCE UNITED STATES SENATE

NINETIETH CONGRESS

FIRST SESSION

ON

S. 2360

AMENDING SECTION 613(b) OF THE MERCHANT MARINE ACT OF 1936 TO REMOVE CERTAIN LIMITATIONS ON OCEAN CRUISES

NOVEMBER 20, 1967

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LIMITATIONS ON OCEAN CRUISES

THURSDAY, NOVEMBER 30, 1967

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

The subcommittee met at 9:40 a.m. in room 5110, the New Senate Office Building, Hon. E. L. Bartlett (chairman of the subcommittee) presiding.

Senator BARTLETT. The committee will be in order.

Today we initiate hearings on S. 2360, a bill to amend section 613 of the 1936 Merchant Marine Act to remove certain limitations on ocean cruises by American-flag passenger vessels.

(The bill follows:)

[S. 2360, 90th Cong., first sess.]

A BILL To amend section 613(b) of the Merchant Marine Act, 1936, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That section 613(b) of the Merchant Marine Act, 1936, as amended, is hereby further amended to read as follows:

"(b) If the Board finds that the operation of passenger vessels with respect to which an application for operatiing-differential subsidy has been filed under section 601 of this title is required for part of each year, but not for all of each year, in order to furnish adequate service on the service, route, or line with respect to which the application was filed, the Board may approve the application for payment of operating-differential subsidy for operation of the vessel (1) on such service, route, or line for such part of each year, and (2) on cruises for all or part of the remainder of each year if such specific cruise is approved by the Board under subsection (e) of this section, provided that the operator shall not be required to schedule or make berth voyages in positions which will involve substantial losses. The Board may excuse such voyages and the time of such excused voyages may be employed in cruising under the provisions of this section."

SEC. 2. That section 613(c) of the Merchant Marine Act, 1936, as amended, is hereby further amended to read as follows:

"(c) A vessel operated in cruise service as authorized by this section—

"(1) must begin and end each cruise at a domestic port or ports of the United States;

"(2) may carry passengers on a round-trip or one-way basis between domestic port and foreign ports and other domestic ports without diminution of subsidy except that it may carry no passengers on a one-way or round-trip basis between ports regularly served by another passenger vessel of United States' registry unless the Board shall determine in accordance with subsection (e) of this section that such carriage will not substantially adversely affect the existing operator's service.

"(3) may carry mail and/or cargo except that it shall not carry mail and/or cargo between ports on the regular service of another operator of vessels of United States' registry unless the Board shall determine in accord-

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The staff member assigned to this hearing: Stanley H. Barer.

ance with subsection (e) of this section that such carriage will not substantially adversely affect the existing operator's service."

SEC. 3. That section 613(d) of the Merchant Marine Act, 1936, as amended, is hereby further amended to read as follows:

"(d) The Board may from time to time review operating differential subsidy contracts entered into under this title for the operation of passenger vessels, and upon finding the operation of such vessels upon a service, route, or line is required in order to furnish adequate service on such service, route, or line, but is not required for the entire year, may amend such contracts to agree to pay operating differential subsidy for operation of such vessels on cruises, as authorized by this section, for part or all of the remainder of each year, if each specific cruise is approved by the Board under subsection (e) of this section."

SEC. 4. That section 613(f) of the Merchant Marine Act, 1936, as amended, is hereby repealed.

OPENING STATEMENT BY THE CHAIRMAN

I introduced this bill in an attempt to assist the U.S.-flag passenger service. I am aware that there is a divergence of opinion as to the wisdom and impact of some of the provisions of the bill. The House committee, after several days of hearings on a companion bill has deleted several provisions and in effect extended from 4 months to 8 months the time when so-called off-route cruises would be permitted.

I believe that U.S.-flag passenger service must be encouraged if it is to survive and flourish. I would hope this common purpose will promote an atmosphere in which we can arrive at an effective and reasonable bill.

We have a number of witnesses to hear this morning and the issues involved are fairly well defined. At the outset I said we were going to initiate hearings on this bill today. I will add now we are also going to conclude them. This will be the only day for hearings.

And since the issues are well understood by all, since the subject has been explored at length in the House of Representatives before the Merchant Marine and Fisheries Committee, no witness will be given time in excess of 15 minutes. And if the testimony can be held to a shorter period, that will be appreciated. This will allow ample time for questions and discussions and, of course, the full effect of the written statements will appear in the record and will be carefully studied by the committee, as is always the case. In view of the action taken by the House committee, a statement of your position to the amended House bill will be helpful.

Now, the bill which I introduced by request provided for year-round cruise service. It permitted subsidized lines to engage in domestic passenger service and it permitted the carriage of cargo. The House bill as reported limits the cruise period to 8 months of each year, prohibits domestic cruises, and deletes the provisions for the carriage of cargo.

There will be placed in the record at this point a telegram from John Bowers, executive vice president of the International Longshoremens Association, generally endorsing the purposes of the bill, a letter from C. Carlton Lewis, president of the Farrell Lines, which makes objection to the bill principally but not altogether in respect to that provision which would allow the transportation of cargo.

(The correspondence referred to follows:)

NEW YORK, N.Y., *November 17, 1967.*

Senator E. L. BARTLETT,
Old Senate Office Building, Washington, D.C.:

Essential to extend off-route cruising privilege U.S. passenger ships to 8 to 12 months per year. Failing this we are fearful American-flag passenger ship will be adversely affected and forced into layup by which only foreign can benefit.

Yours truly,

JOHN BOWERS,
Executive Vice President,
International Longshoremens Association.

FARRELL LINES, INC.,
New York, N.Y., October 24, 1967.

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

DEAR MR. CHAIRMAN: We understand that your Committee is now considering the subject Bill which, if enacted, would allow subsidized passenger vessels to provide passenger, cargo and mail services on a nearly full-time basis worldwide, including areas now served by other United States operators on essential trade routes with specified contractual requirements for service.

Our primary objection to the proposed Bill is the inclusion therein of the privilege of carrying cargo on these off-route cruises. This, in effect, would permit operators with combination passenger/cargo vessels to operate "cruises" on our essential trade routes, enabling them to take considerable shipments of cargo otherwise available to our vesels. This privilege would obviously contravene the essential trade routes concept, which is a vital part of the Merchant Marine Act of 1936.

It would appear that the problem of seasonal business, whether passenger or cargo, on certain trade routes could best be cured by granting permision to charter vessels, either passenger or cargo, from other subsidized operators and operating such charter vessels with subsidy on their own trade routes during periods of peak demand. Undoubtedly, an operator who regularly serves a trade route is more qualified to anticipate such demands and to better serve the trade than would other operators entering the trade only when traffic offers.

We strongly urge that the subject Bill at least be modified to eliminate the privilege of carrying cargo on off-route cruises and serious consideration be given to the alternate suggestion of chartering vessels from other subsidized operators.

Very truly yours,

FARRELL LINES, INC.
C. CARLTON LEWIS, *President.*

Senator BARTLETT. We have a report from Adm. John Harlee, Chairman of the Federal Maritime Commission, giving no opinion pro or con, a letter from the Assistant Comptroller General of the United States suggesting only a technical clarification.

The Department of State sees no objection to the bill from the standpoint of foreign policy.

The Postmaster General suggests a technical amendment, but gives no opinion on the bill itself.

The Department of Transportation recommends the bill be amended to permit passenger vessels, whose operations required it at least one-half each year on an essential route, to engage in cruise trade for the remainder of the year and likewise limit the period in which the one-half criterion would be applied to 3 years, and, finally, limit the application of the one-half criterion to vessels currently receiving operating subsidy under contract.

Renewals of existing contracts will preserve eligibility but will not serve to extend the 3-year limitation.[1]

(The letters referred to follow:)

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 27, 1967.

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

DEAR MR. CHAIRMAN: The Department appreciates the opportunity to comment on S. 2360, a bill "to amend section 613(b) of the Merchant Marine Act, 1936, as amended."

The bill would amend section 613 of the Merchant Marine Act, 1936, to permit passenger vessels under subsidy for berth services to be utilized in the cruise trade whenever they were not needed for berth service. Present law limits such utilization to one-third of a year. The bill would also liberalize the conditions under which the vessels could be used in the cruise trade by terminating current limitations on routes, and carriage of passengers, cargo and mail. Essentially, the bill would permit passenger vessels to engage in the cruise trade whenever they were not required in the berth service for which subsidized so long as there was no substantial adverse effect on another operator's service.

We understand that the Department of Commerce, which has primary jurisdiction over the maritime subsidy program, stated in its testimony before the House Committee on Merchant Marine and Fisheries that it would support the identical bill H.R. 12639 subject to amendments which would—

1. Permit passenger vessels whose operation is required at least one-half of each year on an essential route to engage in cruise trade for the remainder of the year.
2. Limit the period in which the one-half criterion would be applied to three years.
3. Limit the application of the one-half criterion to vessels currently receiving operating subsidy under a contract (renewal of an existing contract will preserve eligibility but will not serve to extend the three year limitation).

The Department believes the foregoing limitations are necessary to the preservation of the principle of the essential trade route and would urge enactment of the proposed legislation if so amended.

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

Sincerely yours,

JOHN L. SWEENEY,
Assistant Secretary for Public Affairs.

THE POSTMASTER GENERAL,
Washington, D.C., October 26, 1967.

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

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 2360, a bill to amend section 613(b) of the Merchant Marine Act of 1936, as amended.

The bill would amend section 613 of the Merchant Marine Act of 1936 (46 U.S.C. 1183(b)) so as to make minor changes in subsections (b) and (d), rewrite and substantially change subsection (c), and repeal subsection (f).

We suggest that the bill be amended, at line 7 on page 3, so as to change the period after the word "service" to a colon and add the following proviso at the end of section 613(c)(3), as amended: "*Provided,* That the Board shall not determine that the carriage of mail between ports on the regular service of another operator of vessels of the United States registry will adversely affect the existing operator's service without first requesting the views of the Postmaster General as to his need for the transportation of mail by such vessel to be operated in cruise service."

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[1] The comment from the Treasury Department was received after the hearing and is noted by the chairman on p. 6.

If the bill is amended as heretofore suggested, we are of the opinion that it would have little, if any, effect on the transportation of mail by vessel. The Post Office Department defers to judgment of the Department of Transportation and the Federal Maritime Commission, the federal agencies of paramount interest, regarding the merits of the bill.

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

Sincerely yours,

(Signed) LAWRENCE F. O'BRIEN.

DEPARTMENT OF STATE,
Washington, D.C., October 24, 1967.

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

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of September 7, 1967, requesting comment on S. 2360, a bill "To amend section 613(b) of the Merchant Marine Act, 1936, as amended."

The Department perceives no objection to this bill from a standpoint of foreign policy, and would defer to the views of other agencies more directly concerned.

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

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,
Assistant Secretary for Congressional Relations.

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

DEAR MR. CHAIRMAN: Your letter of September 7, 1967, invites our comments on S. 2360, a bill to amend section 613 of the Merchant Marine Act, 1936, as amended.

The bill would amend various subsections of section 613 of the Merchant Marine Act, 1936, as amended, to remove or relax certain conditions presently imposed in connection with cruise voyages. Section 2 of S. 2360, would further amend section 613(c), among other things, to permit cruise operators to carry passengers on a round-trip or one-way basis between a domestic port and foreign ports and other domestic ports without diminution of *subsidy*. Since section 613(c) is a part of title VI, which relates specically to operating differential subsidy, the term "subsidy" undoubtedly is intended to prefer to operating-differential subsidy, but it could also be intended to refer to construction-differential subsidy. Generally, both operating and construction-differential subsidies are reduced for those portions of a vessel's voyage between domestic ports. It is suggested that the term "subsidy" be clarified.

Aside from the foregoing, we have no special information or knowedge that would assist in the consideration of S. 2360, and therefore have no comments to offer.

Sincerely yours,

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

FEDERAL MARITIME COMMISSION,
September 27, 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 September 7, 1967, for the views of the Federal Maritime Commision with respect to S. 2360, a bill to amend section 613(b) of the Merchant Marine Act, 1936, as amended.

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,

(Signed) JOHN HARLEE,
Rear Admiral, U.S. Navy (Retired), Chairman.

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THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., November 30, 1967.

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

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 2360, "To amend section 613(b) of the Merchant Marine Act, 1936, as amended."

Section 613 of the Merchant Marine Act, 1936 (46 U.S.C. 1183), among other things, authorizes payment of operating-differential subsidy for passenger vessels for operation on cruises, but such cruises may not exceed one-third of each year. It also provides that cruises must begin and end at ports on the same seacoast of the United States, and provides that a vessel on cruise may not carry mail or cargo except between ports on its regular service. The proposed legislation would remove these restrictions.

Point to point passenger trade on the North Atlantic is steadily declining while cruise traffic is increasing substantially. United States vessels, however, have been unable to compete effectively in the cruise trade.

A comparison of passenger fare receipts and payments in the United States balance of payments showed that in 1965 total receipts were roughly $8 million while payments were over $214 million. The heavy excess of payments over receipts principally derives from the fact that a large number of United States passengers travel on foreign-flag ships in the cruise trade while a very small number of foreign tourists travel on United States cruise ships. In 1965, out of a total of 371,000 cruise passengers departing United States ports, nearly 333,000 cruised on foreign-flag ships and fewer than 39,000 on United States-flag ships. In addition, it is known that a large share of receipts for nominal berth operations on North Atlantic routes is, in effect, for cruise services rather than true berth traffic.

To the extent that this bill would enable our cruise vessels to attract more American and foreign passengers, it would have a beneficial impact on our balance of payments and the Department would, therefore, look with favor on the bill's enactment.

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

Sincerely yours,

FRED B. SMITH, *General Counsel.*

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, ACCOMPANIED BY WILLIAM BURCHILL, ASSISTANT GENERAL COUNSEL FOR LEGISLATION, AND MARION E. PARR, DEPUTY CHIEF OF THE OFFICE OF CARGO PROMOTION

Senator BARTLETT. As noted above, we are going to preserve a strict time limitation, Mr. Davis, so your testimony may carry through until 1 minute after 10.

Mr. DAVIS. I have accompanying me Mr. William Burchill, Assistant General Counsel for Legislation, on my left. And on my right is Mr. Marion Parr, Deputy Chief of the Office of Cargo Promotion.

I appreciate the opportunity to present the views of the Maritime Administration and the Department of Commerce with respect to S. 2360.

Section 613 of the Merchant Marine Act, 1936, provides that the Secretary may permit passenger vessels that are being operated with operating-differential subsidy, to cruise off their essential trade routes for not exceeding one-third of each year if he makes the following findings: (1) That the operation of the vessel on the trade route is not

necessary for this period in order to furnish adequate service; and (2) after notice to all other American-flag operators who may be affected and after affording all such operators an opportunity to submit written data, views, or arguments, with or without opportunity to present the same orally, and after consideration of all relevant matter presented, that the specific cruise proposed will not substantially adversely affect an existing operator's service performed with American-flag passenger vessels.

The section defines a passenger vessel as a vessel of not less than 10,000 gross tons with passenger accommodations for not less than 100 passengers.

The section provides that the cruises it authorizes must begin and end at domestic port or ports on the same seacoast of the United States from which the operator conducts his regular service and that when the vessel is being operated on cruises—

(*a*) It shall carry no mail unless required by law, or cargo except passengers' luggage, except between those ports between which it may carry mail and cargo on its regular service assigned by contract;

(*b*) It shall carry passengers on a round-trip basis, except between those ports between which it may carry one-way passengers on its regular service assigned by contract;

(*c*) It shall embark passengers only at domestic ports on the same seacoast of the United States as that to which the vessel is assigned on its regular service; and

(*d*) It shall stop at other domestic ports only for the same time and the same purposes as is permitted with respect to a foreign-flag vessel which is carrying passengers who embarked at a domestic port.

The section further provides that section 605(c) of the act shall not apply to cruises.

The bill would amend this section—

(*a*) By eliminating the one-third-of-the-year restriction on cruising.

(*b*) By providing that the cruise may begin and end at any domestic port or ports of the United States.

(*c*) By providing that the cruise vessel may carry round-trip or one-way passengers (without reduction of subsidy) except between ports regularly served by another operator with an American-flag passenger vessel whom the Secretary determines under the provision stated in paragraph No. 2 above would be substantially adversely affected.

(*d*) By providing that the cruise vessel may carry mail and cargo except between ports on the regular service of another operator of American-flag vessels whom the Secretary determines would be substantially adversely affected.

Section 613 of the act was added by Public Law 87–45, approved May 27, 1961. Its purpose is to place the operator of American-flag passenger vessels on a more favorable competitive basis with its foreign-flag competitors by permitting him to compete with them for available off-route cruise passengers during the slack season on the regular service of the vessels and thus to reduce his losses. Since recapture of operating-differential subsidy is based on earnings on the

entire fleet of vessels operated, any reduction of the losses on passenger ships improves the possibility of recapture under the contract.

We have under operating subsidy contract 20 vessels which are passenger vessels under the definition in section 613. They range in passenger-carrying capability from 119 for the *Del Mar*, *Del Norte*, and *Del Sud*, to 1,982 for the *United States*. Of these vessels, however, only the *Atlantic*, *Constitution*, *Independence*, *Argentina*, *Brazil*, and *United States* have done any cruising. All six of these vessels are, and have been financially, in a loss position after subsidy both with regard to their operations on their essential trade routes and with regard to their cruising. In our judgment, however, their losses are less than they would have been if they had not been permitted to cruise.

In 1964, the latest year for which we have figures, about 220,000 passengers traveled between the Atlantic coast and the Caribbean in passenger vessels, and of these only about 28,000 traveled in American-flag vessels. American-flag vessels, therefore, obtained 13 percent of this business.

Of the subsidized vessels that have cruised, only the *Atlantic*, the *Argentina*, and the *Brasil* have cruised for approximately one-third the year.

We believe more extended cruising than is permitted by existing law, with permission to carry one-way passengers and mail and cargo under the conditions stated in the bill, would tend to reduce the losses suffered by some passenger ships. If the bill is amended as we hereinafter propose, we would recommend favorable consideration of the bill.

We recommend that the legislation be made temporary for 3 years. This will provide opportunity, after experience has been had under the legislation, to examine the economic impact of the legislation and to determine whether it should be continued.

We recommend that the period during which the vessels may cruise be limited to one-half the year. This would provide additional protecttion to American-flag operators on the essential trade routes in areas where vessels may cruise.

We recommend that the legislation be made applicable only to passenger vessels that are at present under operating-differential subsidy contracts.

Attached is a substitute text which will carry out our recommendations, and a comparative text which shows the changes in existing law that would be made by the substitute text.

(Subsitute text for S. 2360 follows.)

SUBSTITUTE TEXT FOR S. 2360

That section 613 of the Merchant Marine Act, 1936 (46 U.S.C. 1183) is amended as follows:

(a) Subsection (b) is amended by inserting before the period at the end thereof a colon and the following: "*Provided, however*, That if the provisions of any operating-differential subsidy contract under which a passenger vessel is being operated on December 1, 1967, expire before December 1, 1970, any amendment of such contract, or any renewal contract, may permit such vessel to cruise for one-half the year, and provide for payment of operating-differential subsidy therefor, under the conditions stated in this section, until December 1, 1970".

(b) Subsection (c) is amended by inserting before the period at the end of the second sentence thereof a colon and the following: "*Provided, however*, That until December 1, 1970, a vessel operated in cruise service as authorized by this section—

"(1) must begin and end each cruise at a domestic port or ports of the United States;

"(2) may carry passengers on a round-trip or one-way basis between domestic ports and foreign ports and other domestic ports without diminution of operating-differential subsidy (under section 605(a) of this Act) or pay-back of construction-differential subsidy (under section 506 of this Act) except that it may carry no passengers on a one-way or round-trip basis between ports regularly served by another passenger vessel of United States registry unless the Secretary of Commerce shall determine in accordance with subsection (e) of this section that such carriage will not substantially adversely affect the existing operator's service;

"(3) may carry mail and/or cargo except that it shall not carry mail and/or cargo between ports on the regular service of another operator of vessels of United States' registry unless the Secretary of Commerce shall determine in accordance with subsection (e) of this section that such carriage will not substantially adversely affect the existing operator's service".

(c) Subsection (d) is amended by inserting before the period at the end thereof a colon and the following: "*Provided, however*, That the Secretary may amend such contracts to permit such vessels to cruise for one-half each year, until December 1, 1970, under the conditions stated in this section, and to pay operating-differential subsidy therefor".

(d) Subsection (e) is amended by inserting before the period at the end of the first sentence thereof a colon and the following: "*Provided, however*, That if the specific cruise application for a cruise that is to end on or before December 1, 1970, requests permission to carry mail or cargo, the determination required shall be that an existing operator's service performed with any American-flag vessels will not be substantially adversely affected and existing operators shall be given an appropriate notice and an opportunity to present written data, views, or arguments on this issue".

Comparative Text Showing the Changes the Substitute Text for S. 2360 Would Make in the Existing Law

Sec. 613. (a) In this section, "passenger vessel" means a vessel which (1) is of not less than ten thousand gross tons, and (2) has accommodations for not less than one hundred passengers.

(b) If the Board finds that the operation of passenger vessels with respect to which an application for operating-differential subsidy has been filed under section 601 of this title is required for at least two-thirds of each year, but not for all of each year, in order to furnish adequate service on the service, route, or line with respect to which the application was filed, the Board may approve the application for payment of operating-differential subsidy for operation of the vessels (1) on such service, route, or line for such part of each year, and (2) on cruises for all or part of the remainder of each year if such specific cruise is approved by the Board under subsection (e) of this section: "*Provided, however, That if the provisions of any operating-differential subsidy contract under a passenger vessel is being operated on December 1, 1967, expire before December 1, 1970, any amendment of such contract, or any renewal contract, may permit such vessel to cruise for one-half the year, and provide for payment of operating-differential subsidy thereof, under the conditions stated in this section, until December 1, 1970*".

(c) Cruises authorized by this section must begin and end at a domestic port or ports on the same seacoast of the United States from which the operator operates or conducts the regular service to which the vessels are assigned.

When a vessel is being operated on cruises—

"(1) it shall carry no mail unless required by law, or cargo except passengers' luggage, except between those ports between which it may carry mail and cargo on its regular service assigned by contract;

"(2) it shall carry passengers on a round-trip basis, except between those ports between which it may carry one-way passengers on its regular service assigned by contract;

"(3) it shall embark passengers only at domestic ports on the same seacoast of the United States as that to which the vessel assigned on its regular service; and

"(4) it shall stop at other domestic ports only for the same time and the same purposes as is permitted with respect to a foreign-flag vessel which is carrying passengers who embarked at a domestic port: "*Provided, however, That until December 1, 1970, a vessel operated in cruise service as authorized by this section—*

"(1) must begin and end each cruise at a domestic port or ports of the United States;

"(2) may carry passengers on a round-trip or one-way basis between domestic ports and foreign ports and other domestic ports without diminution of operating-differential subsidy (under section 605(a) of this Act) or pay-back of construction differential subsidy (under section 506 of this Act) except that it may carry no passengers on a one-way or round trip basis between ports regularly served by another passenger vessel of United States registry unless the Secretary of Commerce shall determine in accordance with subsection (e) of this section that such carriage will not substantially adversely affect the existing operator's service;

"(3) may carry mail and/or cargo except that it shall not carry mail and/or cargo between ports on the regular service of another operator of vessels of United States' registry unless the Secretary of Commerce shall determine in accordance with subsection (e) of this section that such carriage will not substantially adversely affect the existing operator's service".

Section 605(c) of this Act shall not apply to cruises authorized under this section.

(d) The Board may from time to time review operating differential subsidy contracts entered into under this title for the operation of passenger vessels, and upon a finding that operation of such vessels upon a service, route, or line is required in order to furnish adequate service on such service, route, or line, but is not required for the entire year, may amend such contracts to agree to pay operating differential subsidy for operation of such vessels on cruises, as authorized by this section, for part or all of the remainder, but not exceeding one-third, of each year, if each specific cruise is approved by the Board under subsection (e) of this section. "*Provided, however, That the Secretary may amend such contracts to permit such vessels to cruise for one-half each year, until December 1, 1970, under the conditions stated in this section, and to pay operating-differential subsidy therefor.*

(e) Upon the application of any operator for approval of a specific cruise, the Board, after notice to all other American flag operators who may be affected and after affording all such operators an opportunity to submit written data, views or arguments, with or without opportunity to present the same orally in any manner, and after consideration of all relevant matter presented, shall, if it determines that the proposed cruise will not substantially adversely affect an existing operator's service performed with passenger vessels of United States registry, approve the proposed cruise. Such approval shall not be given more than two years in advance of the beginning of the cruise. "*Provided, however, That if the specific cruise application for a cruise that is to end on or before December 1, 1970, requests permission to carry mail or cargo, the determination required shall be that an existing operator's service performed with any American-flag vessels will not be substantially adversely affected and existing operators shall be given an appropriate notice and an opportunity to present written data, views, or arguments on this issue.*

(f) As used in this section the following three are the seacoasts of the United States: (1) the Atlantic coast, including the Great Lakes but excluding the Gulf of Mexico; (2) the Gulf of Mexico; and (3) the Pacific coast, including Alaska and Hawaii.

Senator BARTLETT. You made these precise recommendations to the House committee, Mr. Davis?

Mr. DAVIS. Yes, Mr. Chairman.

Senator BARTLETT. Now you recommended among other things that the cruise ships be permitted to carry cargo?

Mr. DAVIS. Yes, I did.

Senator BARTLETT. And the House committee acted how respecting that recommendation?

Mr. DAVIS. They did not accept that.

Senator BARTLETT. Why did you recommend it?

Mr. DAVIS. Well, we are trying to help some ships that are in difficulties. And I would say that we did not think that this element would have any substantial impact insofar as the operators are concerned. These vessels don't stay in port long enough to really be in extensive cargo operation. Insofar as the mail is concerned, which is the other element of the same text, the Post Office Department, under the law, is going to require the vessel to take the mail anyway.

Senator BARTLETT. What did the House do about that mail feature?

Mr. DAVIS. They cut it right out along with the cargo. But nevertheless that would be covered by the legislation, I believe.

Senator BARTLETT. Well, you say that the ships covered by this bill wouldn't be in port long enough to make any adverse impact on present carriers in respect to cargo. Then how would they be materially helped?

Mr. DAVIS. Well, they might pick up a parcel of cargo now and then, Mr. Chairman. They also might pick up a little mail. But we are trying to help some vessels that are in financial difficulty. And I think that the vessels that are on these regular routes and lines will not be adversely affected to any major degree by these small amounts they might be able to pick up in these short periods in which they are in port.

Senator BARTLETT. Do you have any violent objections to the House action in extending the cruise period to 8 months?

Mr. DAVIS. Mr. Chairman, I made proposals to the Bureau of the Budget for clearance. The proposals which I made extended it from one-third to 6 months. I have clearance for that position.

I do not have any clearance with respect to the 8-month provision.

Senator BARTLETT. I understand. Principally in what trades would these cruise ships be that would be enabled to go into service on account of this bill if it is enacted?

Mr. DAVIS. The Mediterranean area.

Senator BARTLETT. How about the Carribean?

Mr. DAVIS. Yes, the cruising would be nearby, the majority of them, including some in the Caribbean.

Senator BARTLETT. How about the Pacific?

Mr. DAVIS. I don't see any cruising in the Pacific, no.

Senator BARTLETT. Assuming the bill you have recommended or the bill that was reported by the House committee becomes law, will in your judgment any line be badly hurt?

Mr. DAVIS. Be badly hurt?

Senator BARTLETT. By the competition that would be offered?

Mr. DAVIS. Let's see, moving it up to 8 months—no, I do not think so. Badly hurt—I would say no. One of the things that is in the House bill that I do not like at all is the fact that our cruise legislation is all becoming temporary legislation; namely, there won't be any cruise legislation after 3 years. And I would say that that provision is for the benefit of the foreign-flag operators more than anyone else. That result is one they would applaud.

Senator BARTLETT. Will you say that over again, please?

Mr. DAVIS. The House bill as reported—I only got a copy of it last night—makes the entire cruise legislation enacted temporary legislation, which at the end of this 3-year period will be out. We would

have no cruise legislation on the books then. I think that is a bad provision because the people who it is going to benefit most are the foreign-flag operators. This cruise business is going to go on and if it is not carried on by some of our American-flag operators, it will be carried on by the foreign-flag operators.

Senator BARTLETT. What limitations are placed on them now?

Mr. DAVIS. On the foreign-flag operators? Well, the limitations are that they cannot have point to point pickups, then cannot carry cargo and they can't engage in any of our domestic freight.

In fact, the 1961 legislation, cruise legislation, was designed to permit cruising by American-flag operators on the same basis that foreign-flag operators could cruise.

Senator BARTLETT. Are there any restrictions on foreign-flag operators as to the number of months during a given year they can cruise?

Mr. DAVIS. There are not.

Senator BARTLETT. Thank you. Mr. Barer?

Mr. BARER. Thank you.

Mr. Davis, under existing law and under the bill as proposed and also the bill as ordered reported by the House, you have the same test of whether the cruise would have a substantially adverse effect on another operator, rather than the 605(c) test. What exactly does substantially adverse effect means?

Mr. DAVIS. Well, let me give you the genral procedure and analysis that is gone through. When an operator applies for cruise permission under the permissive legislation now, we publish that in the Federal Register.

An interested party who might be affected by it is permitted to put in written data, comments, views, arguments. These are analyzed in the light of prior cruises and projections of the effect which this cruise will have on the operator that is on the regular route or line.

Mr. Parr, whom I have with me, is one of the major parties in performing that analysis. Let me see if he has anything to add.

Mr. PARR. One of the principal things that is looked at is to determine whether the utilization factors of the regular operator on the line have been affected in the past or have his financial returns been adversely affected.

If these are negative, we would normally recommend the cruise be permitted. The other thing that is looked at is the service on the regular berth.

As most of you know, the criteria for approval of cruises requires adeouate service on the route or line which he is receiving subsidy.

Mr. BARER. Does the Maritime Administration attempt to make such a determination even if there is no complaint filed raising the question?

Mr. DAVIS. Yes; they do.

Mr. BARER. As I recall——

Mr. DAVIS. This is done on a comparative basis with past cruise statistics.

Mr. BARER. I believe under section 613 the applications for the cruise can be filed at any time up to 2 years before the cruise actually takes place?

Mr. DAVIS. It cannot be more than 2 years, that is right.

Mr. BARER. Not more than 2 years. What is the shortest limitation?

What if you file an application 2 months or a month before you want to make the cruise?

Mr. DAVIS. That would virtually be impossible, because you have to have time for advertising. It is more in the nature of 6 months.

Insofar as the Maritime Administration is concerned, we can make our evaluation and analysis in 45 days, but insofar as the operator is concerned, his advertising and preparation for the cruise requires on the order of 6 months.

Mr. BARER. Have you ever had an application filed in under 6 months time?

Mr. DAVIS. Yes; we have had several.

Mr. BARER. Do you have an idea on a percentage basis?

Mr. DAVIS. No.

Mr. BARER. Have you ever turned down an application on the finding of substantially adverse effect?

Mr. DAVIS. We have not, although on the staff level we have had some modified.

Mr. BARER. In response to questions raised by the Maritime Administration or by other companies?

Mr. DAVIS. By other companies. I am informed by Mr. Parr that on the basis of inquiries made by the Maritime Administration too.

Mr. BARER. Would you have any view on the advisibility of a time limitation being written into the law about how much advance notice, or how much time must elapse between the time of the application for the permission for the cruise and the cruise? You said perhaps 6 months, but that you could do it in 45 days.

Mr. DAVIS. We could do it in 45 days.

Mr. BARER. How about the other lines? How long would be a reasonable period of time for them to react to get the necessary data to try to make their case, which has to be ex parte. Under the law they have no right to a hearing. What would be a reasonable period of time?

Mr. DAVIS. Mr. Parr is more familiar with that than I; let me ask him. The publication in the Federal Register, Mr. Barer, gives them from 15 to 30 days.

We feel that is adequate time for them to let us know what their position is.

Mr. BARER. Could you briefly describe the criteria you follow to determine, first, what is an adverse effect and secondly whether it is substantial?

Mr. DAVIS. Well, the adverse effect and what is substantial is predicted on how it affects their statistical profit figure and the utilization factor which Mr. Parr previous spoke to.

Mr. BARER. But you have never found one yet that would have a substantially adverse effect on another operator, is that correct?

Mr. DAVIS. No; neither prospectively nor in retrospect.

Mr. BARER. Approximately how many applications have been filed—when did this go in, in 1961?

Mr. DAVIS. Yes.

Mr. BARER. Do you have any idea how many applications for cruise permission have been filed?

Mr. DAVIS. I would be happy to supply that. I don't have it here.

Mr. BARER. Could you give a rough estimate?

Mr. DAVIS. About two a year for each of the affected operators, United States Lines, Export, and Moore-McCormack.

Mr. BARER. So what kind of a total would that come up to?

Mr. DAVIS. About 20.

Mr. BARER. About 20.

Mr. DAVIS. Fifteen or 20.

Mr. BARER. Have each of these been accompanied or followed by complaints on the other side alleging a substantially adverse effect?

Mr. DAVIS. No; they have not.

Mr. BARER. Do you have any idea approximately what percentage have or how many determinations like that you have had to make?

Mr. DAVIS. I don't. Let me see if Mr. Parr does.

I don't know the number. I know the only company we have ever received any complaints from is Grace Lines.

Mr. BARER. Do you feel the 3-year limitation should extend only to the additional time permitted by this proposed legislation or to the entire cruise permission as now in existing law?

Mr. DAVIS. I feel the cruise legislation, limiting it to a 3-year temporary period should apply only to the extension and not to the cruise legislation as a whole. To do so would benefit only the foreigner.

This cruising business is not done only by some American-flag vessels. We are only in 13 percent of it now. It will be done by the foreign-flag operators.

Senator BARTLETT. Thank you gentlemen.

The next witness will be Mr. Keenan, vice president of Moore-McCormack.

STATEMENT OF ALBERT J. KEENAN, JR., VICE PRESIDENT, MOORE-McCORMACK LINES, INC., ACCOMPANIED BY IRA L. EWERS, COUNSEL, AND NICHOLAS PASCO, MANAGER, WASHINGTON OFFICE, MOORE-McCORMACK LINES, INC.

Mr. KEENAN. Mr. Chairman, my name is Albert J. Keenan, Jr., vice president of passenger traffic, Moore-McCormack Lines, Inc.

Appearing with me are Nicholas Pasco, our Washington representative, and Mr. Ira L. Ewers, who is our counsel.

I would direct attention to testimony of our president, Mr. W. T. Moore, before the House, and I wish to file with this committee a prepared statement which in the interest of brevity I will not read.

Senator BARTLETT. It will be printed in full.

(Mr. Keenan's prepared statement follows:)

PREPARED STATEMENT OF ALBERT J. KEENAN, JR., VICE PRESIDENT, PASSENGER TRAFFIC, MOORE-McCORMACK LINES, INC.

My name is Albert J. Keenan, Jr. I am Vice President-Passenger Traffic of Moore-McCormack Lines, Incorporated. Appearing with me are Nicholas Pasco, Manager of our Washington Office and Mr. Ira L. Ewers our Counsel.

Moore-McCormack Lines strongly supports this legislation. In fact, without this legislation it is doubtful that our passenger vessels would have any reasonable opportunity for a profitable operation even after subsidy.

Moore-McCormack Lines operates two passenger ships, the SS ARGENTINA and SS BRASIL, each having 236 staterooms and accommodations for 557 passengers. These two ships were originally built for operation on Trade Route #1 between the east coast of the United States and the east coast of South America. With the advent of jet airplanes, the demand for port-to-port passenger

traffic on Trade Route #1 diminished to the point where the operation of these two ships was economically not feasible on a year-round basis. An anlysis of passenger traffic indicated a substantial demand during our summer months for passenger accommodations on Trade Route #6 to Scandanavia and Baltic ports. Market analysis also indicated a demand for traffic on a combination of Trade Route #1 and 15–A via the east coast of South America and South and East Africa. Our subsidy contract for these two vessels, accordingly, was amended to provide authority to operate one to four voyages on Trade Route #6 and one to two voyages on the combination of Trade Routes #1 and 15–A annually in lieu of conventional voyages on Trade Route #1. With the passage of P.L. 87–45 in 1961, further authority to operate off Trade Route #1 was extended to one-third year for each vessel. The authority to operate on Trade Routes #6 and 15–A plus the authority to operate "off-route" cruises substantially improved the operating results of these two ships but the flexability of scheduling these ships is still insufficient to result in "break-even" operation.

Travel in general follows a seasonal trend. Conventional voyages on Trade Route #1 to South America show a regularly predictable high loss during our spring and fall seasons. Although over half of our voyages to South America show substantial losses, we continue to make them in order to retain our eligibility for subsidy and because the cost of lay-up would be in the neighborhood of seven-thousand dollars per day and, still worse, the lay-up period would dissipate the crews which have been recruited and trained over long periods of time. The requirement to operate these ships on trade route voyages during the weak months results in losses ranging from one-hundred thousand dollars to four-hundred thousand dollars per voyage which contributes to an annual aggregate loss on these two vessels in the magnitude of one-million five-hundred thousand dollars. This loss, it should be emphasized, is after each vessel has received operating differential subsidy of between nine-thousand and ten-thousand dollars per day.

It should be noted here that the legislation under consideration will involve no increased cost to the government. Approximately the same subsidy would be continued to be paid as heretofore but with the aid of increased flexability in scheduling we would be able to serve substantially increased numbers of passengers and would expect to reduce our operating loss from one-million five-hundred thousand dollars a year to about a break-even point, or maybe a little profit.

Concern has been expressed that the granting of permission to United States-flag passenger ships to cruise more freely might result in undue hardship for the operator on Trade Route #4 in the Caribbean. In its statement before the House Committee, Grace Line placed considerable emphasis upon passenger carryings on cruises of "ten days or over" during the calendar years 1964 and 1966. The contention was made that during the months that United States passenger vessels cruised in the Caribbean, Grace Line passenger diminished an average of 75 passenger per month. The implication is that the drop occurred *because* United States passenger vessels were cruising in the area. No reference was made to the comparative insignificance of bookings on United States-flag ships as compared with foreign-flag ships. A study of Grace Line figures showed that total carryings in the Caribbean area on cruises of ten days or over increased by eighteen-thousand six-hundred and thirty-five or 27% between 1964 and 1966. The foreign-flag carriers experienced an increase of nineteen-thousand four-hundred and thirty or 42%. The United States-flag carriers, other than Grace, experienced an increase of five-hundred and twenty-two or 5%. Grace Line experienced a drop of one-thousand three-hundred and seventeen passengers or 10%. It is hard to believe that when foreign-flag carriers experienced an increase of almost nineteen-thousand passengers as compared with a mere five-hundred and twenty-two by other United States-flag carriers, that the other United States-flag carriers can be held accountable for the drop in Grace Line's business. Some other factor surely must underlie a drop in business in a rising market.

Whether or not enactment of the present bill would result in any significant increase in the number of voyages of ten days or more in duration in the Carribbean area is very doubtful. It would seem that the more likely market in this area at present are the five to seven-day cruises which are in such great demand by sales incentive and convention groups. If these groups are unable to find accommodations aboard United States-flag ships, they will continue to find ample foreign-flag tonnage available—tonnage which is not hampered by any of the restrictions placed upon United States-flag ships.

A matter of immediate and pressing concern is the balance of payments and so called "travel deficit". The Department of Commerce, Office of Business Eco-

nomics has prepared data showing the steady growth in the spread between the travel dollars received from overseas visitors and the amount spent by United States' residents abroad. These figures are further broken down to show foreign payments to United States carriers as compared with United States payments to foreign carriers. We show as Appendix I to this report the Department of Commerce figures. It is interesting to note that although the foreign payments to United States carriers has increased from one-hundred and six million dollars in 1960 to one-hundred and eighty-five million dollars in 1966, the United States payments to foreign carriers has increased from five-hundred and five million dollars to eight-hundred million dollars during the same period. These figures include payments to both sea and air carriers.

It is interesting to note that although the growth in the total volume of travel from the United States to foreign countries has been predominantly by air, the growth in travel by sea has been impressive. For your ready reference, we show these figures in Appendix II.

The total number of departures by sea reached a peak of eight-hundred and thirty-three thousand in 1964 and has tapered down to seven-hundred and sixty-four thousand in 1966. These figures, however, include the departures of both port-to-port passengers and cruise passengers. The picture of the cruise travel has not followed that of the "total sea departures". The departures of cruise passengers have grown steadily from two-hundred and eighty-four thousand in 1962 to three-hundred and sixty-seven thousand in 1966 (see Appendix III). Although United States-flag ships carried over fifty-thousand cruise passengers in 1966, this represented only 13.7% of the trade.

The market projection for ship travel for the next twenty years shows a steady decrease in travel for "basic transportation" and a steady increase in travel for education, recreation and relaxation. To compete effectively for this market, United States-flag ships should certainly enjoy the same freedom of operation as their foreign competitors. In our opinion, S. 2360 in its present form goes far toward placing our ships in such a position.

As this Committee is undoubtedly aware, the House Committee on Merchant Marine and Fisheries held hearings on H.R. 12639, a companion bill to S. 2360, and reported favorably a vastly amended form which in substance would (1) increase the off-berth cruising privilege from the present one-third year to two-thirds of each year and, (2) terminate the off-berth cruising privilege entirely at the end of three years from the date of enactment of the bill.

Although the amended form of H.R. 12639 would still leave United States-flag passenger ships in a far from competitive position vis-a-vis foreign ship, and would introduce an uncertainty concerning their continued operation beyond a three-year period, we believe there is such urgency for some form of relief that we ask this Committee to concur with the House Committee version, if that is what is needed to obtain prompt action.

I greatly appreciate having been afforded the opportunity to appear before you.

APPENDIX I

U.S. DEPARTMENT OF COMMERCE, U.S. TRAVEL SERVICE

DEVELOPMENT OF THE TRAVEL DEFICIT WITH CANADA, MEXICO, AND OVERSEA COUNTRIES

[In millions of dollars]

Calendar year	Receipts				Payments				Travel surplus (+) or deficit (−)				Foreign payments to U.S. carriers	U.S. payments to foreign carriers	Total travel deficit
	Canada	Mexico	Overseas	Total	Canada	Mexico	Overseas	Total	Canada	Mexico	Overseas	Total			
1960	469	182	224	875	380	365	987	1,732	+89	−183	−763	−857	106	505	−1,256
1961	449	200	236	885	425	370	940	1,735	+24	−170	−704	−850	110	507	−1,247
1962	392	217	269	878	479	395	1,011	1,885	−87	−178	−742	−1,007	113	575	−1,469
1963	372	232	330	934	522	448	1,120	2,090	−150	−216	−790	−1,156	118	615	−1,653
1964	448	250	430	1,128	550	480	1,171	2,201	−102	−230	−741	−1,073	150	645	−1,568
1965	490	265	500	1,255	600	502	1,298	2,400	−110	−237	−798	−1,145	165	720	−1,700
1966 [1]	590	290	555	1,435	685	545	1,420	4,650	−95	−255	−865	−1,235	185	800	−1,830

[1] Preliminary.

Source: Department of Commerce, Office of Business Economics.

Appendix II

PASSENGERS (INCLUDING CRUISE) DEPARTED FROM UNITED STATES TO FOREIGN COUNTRIES

(1) Fiscal year	(2) Total	(3) By air	(4) Percent of col. 2	(5) U.S. flag	(6) Percent of col. 3	(7) Foreign flag	(8) By sea	(9) Percent of col. 2	(10) U.S. flag	(11) Percent of col. 8	(12) Foreign flag
1946	389,584	252,539	64	217,364	86	35,175	137,045	36	78,253	57	58,792
1947	695,441	400,178	57	339,206	84	60,972	295,263	43	168,322	57	126,941
1948	786,319	411,104	52	321,083	78	90,021	375,215	48	181,953	48	193,262
1949	863,951	455,870	52	354,005	77	101,865	408,081	48	173,687	42	234,394
1950	981,124	514,019	52	393,830	76	120,189	467,105	48	183,528	39	283,577
1951	991,574	600,945	60	431,089	71	169,856	398,629	40	137,128	34	261,501
1952	1,198,503	709,036	59	496,352	70	222,684	479,467	41	193,755	40	285,712
1953	1,340,295	804,566	60	547,321	68	257,245	535,729	40	233,239	43	302,490
1954	1,411,963	846,625	59	561,999	66	284,626	565,338	41	232,936	41	332,402
1955	1,582.755	1,028,264	64	698,523	67	329,741	554,491	36	201,511	36	352,980
1956	1,813,498	1,235,846	68	821,123	66	414,723	577,642	32	191,736	33	385,916
1957	1,976,715	1,396,698	70	869,421	62	527,277	580,017	30	183,489	31	396,528
1958	2,194,343	1,609,437	73	952,650	59	656,787	584,906	27	164,034	28	420,872
1959	2,624,959	1,945,270	74	1,115,968	57	829,302	679,689	26	162,018	23	517,671
1960	2,939,330	2,218,860	75	1,212,134	54	1,006,726	720,470	25	165,884	23	554,586
1961	3,063,056	2,344,845	76	1,151,777	49	1,193,068	718,211	24	151,048	21	567,163
1962	3,318,817	2,547,246	76	1,232,885	48	1,314,361	771,571	24	155,470	20	616,101
1963	3,688,191	2,882,803	78	1,433,676	49	1,449,127	805,388	22	159,802	19	645,586
1964	4,139,932	3,306,921	79	1,628,007	49	1,678,914	833,011	21	157,290	18	675,721
1965	5,159,627	4,381,142	85	2,178,626	50	2,202,516	778,485	15	112,187	14	666,298
1966	5,856,512	5,092,986	87	2,605,713	51	2,487,273	763,526	13	124,530	16	638,996

Source: U.S. Department of Justice Immigration and Naturalization Service tables dated June 16, 1961, through January 1967.

Appendix III

PASSENGERS DEPARTED UNITED STATES ON CRUISES (TABLE 7 OF IMMIGRATION PACKAGE)

	Calendar years				
	1962	1963	1964	1965	1966
Bermuda	30,355	33,189	32,518	38,126	30,949
Caribbean	230,986	217,773	72,489	71,968	117,329
Europe and Mediterranean	13,695	15,604	16,527	22,105	16,494
Far East	1,086	670	5,774	5,196	4,947
Nassau, Bahamas		68,024	192,428	211,574	184,635
Southern South America	807	300	2,050	2,718	4,720
World	3,331	2,072	1,873	1,817	4,471
Other	3,653	5,297	1,025	2,304	3,763
Total	283,913	342,929	324,684	355,808	367,308

PASSENGERS DEPARTED UNITED STATES BY SEA ON CRUISES (TABLE 2 OF IMMIGRATION PACKAGE)

Calendar year	U S. flag	Foreign	Total
1962	40,539	243,374	283,913
1963	35,612	315,970	351,582
1964	43,738	292,458	336,196
1965	33,554	329,591	363,145
1966	51,898	314,238	366,136

Mr. KEENAN. Mr. Chairman, I would like to make a few remarks about the nature of this cruise business, which I think needs clarification. There are two basic types of cruise business, one which is the long cruise or the cruise that is designed primarily to appeal to a broad mass market. There is another area which has developed in large measure in the last 5 or 6 years and this is the group business, the sales incentive groups.

Senator BARTLETT. Beg your pardon?

Mr. KEENAN. Group business and sales incentive cruises run by such corporations as General Motors and General Electric and this kind

of thing, as prizes for their sales people. These cruises are primarily of 5 to 7 days' duration. These companies can't keep their sales staff away for any longer period.

A substantial volume of this business has moved on foreign ships, when American ships have not been available. But the demand is primarily for American ships. Our companies here are loyal to that degree, in that they would like to use our ships if they are available.

This kind of business is not competitive with 12- to 13-day cruises run on a berth service into the Caribbean area. I would point that out simply to show that we are not, in that area, competing.

I would also like to point out that this cruise legislation will not result in additional expenditures to the Government and that in the case of Moore-McCormack Lines, where our regular berth service to South America has fallen off to such a marked extent that we suffer an annual loss of up to a million and a half dollars, it will permit us possibly to get to a break-even point or maybe even into a slight profit position.

I very much appreciate the opportunity of appearing before you, sir. Thank you.

Senator BARTLETT. Mr. Keenan, let us assume that Moore-McCormack chartered its ship to one of these big companies to which you referred for a 5-day cruise. Where could the ship go in that time?

Mr. KEENAN. The 5-day cruises primarily are to Bermuda, sir; 7-day would take in San Juan and St. Thomas.

Senator BARTLETT. How long does it take to go down to San Juan?

Mr. KEENAN. The round trip, including a day in San Juan and a day in St. Thomas is 7 days. It is 2½ days down there.

Senator BARTLETT. How many ships does Moore-McCormack have that might be put on this cruise service?

Mr. KEENAN. Moore-McCormack has two ships, the *Argentine* and the *Brasil*.

Senator BARTLETT. How much of the year would you expect those ships to be engaged in this cruise business if permission is granted by this proposed legislation?

Mr. KEENAN. Well, it is hard to say. I would say possibly the 8 months. It would develop into that ultimately.

Senator BARTLETT. If General Motors wants to do this now, go down to the Caribbean with its salesmen who are being rewarded, and General Motors doesn't care to have its people go on a foreign-flag ship. What companies operating American-flag ships are available?

Mr. KEENAN. Well, the Export Line has the *Independence* and the *Constitution*. United States Lines has the *United States*. Conceivably also they could operate similar trips out of the west coast on the American President Lines' ships.

Senator BARTLETT. That would be after the fact, though, after this is passed?

Mr. KEENAN. Conceivably they could do it now on the west coast. Right now on the east coast we have just run out of time. The third of a year is not adequate. In this past year we found ourselves in a rather disastrous position in the springtime and canceled one voyage and substituted voyages up to Expo 67. These voyages were immensely successful and we could have run two additional voyages had the 120 days not run out with a very nice profit picture. But we had to lay the ships up for approximately 18 days for lack of time.

Senator BARTLETT. What American lines serve the Caribbean now on a year-round basis? That is passenger-carrying ships.

Mr. KEENAN. Grace Lines services it on a year-round basis, and Moore-McCormack serves San Juan, St. Thomas, and Barbados in connection with their east coast to South America service.

Senator BARTLETT. What was your reaction, Mr. Keenan, to the House action in limiting this to 8 instead of 12 months?

Mr. KEENAN. We are very much in favor of the 8 months if that is the most we can get. We would say we would be happy to move right along with the bill as presented by the House. We feel it is urgent that some relief be achieved, and we would be happy to urge that the bill in the House form be adopted, particularly if the 3-year termination is modified so that it doesn't throw section 613 entirely out of the picture at the end of 3 years.

Senator BARTLETT. You just heard Mr. Davis say that the rather formidable Bureau of the Budget gave the Maritime Administration only permission to favor the 6-month period. What would you think of that?

Mr. KEENAN. Well, I would be disappointed, Mr. Chairman. But 6 months is better than 4.

Senator BARTLETT. What is your view regarding the 3-year recommendation made by Mr. Davis?

Mr. KEENAN. I don't know what the objective is of the 3-year limitation. It puts us in an awkward position in booking future business. We are not able to say firmly that we will still be operating at that time. Any foreign ship can go in and say in 3 years' time we can guarantee or in 4 years' time we can guarantee you a ship. This would place us in a position of saying, "Well, maybe."

Senator BARTLETT. How many passengers can be carried by your ships?

Mr. KEENAN. Theoretically, 557. But actually we have 234 rooms on the ship, and on any normal voyage 470 is a practical capacity.

Senator BARTLETT. Do you find a very considerable demand for space on these ships when you do serve the Caribbean?

Mr. KEENAN. I beg your pardon, sir?

Senator BARTLETT. Do you find a very considerable demand for space on these ships when your ships make these cruises?

Mr. KEENAN. Yes; we do, sir.

Mr. BARER. Do I understand that you are agreeable to the House version, or the House-ordered reported bill with the exception of the language in the House bill which has the practical effect of wiping out all of section 613 at the expiration of 3 years?

Mr. KEENAN. We would be in favor of that if that is what is necessary to get some fast action on this. We feel the situation is somewhat desperate and we need relief.

Senator BARTLETT. Thank you, Mr. Keenan and Mr. Pasco and Mr. Ewers. We are 6 minutes under the wire.

Mr. Weber, vice president of American Export Isbrandtsen.

STATEMENT OF O. JOHN WEBER, VICE PRESIDENT, AMERICAN EXPORT ISBRANDTSEN LINES, INC.; ACCOMPANIED BY JAMES J. ROWAN, NEW YORK DISTRICT PASSENGER MANAGER, AND W. LYLE BULL, SPECIAL REPRESENTATIVE, WASHINGTON, D.C.

Senator BARTLETT. You are accompanied by whom, for the sake of the record?

Mr. WEBER. On my left is Mr. W. Lyle Bull, our special representative in Washington. And on my right, Mr. James Rowan, New York district passenger manager. And missing in the snow is Mr. Kurrus.

Senator BARTLETT. Mr. Kurrus on my last report was in the service station having snow tires put on his car.

Mr. WEBER. I am glad you know where he is, Mr. Chairman.

Mr. Chairman, American Export Isbrandtsen Lines is an American-flag line operating 44 passenger and cargo ships in various trades throughout the world. Our interest in the present legislation arises because of our passenger liners, the *Independence* and *Constitution*. These ships have been operated basically on trade route 10, between U.S. North Atlantic ports and the Mediterranean, under an operating differential subsidy agreement (FMB–87) entered into with the Government under the provisions of the Merchant Marine Act of 1936.

Our passenger service now consists primarily of voyages into the Mediterranean on approximately 3-week round trip schedules, known in the trade as sunlane cruises. In addition, we operate an annual Mediterranean springtime cruise of 55 to 65 days' duration.

It should be emphasized that during the last decade there has been a drastic and significant change in steamship passenger traffic. Much as we would wish it otherwise, passenger vessels are no longer really competitive for customers who essentially desire transportation from the United States to a foreign country or vice versa. Passengers making such trips for either business or personal reasons in practically all cases have an overriding time consideration and they usually elect airline transportation rather than travel by steamship.

This is not to say, however, that passenger operations are by any means at an end. There has, in fact, been a resurgence of passenger traffic, but this has been in so-called cruise operations rather than point-to-point operations on established trade routes.

It is our estimate that more than 80 percent of the passengers booked on oceangoing vessels at U.S. ports are cruise passengers who take these ocean trips for the purpose of vacation and relaxation rather than merely for transportation from one place to another.

Many passengers who travel by steamship as a means of transportation do so only on one part of their round voyage if time considerations allow. In such cases, the passengers are combining relaxation with travel.

It seems entirely unrealistic for the Merchant Marine Act of 1936 not to recognize this basic change in the nature of passenger movements. At best, it is an exceedingly difficult job to operate passenger ships with any hope of attaining a reasonable financial return on the investment.

Foreign-flag vessels as well as American-flag vessels are faced with similar problems and we believe it is fair to say that most steamship passenger operators at the present time are having an extremely diffi-

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cult time in attaining a level of profitability with respect to point-to-point operations.

Our company has incurred substantial losses from our passenger operations, notwithstanding the payment of operating-differential subsidy.

I should like to stress, nevertheless, that we do not lack enthusiasm concerning the future of passenger ship operations. We believe that we can remain in the passenger ship business and we desire to do so, and hope that eventually new passenger vessels can be constructed under the American flag.

However, reluctantly, we have finally been forced to admit that future operations of our smallest passenger vessel, the *Atlantic*, are not economically feasible. Our company acquired the *Atlantic* 6½ years ago after operations by the original owner had met with financial disaster. During the past 6½ years, we have experienced steady operating losses with the vessel, averaging over $1.3 million annually, after the payment of operating-differential subsidy. We have used all of our ingenuity and have tried every conceivable approach to achieve some measure of profitability with the *Atlantic*, but we have found no way of attaining profitable operations.

At the time that we testified on the cruise bill (H.R. 12639) before the House Merchant Marine and Fisheries Committee on October 24, 1967, we had planned to continue the operation of the *Atlantic*, at least for the approaching winter cruise season, in the hope that we might possibly approach a break-even result. However, upon recasting our figures, we found this to be most unlikely.

The vessel returned from a Mediterranean cruise on October 14 and was put in drydock at Todd Shipyard in Brooklyn. After inspection of the ship it was determined that over $200,000 would have to be spent for overhaul and refurbishing in order to make the cruises that had been scheduled for the vessel out of Florida in the Caribbean cruise trade. These cruises would have incurred an estimated loss of $500,000, after subsidy. Consequently we were confronted with the hopeless dilemma of spending in excess of $200,000 for the privilege of losing an additional $500,000.

Distressing as it was to our company, the only decision we could have prudently made under the circumstances was to lay up the *Atlantic*, although it is a decision which we have been attempting to avoid for several years.

There is a possibility for the continued operation of the *Atlantic* if that vessel has relatively unlimited cruising privileges. If the present cruise legislation should be enacted into law our company will closely reexamine placing the *Atlantic* back into cruise operations.

The layup of the *Atlantic* is certainly not indicative of any intention on our part to retire from the passenger ship business. On the contrary, it is a step designed to strengthen our overall position in passenger ship operations with the hope of achieving a healthy and profitable level of operations which may allow for the eventual construction of passenger liners.

At the same time that we determined to lay up the *Atlantic* we also undertook an entirely new approach to our passenger ship operations with the cooperation of the unions. In addition to experiencing recurring losses in the operation of the *Atlantic*, the operations of our other

two passenger ships, the *Independence* and *Constitution*, have also resulted in substantial losses. It is our opinion, however, that the losses with these vessels can be reversed and we are therefore undertaking a program to convert them to first-class passenger vessels from their present third-class status. The *Independence* and *Constitution* will emerge as floating resort hotels especially designed to capitalize upon the needs and desires of our passengers.

Consistent with the attitudes of the great preponderance of the present-day public, the full range of the ships will be available to all passengers. In our view these changes will make the ships much more attractive to passengers and render them effectively competitive with the modern passenger ships of foreign-flag operators that have been and will be entering service to augment or to replace existing tonnage.

From the design, configuration and planned utilization of all newly constructed foreign-flag passenger vessels it is clearly apparent that the major attention is being focused upon the growing cruise market. Among these are Cunard's recently launched *Queen Elizabeth II*, the *Hamburg*, now under construction in Germany, the *Sagafjord* and *Kungsholm* which have recently entered service under the flags of Norway and Sweden, respectively, as well as the new Greek-owned *Oceanic*, under Panamanian flag and designed for year-round cruise service from New York.

On the U.S. west coast the new Italian-flag SS *Princess Italia* and the new Greek-flag *Jason* will soon be offering additional cruises from major west coast ports.

Foreign-flag vessels are completely free to conduct passenger operations wherever they consider are the greatest market opportunities. Certainly the United States cannot hope to maintain a passenger fleet if American-flag passenger vessels are to operate within a strait-jacket because of unrealistic limitations imposed by our maritime legislation.

It must be recognized that the great predominance of the passenger business available today is cruise business and that operators of passenger ships must have the unfettered ability to operate their vessels in their own best business judgment, to the areas where the business exists and where the greatest chance of profit appears.

We started our Mediterranean Sunlane cruises in 1955 in order to generate new traffic and thereby to increase our passenger revenues. We accomplished this by allowing sightseeing time at our regular ports of call and by adding nearby "glamor ports" to the itineraries, as well as offering a program of cruise activities aboard.

From a modest beginning on eight sailings in the off-season of 1955, this program has grown, in the face of a declining transatlantic market, to the point where today all of our transatlantic sailings throughout the year are scheduled as Sunlane cruises.

In 1966, 32.9 percent of our total transatlantic passenger business was represented by Sunlane cruise passengers traveling from New York on the round trip without stopover.

Despite the growth of this program our flexibility in scheduling is still extremely limited by law and has adversely affected our competitive position vis-a-vis the foreign lines.

Since 1961, following the enactment of Public Law 87-45—the "Cruise Act"—section 613 of the Merchant Marine Act, our company

has availed itself of off-route cruising privileges. While these have been somewhat helpful in finding employment for our vessels at times when transatlantic revenue would otherwise be at extremely low levels, we have not enjoyed the full potential of this privilege due to the restrictions written into the law. These concern time limitations, restriction on origin and terminations on the coast normally served and the prohibition against one-way or part-cruise passengers.

In addition, changes in traffic patterns and vacation habits of travelers and our inability to go beyond the present statutory limitations have prevented us from obtaining a fair share of the cruise market.

There seems to be a general agreement that the future carryings of passengers by steamship will continue on approximately the same level as at present and, although the trend away from point-to-point transportation continues, the traffic is being replaced by increases in cruise carryings. This conclusion has been reached in the studies of many of the steamship lines and in impartial studies conducted by consultants.

The Port of New York Authority, in developing background information in connection with a plan for a new consolidated passenger ship terminal in the Port of New York, has reached the same conclusion. The port authority has concluded that as far ahead as 1975 the total number of passengers arriving or sailing from New York by ship will be approximately the same as in 1965. However, whereas in 1965, 57.1 percent of the passengers were transatlantic, in 1975 only 42 percent will be transatlantic passengers.This means that virtually two out of every three passengers using the Port of New York will be cruise passengers.

Our company is constantly striving to increase its passenger business in the Mediterranean area which has been served by our passenger liners throughout the year. It would still be our expectation, if the legislation now before your committee is enacted into law, to provide service to that area. We would, however, avail ourselves of the extended cruising privilege to the extent that was considered advantageous.

What is imperative, and we feel this legislation takes a necessary step toward this goal, is parity with the foreign-flag lines as pertains to schedule privileges. Parity in operating ability and parity in the ability to take advantage of existing markets is equally as important as parity of operating costs:

We need flexibility, presently available to the foreign lines, in moving our base of operations from one port to another if traffic can be generated in some new area. By the same token, we feel that the prohibition on carrying any one-way passengers in connection with off-route cruising privileges should be eliminated.

Americans are spending American money with foreign companies, because of the inability of American-flag companies operating off-route cruises to offer comparable or competitive services. Needless to say this continues to have an adverse affect on our international balance-of-payments position and helps to perpetuate the "travel gap."

In the hearings before the House committee the suggestion was made that a bill permitting the cross chartering of passenger ships between subsidized American-flag passenger liner companies might be adopted as a substitute for the cruise legislation contemplated in the bill under discussion.

We strongly believe that such a bill would fail to afford the necessary remedy. For example, in the Caribbean area to which the majority of cruises are operated from the U.S. east coast there is only one American passenger line subsidized on the route which encompasses that area. We consider it highly unlikely that this company would undertake the charter of either our *Constitution* or *Independence* at the rate of charter hire we would require to simply break even and then operate a cruise in competition with the foreign ships with the hope of financial success.

In summary, we have tried to make it clear that the cruise market is rapidly expanding in this country while the transatlantic passenger trade is declining.

Solely because of this increase in cruising, new foreign-flag passenger vessels have recently been built and more passenger vessels are on the way. But no American-flag passenger ship is presently under construction or even contemplated.

Unless more flexibility and freedom are granted to American-flag passenger operators so as to allow effective participation in this growing American market it appears to be a foregone conclusion that we will be faced with the demise of American-flag passenger vessels.

It seems to us illogical that our statutes should deliberately be designed to hinder the operator of American-flag passenger vessels from fully participating in the American passenger market while foreign lines have free rein.

We earnestly hope that S. 2360 will receive the favorable consideration of this committee since we consider the legislation to be essential for the survival of the American-flag passenger fleet.

I appreciate having been afforded the opportunity to appear before you.

Senator BARTLETT. Mr. Barer?

Mr. BARER. There is presently pending before this subcommittee a bill which would allow cross charter of passenger vessels. Are you familiar at all with that proposal, Mr. Weber?

Mr. WEBER. Vaguely.

Mr. BARER. Could you comment as to the relative merits of the two different approaches, extending the off-route cruising or allowing cross chartering?

Mr. WEBER. Well, the allowing of a cross charter would depend completely on an agreement between two parties to accept the rates of the ship, and if you couldn't make such an agreement you obviously couldn't cross charter, which would negate the purpose of it.

This bill is much preferable.

Mr. BARER. You prefer this bill?

Mr. WEBER. Yes.

Mr. BARER. Thank you.

Are you agreeable with the form of the bill as reported by the House as to the 8 months rather than 12 months?

Mr. WEBER. No. We prefer, frankly, the maximum time possible. The foreign-flag lines have the freedom to do as they please and we think it is unnecessary that American companies be restricted.

Mr. BARER. Do you feel the 12-month period, however, would do some violence to the concept of essential trade routes upon which the operating subsidies are based?

Mr. WEBER. I don't know about that.

Mr. BARER. As I recall, in 1961 the justification for the original cruise legislation was that this was to cover the slack period. Of course, if you extend it to 12 months of the year it has to rest on a different justification, unless you assume that all 12 months are slack.

Mr. WEBER. Well, we would accept the House bill, frankly, but we think that we should have the maximum amount of freedom because the foreign-flag lines do. But we would accept it.

Mr. BARER. Of course, you admit there is distinction in that the American-flag lines are receiving an operating subsidy from the Government?

Mr. WEBER. Yes. I believe some of the foreign lines are as well, under a different name.

Mr. BARER. Do you feel this is an indication that there should be a complete reevaluation of the essential trade-route concept, or do you feel this is strictly a passenger-service problem?

Mr. WEBER. I think it is a passenger-service problem. I couldn't comment on the other.

Mr. BARER. Would you prefer not have a 3-year limitation?

Mr. WEBER. Yes, sir. That is unnecessary restrictiveness. As Mr. Keenan said, many of the companies we deal with, such as General Motors or Lincoln-Mercury which we have had, you are dealing with them years ahead. They have to make their plans years ahead. And we can't say, "We are sorry, we can't talk to you after next year."

Mr. BARER. Do you anticipate that any cruises you would attempt to make as a result of legislation such as this would have a substantially adverse effect upon another operator?

Mr. WEBER. No, sir. There are just not that many of us Americans.

Mr. BARER. It wouldn't result in a situation where you had two poor operators, rather than one making money?

Mr. WEBER. No in my opinion, sir.

Senator BARTLETT. Well, Mr. Weber, the Baltimore Sun, on November 17, carried a long article about an arrangement that American Export has made with American Airlines and Diners—I can't pronounce that next word, F-u-g-a-z-y Travel Agency in an effort to win the traveling public back to the sea. Will you explain that a little bit?

Mr. WEBER. Yes. In this combination we have just made you have the Fugazy organization which has, say, 50 branch offices, it has, with the Diners Club. It has millions of people on their mailing lists who can be directly contacted. And in American Airlines you have the largest domestic operator, I believe, to help develop groups to the ports where we operate.

Senator BARTLETT. Mr. Fugazy described the January cruises of the *Constitution* as "free-swinging cruises that will break away from the stodgy style of the past and illustrate our new concept of fun." What is going to happen?

Mr. WEBER. If it is that much fun I am going to be there.

What I think he is talking about basically, I think is contacting some of the major golf—and I thing he has contacted Arnold Palmer—I am not certain—to lead in a series of three golf cruises, and to step up the entertainment, I guess, aboard the ships.

Senator BARTLETT. The congressional committee should accompany to see how they swing.

Mr. WEBER. You are invited.

Senator BARTLETT. I am too old for swinging so I will wait for a nonswinging cruise, thank you.

That article from the Baltimore Sun will be placed in the record at the appropriate point.

(The material referred to follows:)

[From the Baltimore (Md.) Sun, Nov. 17, 1967]

SEA-AIR TIE SET UP BY EXPORT LINE; TRAVEL AGENCY ALSO IN BID TO WOO PUBLIC BACK ONTO WATER

Washington, Nov. 21.—American Export Isbrandtsen Lines today announced an unprecedented tie-up with American Airlines and Diners—Fugazy Travel Agency in an effort to win the traveling public back to the sea.

The move was revealed by Jakob Isbrandtsen, president of American Export Industries, in connection with details proposed by the company to institute a "fresh new concept in ocean liner operations, creating shipboard innovations designed to make life at sea more exciting and thereby increase passenger traffc."

Basically American Export will renovate its luxury liners, S. S. Independence and S. S. Constitution, into one-class cruise type vessel and lay up the S. S. Atlantic until it decides what to do with that vessel.

PASSENGER BUSINESS AFFECTED

"American-flag passenger ship operators have been experiencing increasing difficulty in maintaining a viable operation," Isbrandtsen stated, at a press conference in New York today. "We think this association . . . Dith Diners-Fugazy and American Airlines offers a sensible and prudent business answer to this problem while at the same time, it opens up new vistas for the traveling public.

". . . We feel this approach is a pioneering effort to the shipping industry to revive the future of passenger liners and to channel company energies accordingly."

He said he had been in communication with Joseph Curran, president of the National Maritime Union, and the union has agreed to cooperate to the fullest to make the program a success.

The jobs aboard passenger liners are particularly important to an unlicensed union because there are so many of them. Laying up of the Atlantic will represent the loss of about 300 jobs to the NMU. However, that union has about 700 men on each of the other two American Export vessels.

Diners-Fugazy, the world's third largest travel agency and a division of diners club, henceforth will be responsible for sales, promotion, entertainment and other services aboard the two ships.

The travel agency was selected by American Export following its successful promotion and selling out of the Queen Mary for its final farewell cruise.

Among the highlights of the new concept are:

1. The Constitution and the Independence will be one-class cruise type vessels.
2. They will be refurnished as floating luxury hotels, with emphasis on big-name entertainment, and a wide variety of sporting facilities usually associated with resort hotels.
3. American Airlines will provide its facilities to boost passenger traffic for the two liners via an intensive cooperative sales campaign.
4. Refurbishing will permit the booking of conventions, sales meetings, seminars, group outings and other business gatherings. The rooms will be equipped with such facilities as sound systems, projectors, screens and recording devices.
5. Immediately after returning from its current cruise on December 4, the Independence will be placed in overhaul for four months. The Constitution will continue with its schedule, including six Caribbean cruises and the gala spring cruise and then join its sister ship in this program. The Atlantic will be withdrawn from operations until a determination is made of its future status.
6. In addition to the 50 Fugazy offices, all the facilities of the Diners Club will be utilized to promote bookings.

7. Frank Lockwood, former executive assistant manager of Cunard Line, has been designated general manager of the new sales setup by Diners-Fugazy.

William Fugazy described the January cruises of the Constitution as "three swinging cruises . . . that will break away from the stodgy style of the past and illustrate our new concept of fun in the sun aboard a luxury cruise liner with name entertainers and a night club of 1968 dimensions. . . ."

Senator BARTLETT. An article in the New York Times dated November 22, 1967, the headline of which reads "Independence To Be Overhauled in Bid for Convention Business," will be placed in the record, and likewise an article from the Travel Weekly in which the vice president of a Soviet steamship company reports on the operations of a new Soviet steamship company reports on the operations of a new Soviet vessel that started service between Europe and Montreal last year saying that this year the number of passengers has nearly doubled and they are going to go into the cruise business, too.

(The articles referred to follow:)

[From the New York Times, Nov. 22, 1967]

INDEPENDENCE TO BE OVERHAULED IN BID FOR CONVENTION BUSINESS—THE ATLANTIC WILL BE LAID UP BY AMERICAN EXPORT ISBRANDTSEN LINES

(By Farnsworth Fowler)

American Export Isbrandtsen Lines announced two moves yesterday to cut its $5-million-a-year losses in the waning passenger steamship business. It is laying up permanently the liner Atlantic, and seeking a new role for its two surviving passenger ships, the Independence and Constitution, as sea going resort hotels aiming at the convention business.

This concept will be pushed by Diners/Fugazy Travel, a division of Diners Club, to which American Export Isbrandtsen is farming out the role of general manager for passenger sales.

Jakob Isbrandtsen, president of American Export Industries, the line's parent company, making the announcement with William D. Fugazy, president of the Diners/Fugazy agency at a joint press conference at the Barclay Hotel, told a questioner:

"This is a complete break to change the whole concept of what we are going to use the ships for."

N.M.U. TOLD OF PLANS

In his opening statement he said that the National Maritime Union, through its president, Joseph Curran, had been informed of the plans for the Independence and Constitution, which he called "a joint venture of management and labor to keep two units sailing which can represent the United States offshore."

There had been no advance consultation, however, on the plan to lay up the Atlantic permanently, going beyond the cancellation Nov. 13, of five cruises scheduled for it, starting with one from Port Everglades, Fla., tomorrow, for which 347 reservations had to be canceled.

The 14,136-gross-ton Atlantic was built in 1953 as a freighter, converted for passenger service for the American Banner Line and then bought in 1959 by American Export. The Independence, built for American Export in 1950, and her sister ship, the Constitution, completed in 1951, measure 30,000 gross tons. Their service speed is 22.5 knots to 20 for the Atlantic.

Ralph R. Weiser, executive vice president of American Export Industries, said the company was facing a loss of $5-million in 1967 on the operation of the three ships. "We had to move expeditiously to save the Constitution and Independence," he said.

FLOATING RESORT HOTEL

Mr. Isbrandtsen announced that when the Independence returns from her present cruise Dec. 4, she will be placed in overhaul for about four months, to emerge as "a floating resort hotel adapted equally to cruising or point-to-point voyaging." The Constitution meanwhile will continue with her six scheduled Caribbean cruises and gala springtime cruise.

Mr. Isbrandtsen said the two surviving ships were built under the policy of the Maritime Act of 1936, before passenger planes were flying the Atlantic Ocean. He

made it clear that the airplane, not labor costs, was the main reason for the decline of passenger traffic. "It changed how to get to Europe—that's all," he said.

Mr. Fugazy said the two ships, even without changes, could be easily adapted to the role of floating hotels where corporate or professional groups could hold meetings and conventions. He said his travel agency had had long experience in promoting group travel.

He cited his agency's success in selling passage on the Queen Mary's final voyage to Long Beach, California, against the judgment of those in the business who thought there would be few takers, as proof "that if you know how to market a product you can sell it."

He said that liners such as these could "far surpass the average resort hotel in satisfying all of the singular requirements of meetings and conventions."

There would be more meeting rooms needed, he said, and more emphasis on night-club entertainment attracting individuals as well as groups.

"We are even investigating," he said, "the possible advantages of three-class dining on the new one-class ships, whereby meals are not included in the passage but may be purchased at will in one of three restaurants ranging from a coffee shop to the finest cuisine in a luxury dining room."

Immediate plans for change on the Independence include elimination of the kitchen now serving tourist-class, giving more space for night-club or other public rooms.

The single-class change would not mean uniformity in accommodations, he emphasized, since there would be a wide range of prices for cabins, as with hotel rooms.

Alfred Bloomingdale, president of Diners Club, said its membership of 1,700,000 "would be a prime source of potential business for American Export Isbrandtsen." He said Diners Fugazy would also provide a reservation system through another subsidiary just acquired, to be known as Reservations World, currently undergoing computerization in anticipation of "the tremendous growth of the travel industry over the next 10 years."

Jerry Jacobs, director of passenger sales for American Airlines, also took part in the press conference and said his company was interested in group travel arrangements and flying convention participants from their home to the port of embarkation.

OTHER PORTS OF EMBARKATION

Mr. Isbrandtsen said in reply to a question that New York would not necessarily be the port of embarkation for convention cruises, which might go from Port Everglades or other East Coast ports.

Mr. Weiser said that American Export Isbrandtsen would continue to seek subsidies for passenger services on the Mediterranean passenger routes, as well as for a part of the construction cost of changes in the Independence. If the changes prove successful, the Constitution is expected to undergo the same process later on.

Mr. Fugazy said that his company had engaged Frank Lockwood, former executive assistant general manager of Cunard Lines as general manager of its new passenger sales service for the shipping company.

[From the Travel Weekly, Nov. 21, 1967]

SOVIET S.S. OFFICIAL PREDICTS INCREASED NORTH ATLANTIC TRAFFIC

MONTREAL.—Undaunted by the dwindling North Atlantic traffic figures reported by most other shipping lines, a Baltic Steamship Co. executive has predicted that "more passenegrs will sail than ever before" on the *M.S. Alexander Pushkin* between Montreal and Europe.

Captain V.I. Faktorovitch, first vice-president of the Russian steamship company, said that "we expect sea travel in the coming seasons to maintain its percentage of the total traffic" on North Atlantic routes. He said the *Alexandr Pushkin* has "nearly doubled" the number of passengers carried this year over 1966, when the ship was introduced into trans-Atlantic service.

Faktorovitch said the vessel would make its first summer cruise between Montreal and Bermuda next July, and added that the voyage would probably become an annual feature of the ship's program. He said the company also was planning to introduce a series of Caribbean cruises during the 1968–69 season.

He attributed the *Alexandr Pushkin's* traffic gains to the growing popularity of

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air-sea packages, explaining that the Baltic Steamship Co. has such arrangements with some 22 airlines.

He said that 50% of the ship's North American passengers come from the U.S.

Senator BARTLETT. Now I am interested, Mr. Weber, in your statement that you are going to renovate the *Independence* and the *Constitution*, rehabilitate them, or change them, so that you will have one class of passengers. Has this been tried out by any of the foreign lines?

Mr. WEBER. On the transatlantic I don't believe any company has. In the cruising, of course, they all are one class. What we hope to achieve, frankly, is to do away with what we think is the outdated three classes on the ship and to appeal to Americans particularly who are not segregated conscious in terms of classes.

Senator BARTLETT. Well, you are going to lose some people, I assume, who want to be segregated, who want to——

Mr. WEBER. There are not enough of them.

Senator BARTLETT. There are more of the others?

Mr. WEBER. There are many more people who prefer one class, we believe, than those who wish segregation.

Senator BARTLETT. Are the rates substantially the same to the Caribbean, for example, as between foreign and American operators?

Mr. WEBER. Yes; they are. They have to be because you are in a very competitive market and you obviously have to have a rate that is within the range of your nearest competitor, which is the foreign line.

Senator BARTLETT. How many passengers will the *Independence* and the *Constitution* carry when this shipyard job is accomplished?

Mr. WEBER. Nine hundred to a thousand.

Senator BARTLETT. If this bill is passed will the *Atlantic* go into service again?

Mr. WEBER. Well, as I said in my statement, we would have another look at the *Atlantic* and would consider putting it back.

Senator BARTLETT. All right. Thank you very much.

Mr. John Thurman, assistant vice president, Grace Line.

STATEMENT OF JOHN THURMAN, ASSISTANT VICE PRESIDENT, GRACE LINE, INC.; ACCOMPANIED BY ODELL KOMINERS, ATTORNEY, AND FREDERICK N. METCALF, ASSISTANT PASSENGER SALES MANAGER

Mr. THURMAN. Mr. Chairman, first for the record I would request the spelling of my name be corrected on the witness list. It is T-h-u-r-m-a-n. I am accompanied here by Mr. Odell Kominers, our counsel, and Mr. Fred Metcalf, who is our assistant passenger sales manager.

Mr. Harold Logan, the president of Grace Line, intended to be here this morning, and desired to be here, but unfortunately he is in South America on important business and is unable to attend and he sends his regrets to the committee.

Senator BARTLETT. On a cruise?

Mr. THURMAN. No, sir; he is meeting with various and sundry people at different ports of call. I have supplied the committee with our prepared text, and I would like to request that it be placed in the record.

Senator BARTLETT. That will be done.

(The prepared statement of Harold R. Logan follows:)

STATEMENT OF HAROLD R. LOGAN, PRESIDENT OF GRACE LINE, INC.

Mr. Chairman, on August 30, 1967, you introduced S. 2360 to amend Section 613 of the Merchant Marine Act of 1936. This bill, if enacted, would allow subsidized passenger vessels to provide passenger, cargo, and mail services on a nearly full-time basis world-wide, including areas now served by other U.S. operators on their essential trade routes.

At the very outset I would like to point out that the Grace Line, as a major operator of U.S. flag passenger vessels, is only too well aware of the serious problems now being faced by every American Steamship line engaged in the passenger business.

In opposing the bill presently before this Committee, it is not our intention to add to the difficulties of our colleagues in the ocean passenger business. On the contrary, it is our hope to assist this Committee in finding some equitable solution which will help to solve the economic problems of the presently distressed U.S. passenger fleet.

We are convinced that before this Committee considers a controversial bill, such as S. 2360, it should give prior careful consideration to the so-called cross-chartering bill, S. 1758, which has already been introduced in this session of Congress by Senator Magnuson.

On May 11, 1967, when Senator Magnuson introduced S. 1758 he stated in the Congressional Record:

"This cross-chartering will allow the company most familiar with the trade route to administer the service through its established agents, and to integrate the ships with its normal marketing and advertising plans. It would also assure the line owning the vessel the most effective use of the ship during the 'off season' period, without the necessity of engaging in a trade with which it is not familiar. It will also preclude the undertaking of advertising and other expenses which substantially exceed those required by the existing operators."

At that time Senator Magnuson summed up his argument on behalf of the cross-chartering bill as follows: "This bill will permit all lines to maximize their service potential by employing other available passenger ships."

The cross-chartering bill, which was sponsored by the Committee of American Steamship Lines, has already been endorsed by all U.S. Flag Companies operating passenger vessels. The primary purpose of this bill is to seek better utilization of our existing passenger fleet while at the same time not present an undue hardship to any single operator.

I realize that the Committee is considering the bill now before it in a sincere effort to seek some solution to the passenger ship problem. I would, therefore, strongly urge the Committee, in its present examination on the passenger ship problem, to broaden the scope of these hearings to include the cross-chartering bill. I am convinced that this Committee will be in a much better position to take effective legislative action in regard to the problem now before it if it would seek the views of the various shipping associations, steamship lines and the executive branch with regard to the cross-chartering bill, as a reasonable and far preferable solution to this most difficult problem.

It is our opinion that S. 2360 as drafted would substantially negate the essential trade route principle, and eliminate many of the safeguards built into the 1936 Act to protect operators performing under subsidy contracts. It is also completely inconsistent with the arguments made in support of the earlier "cruise legislation" in 1961.

In essence, this bill if enacted into law, would mean that subsidized U.S. flag passenger vessels now serving as common carriers on essential trade routes could become primarily casual cruise operators. This novel concept is clearly not in keeping with the basic policies of the Merchant Marine Act of 1936.

In 1961, the Merchant Marine Act of 1936 was amended by Public Law No. 87–45, to add a new Section 613 to the Act which authorized up to a four-month annual limited departure from the essential trade routes concept by passenger vessels. Prior to enactment, this legislation was subject to extensive hearings both before the House Merchant Marine Committee and the Senate Commerce Committee. Throughout the hearings it was spelled out time and again by Government and private witnesses that the sole purpose of the legislation was to assist U.S. companies operating passenger vessels during their "slack season."

In his opening remarks before the Senate Committee, the Maritime Administrator on March 9, 1961 stated:

"Gentlemen, the purpose of this bill, H. R. 3160, is to authorize removal of subsidized passenger ships from the essential trade routes during their *slack season*, with a continuation of the payment of operating-differential subsidy with respect to such ships while they cruise off the essential trade routes."

All of the operators advocating the legislation during the hearings time and again stressed the point that their only objective in supporting the bill was to seek employment for their passenger ships during the "off-season", and that there was no intention whatsoever to desert their established trade routes.

Consequently, the Committee reported out a clean bill which provided certain safeguards to operators serving an essential trade route (which will be discussed later) and limited indiscriminate cruising off of contractual trade routes to one-third of a calendar year for the single purpose of aiding passenger vessel operators during their so-called off months.

Agreement was later reached by both bodies of the Congress that, if service was performed on the essential trade routes for two thirds of a year by passenger vessel operators, the basic concepts of the 1936 Act, relating to subsidy contracts, would be substantially met and certain operators could then apply for permission to cruise during the remaining one-third of the year to increase earnings. These provisions were enacted in Public Law No. 87–45.

The bill now proposed, by requiring service on the assigned route for only an unspecified part of each year (1 voyage, 2 voyages?), would remove the principal limitation in consideration of which the 1961 Act was passed.

In addition, numerous propositions were presented to Congress during the hearings in 1961, by advocates of the proposed legislation, to further infringe upon the rights of operators serving established trade routes in areas of potential cruises. However, on the whole, most of these unreasonable demands were denied and the following specific safeguards for existing operators in a trade were included in the law when passed:

"(1) It shall carry no mail unless required by law, or cargo except passengers' luggage, except between those ports between which it may carry mail and cargo on its regular service assigned by contract;

(2) It shall carry passengers on a round-trip basis, except between those ports between which it may carry one-way passengers on its regular service assigned by contract;

(3) It shall embark passengers only at domestic ports on the same seacoast of the United States as that to which the vessel is assigned on its regular service; and

(4) It shall stop at other domestic ports only for the same time and the same purposes as is permitted with respect to a foreign-flag vessel which is carrying passengers who embarked at a domestic port."

The bill, S. 2360, not only eliminates the two-thirds requirement for maintaining service on the contract essential trade route and substitutes in lieu thereof that a passenger vessel furnish adequate service only for "part" of each year, but also repeals all of the protection afforded existing operators listed above in Section 613(c) of the Act. Not only are cruise passengers included from anywhere to anywhere from any U.S. port but way-to-way passengers as well, and even the restrictions against carriage of mail and cargo are eliminated. The only protection to be afforded the subsidized operator regularly assigned to the trade route is the already existing requirement of Section 613(e) that "the proposed cruise" not substantially adversely affect the existing operator's service. The finding required by Section 613(e) relates in terms only to a single proposed cruise, and not to the collective adverse impact of cruises upon the existing operator. It may well be that no single cruise looked at in isolation would have a substantial adverse effect, but that all authorized cruises together would have a ruinous effect, particularly in view of the increased number of cruises which would be eligible for approval under S. 2360. Section 613(e) thus insures no protection even in theory.

Moreover, in practice the so-called protection afforded under Section 613(e) has in the past proven to be a myth. Time and again, Grace Line filed notices of opposition to proposed cruises directly affecting our service, yet no oral arguments have ever been held and to the best of our knowledge never has a single cruise applicant been denied.

During the hearings in 1961 numerous parties, as well as Grace Line, pointed out that the basic concept of the 1936 Act clearly established in the law that additional subsidized vessels should not be allowed to invade the trade route areas served under contract by other subsidized operators without careful examination of all of the facts involved in each particular case through the

hearing process of Section 605(c). Needless to say, if S. 2360 should now be enacted without the protection guaranteed to subsidized operators on essential trade routes by Section 605(c), one of the fundamental purposes of the Act will be violated.

Further, it is our belief that S. 2360 carries with it grave implications of possible breach of contract. Grace Line is a party, with the United States of America, to an Operating-Differential Subsidy Agreement ("ODSA"), Contract No. FMB–49, executed in 1956, to run for twenty years.

Attached to our statement is a legal memorandum discussing the issues involved.

In reliance on our contract Grace Line has invested a great deal of money in the construction of passenger-carrying vessels—some 30 million dollars for the construction of the *Santa Rosa* and *Santa Paula* for operation on Trade Route 4 between U.S. Atlantic ports and the Caribbean and about 39 million dollars for four modern passenger cargo vessels of the *Santa Magdalena* class for operation between Atlantic Coast ports and the West Coast of South America. These vessels have a 25-year statutory economic life.

As we pointed out earlier, the sole purpose of the 1961 Amendments to the 1936 Act was to assist operators of the transatlantic passenger vessels during their so-called "slack season", the mid-winter months, when cruises into warmer waters would be attractive. This has not proven to be the case and in two representative years for example, 1964 and 1966, (1965 must be discounted due to maritime strikes of approximately 105 days), cruises were authorized into the Caribbean area for seven months of each year. The enclosed tabulation clearly shows that during the months U.S. passenger vessels cruised in our Trade Route our passenger carriage diminished an average of 75 passengers per month. This is most significant to the Grace Line when we reduce these cold statistics to dollars and cents. The average passenger fare for our Caribbean passenger ships is about $700, which means that we have lost some $55,000 a month passenger revenue alone because of the 1961 cruise bill amendment. It can be reasonably assumed that if this bill is enacted off-route cruise ships will be operating on our Trade Route for twelve months a year. Under such circumstances, our passenger revenue losses from this increased competition could well amount to a million dollars annually. In addition, in order to stay competitive with American flag ships operating cruises in our Trade Route it has been necessary, since 1961, to double our advertising and solicitation expenses at a cost of some quarter of a million dollars a year.

The ramifications of S. 2360 are clear: numerous selective cruises in or near our ports of call during any time of the year could draw off revenue when needed most, in violation of the protection guaranteed under the 1936 Act. Therefore, we would oppose this legislation unless it would be amended as to specifically exclude the Caribbean area or at the very least provide that: "approvals for cruises shall not be granted where such approvals together with all other approvals granted, result in off route cruises to any trade route during more than four calendar months of any year."

One of the provisions of S. 2360 is that an operator seeking to cruise off-route shall "not be required to schedule or make berth voyages in positions which will involve substantial losses. The Board may excuse such voyages and the time of such excused voyages may be employed under the provision of this section."

Simply stated, one of the criteria for off-route cruises is the showing of substantial losses on the operator's regular route.

However, it seems neither logical nor equitable that an operator showing substantial losses on its own route should be allowed to invade the territory of another subsidized operator who may be also sustaining losses on its own regularly assigned trade route.

Therefore, I would also suggest, if the Committee should approve the concept of this bill, an amendment providing that one operator could not invade the trade route area of a second operator unless that second operator was showing a reasonable profit on its own trade route would be proper.

In conclusion, we recommend that the Committee not give favorable consideration to S. 2360, as drafted, for the following reasons:

1. The Trade Route concept, which is one of the basic principles of the 1936 Act, would be abrogated.
2. Serious legal issues could arise concerning the Government's contractual obligations under Grace Line's, as well as other U.S. steamship companies' operating subsidy contracts.
3. Further financial hardship would be brought upon the Grace Line and other operators serving their designated essential Trade Routes.

4. It is our belief that careful consideration should be given to the enactment of the cross-chartering bill (S. 1758) as a solution to the present problems facing the U.S. flag passenger fleet.

NUMBER OF PASSENGERS ON CRUISES OF 10 DAYS OR OVER FROM NEW YORK TO THE CARIBBEAN AREA

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept	Oct.	Nov.	Dec.
1964												
Grace Line	984	907	989	1,158	1,296	1,138	1,488	1,215	836	980	1,033	967
Other U.S. flag	1,399	4,614	980	531	-----	-----	-----	-----	575	270	-----	1,467
Foreign flag	9,217	8,738	6,109	1,659	1,210	1,435	2,683	1,425	485	1,947	3,674	7,927
Total	11,600	14,259	8,078	3,348	2,506	2,573	4,171	2,640	1,896	3,197	4,707	10,361
1966												
Grace Line	857	1,016	1,080	1,306	902	1,019	1,249	1,135	683	496	973	958
Other U.S. flag	2,011	2,813	-----	879	-----	415	-----	-----	-----	1,705	510	2,025
Foreign flag	13,190	11,701	7,537	4,783	1,350	1,036	4,055	2,975	921	2,159	6,192	10,040
Total	16,058	15,530	8,617	6,968	2,252	2,470	5,304	4,110	1,604	4,360	7,675	13,023

Mr. THURMAN. I will attempt to summarize the remarks in the prepared text. We oppose S. 2360 as drafted for the following reasons:

1. The trade route concept which is one of the basic principles of the 1936 act would be abrogated.

2. Serious legal issues could arise concerning the Government's contractual obligations under Grace Line as well as other U.S. steamship companies operating subsidiary contracts.

3. Further financial hardship would be brought upon the Grace Line and other operators serving their designated essential trade routes.

4. It is our belief that careful consideration should be given first to the enactment of the cross-chartering bill, S. 1758, which is before this committee as a possible solution to the present problem facing the U.S.-flag passenger fleet.

Mr. Chairman, the Grace Line, as a major operator of U.S.-flag passenger vessels, is well aware of the many difficulties of our colleagues in the ocean passenger business, and we would like to assist this committee in any way possible to arrive at a reasonable remedy. To this end, we recommend that the committee, prior to considering such a controversial bill as S. 2360 which clearly if enacted would hurt some lines, first look into the potential values of the so-called cross-chartering bill, S. 1758, introduced by Senator Magnuson. This bill has been endorsed by all U.S.-flag companies operating passenger vessels and would give better utilization of our existing passenger fleet without presenting a hardship to some operators.

We feel that S. 2360 is not the proper solution since it would substantially negate the essential trade-route principle, and eliminate many of the safeguards built into the 1936 act to protect operators performing under subsidy contracts. In essence, this bill, if enacted, would mean that subsidized U.S.-flag passenger vessels now serving as common carriers on essential trade routes could become primarily casual cruise operators. This novel concept is clearly not in keeping with the basic policies of the 1936 act.

In 1961, when the law was amended to allow limited cruising, all of the proponents stated that their only desire was to lessen losses during their slack season. Now they wish to invade other trade routes at any time of the year whenever they see fit.

We realize that the cruise passenger business is increasing in the Caribbean by leaps and bounds, and the lion's share of the business

is being carried on foreign-flag vessels. We further know that there is a certain portion of the American traveling public that will only use U.S.-flag ships, and these are the people we lose when other U.S. vessels cruise in our trade route area.

The table in our prepared statement shows that during the months U.S. passenger vessels cruised in our trade route, our passenger carriage diminished an average of 75 passengers per month. In terms of dollars and cents, with an average fare of about $700, we are losing $55,000 a month to them now. If they are allowed to cruise for 12 months, as this bill would allow, we stand to lose up to a million dollars annually.

Finally, we feel that there are grave legal implications involved in this legislation which, with your permission, will be discussed for a few minutes by Mr. Kominers.

Mr. KOMINERS. I am a member of the law firm of Kominers & Fort. Following the introduction of S. 2360, and its companion bill, H.R. 12639, and prior to the House committee hearings on the latter, Grace Line asked our opinion as to the impact of this proposed legislation upon Grace Line's legal rights under its operating differential subsidy agreement with the Government.

We prepared a written opinion concluding that while the question has novel aspects, and the ultimate judicial answer cannot be predicted with certainty, enactment and implementation of this proposed legislation would probably violate Grace Line's rights and that, in any event, the issue is sufficiently close to justify seeking judicial enforcement of those rights.

In summary, we believe that when Grace Line and the Government executed the operating-differential subsidy agreement, the Government committed itself, in effect, not to change the ground rules to the detriment of Grace Line during the life of the agreement.

This was the general understanding of all parties, when the 20-year agreements were executed in 1956. A basic part of those ground rules has been that additional subsidized service on an essential trade route, served pursuant to a subsidy, would not be authorized unless, first, the new operator makes the same commitments to the route as the existing operator has made, and second, under section 605C of the 1936 act, the necessary hearing is held and findings are made.

Based upon this understanding, Grace Line has undertaken a tremendous financial commitment. S. 2360, if enacted, would drastically alter these ground rules to Grace Line's detriment, by authorizing additional subsidized vessels to operate on essential trade routes now served by it, with no commitment to the service and without the hearing and findings under section 605C.

Not only does this raise a question of basic fairness, under the decided case, it raises as well a serious question of abrogation of Grace Line's rights as a matter of law. Our written opinion is cast in the context of the companion bill, H.R. 12639, which, as introduced, would be identical to S. 2360. Following the House committee hearings, a majority of the House committee, according to H.R. 988, proposed to amend the House bill to extend the limitation on cruising to 8 months of the year and to make the entire legislation of 3 years' duration.

These amendments to the House bill would not alter the basic problem presented by the proposed legislation, and our opinion applies

with equal force to the amended bill. I ask that a copy of the letter embodied in that opinion be placed into the record of this committee's proceedings.

Mr. Chairman, I would be pleased to answer any questions regarding the opinion that you may have.

Mr. BARER. When was Grace company's contract with the Government entered into?

Mr. KOMINERS. I believe in 1957, effective January 1, 1958. Let me check that.

It was entered into in 1956, beginning January 1, 1958.

Mr. BARER. Then the 1961 legislation was subsequent to the time of that?

Mr. KOMINERS. It was.

Mr. BARER. Is it your opinion that the 1961 legislation was an abrogation of the contract obligation?

Mr. KOMINERS. It is, Mr. Barer. The legal principle is the same. The degree of impact is different.

Mr. BARER. Do you feel that even under the circumstances resulting from the 1961 act, there has been a substantial derogation of the contract rights of Grace, whether you are judging this under the substantially adverse effect test or just under substantial performance of the contract?

Mr. KOMINERS. I don't know how you would phrase it, but I say it is a breach of the commitment that the Government made, which is inherent in the contract; namely, the preservation of the essential trade route concept in the sense that the operator is supposed to be committed to a route rather than freewheeling and dealing all over the world at its pleasure, and that, secondly, that there was not the same type of guarantee under section 605C provided for, and this was an element that each one of the operators at that time relied upon.

Before making a further comment, you will notice the opinion refers to some hearings held before this 20-year contract was entered into. One thing both the Congress and the industry sought was some certainty in the ground rules.

Everyone said, in substance, before we make a further commitment, we want to know what the ground rules are. Hearings were held, but of course not within this area. But the general agreement was that the ground rules would be maintained for the life of the contracts.

Mr. BARER. Theoritically, Grace has the same benefit from this legislation as any other contracting party, but you feel that is not persuasive?

Mr. KOMINERS. As you say, it is true in theory, but not in practice.

Mr. BARER. And you feel the savings clause of "no substantially adverse effect" does not so limit the impact of this legislation as to not constitute a breach of the contract?

Mr. KOMINERS. That I cover on page 9, paragraph 17. You will notice the test is the substantial adverse impact of a particular cruise. Any one cruise might not have a substantial adverse impact. But a series in the aggregate might very well.

And frankly, I don't see how Maritime 2 years or 6 months or 8 months in advance of a given cruise knows enough about what will be transpiring 8 months later to make a really critical value judgment of what is substantially adverse.

I also feel, as you very well demonstrated by your questions, that they don't really have any criteria.

Mr. THURMAN. I might add to that, Mr. Barer, in answer to a question you asked one of the earlier witnesses, in 1961 when this law was passed, and the first cruise came into our area, we went to great expense and filed long and difficult complaints about how this would affect our service.

We didn't receive a reply for many months, and they just rather brushed it aside. So for the first 2 years we objected, saying this would affect our service. To the best of our knowledge, no cruise has ever been turned down, and a rather pro forma letter came back each time we made this objection, so we finally gave up. But we have started again.

Mr. BARER. Essentially, the position you are taking is that even though any one cruise might not in itself have a substantial impact—perhaps you wouldn't want to concede that—but even if that should be the case, the cumulative effect of cruise after cruise after cruise does in the aggregate constitute a substantial adverse impact on Grace; is that it?

Mr. THURMAN. Absolutely.

Senator BARTLETT. How many ships does Grace operate in the cruise business?

Mr. THURMAN. Sir, we don't operate our vessels exclusively in the cruise business. We are performing our trade route. But on our line "C" service, in which we are being damaged at this time by this particular legislation, we operate five vessels. We have the two vessels, the *Rosa* and *Paula* which carry 300 passengers each, and then we have three combo vessels which carry 52 passengers each. And there I might state that these combo vessels are losing money at a rapid rate. They have got to be replaced, they are old vessels. And we are at this time looking into a replacement program for these three vessels. And with this type of legislation hanging over our heads, it makes it extremely difficult for us to come to any conclusion as to what the future might bring.

Senator BARTLETT. Do all five ships serve the Caribbean ports?

Mr. THURMAN. Yes, sir.

Senator BARTLETT. How many passengers did Grace carry last year who might be nominated as cruise passengers?

Mr. THURMAN. Mr. Chairman, I don't have a breakdown between cruise and way-to-way passengers. As you know, we are really in the service there to carry people to ports of designation. However, in recent years the cruise business has become big business in the Caribbean area. But in fiscal year 1967, we carried 10,995 passengers on the *Rosa* and *Paula*, and 1,043 passengers on our line "C" combos, the three combo vessels.

Senator BARTLETT. Do you know what percentage of occupancy there was for all your liners?

Mr. THURMAN. Again, I have asked our office to get this to me so I could have this for you today, in fiscal year 1967, which brings us up to just a few months ago, on the *Rosa* and *Paula* our berth utilization was 71.9 percent, our line "C" combo utilization was 55.2 percent, giving us a total of almost an even 70-percent utilization.

Senator BARTLETT. Is that considered good, medium or bad?

Mr. THURMAN. In the passenger business that is pretty good, not quite good enough, I might say.

Senator BARTLETT. Ninety-nine percent would be better.

Mr. THURMAN. Absolutely.

Senator BARTLETT. Now since you started to testify there has arrived a report from the Treasury Department which will be placed in the record together with the other departmental reports. And the Department recommends enactment of the bill and notes that the adverse balance of payments in 1965 on account of the diversion of American passengers to foreign-flag vessels amounted to over $200 million.

In that same year, out of a total of 371,00 cruise passengers, departing from U.S. ports, nearly 333,000 cruised in foreign-flag ships and fewer than 39,000 on U.S.-flag ships. So it wouldn't appear that there is any overwhelming insistence on the part of American travelers to use American liners.

Mr. THURMAN. Mr. Chairman, I think I can answer that very easily. I believe that letter from Treasury is completely unfair. If you look at our table which we have furnished you, you will notice we used the years 1964 and 1966 as representative years, because in 1965 we suffered a 105-day strike.

There were no U.S.-flag-passenger vessels cruising in the Caribbean for 105 days, and anybody who wanted to cruise had to go on a foreign-flag vessel.

Senator BARTLETT. That is a very important point. I am glad you made it.

I have no further questions. Thank you.

Mr. THURMAN. Thank you, Mr. Chairman.

(Letter from Odell Kominers follows:)

LAW OFFICES OF KOMINERS & FORT,
Washington, D.C., November 6, 1967.

HAROLD R. LOGAN,
President and Chief Executive Officer,
Grace Line, Inc.,
New York, N.Y.

DEAR MR. LOGAN: At the request of Grace Line Inc. we have considered the impact of possible enactment of H.R. 12639 upon Grace Line's legal rights under its existing operating-differential subsidy agreement with the United States. The question has novel aspects; should the matter be presented for judicial decisions, the answer is not predictable with certainty. It is nevertheless our conclusion that enactment and implementation of H.R. 12639 would probably violate Grace Line's existing contract rights. The issue is in any event sufficient ciently close to justify Grace Line's seeking enforcement of those rights through the courts.

1. Grace Line and the United States of America are parties to an existing contract, referred to as an Operating-Differential Subsidy Agreement ("ODSA"), No. FMB-49, entered into on February 17, 1956, for a term of twenty years beginning January 1, 1958. That contract was executed under the authority of Title VI of the Merchant Marine Act, 1936, and is presently in force. In reliance thereon Grace Line has undertaken a major financial investment, including the construction of vessels with substantial passenger accommodations, for operation on essential Trade Routes 2 and 4 between U.S. Atlantic Coast ports and ports on the West Coast of South America and in the Caribbean, respectively. The vessels have been constructed in accordance with Maritime Administration determinations of essentially made pursuant to Section 211, Merchant Marine Act, 1936, are contractually committed to operation under the United States flag, and have a statutory economic life extending beyond the life of the ODSA. Investment in those vessels and attendant commitments would not have been undertaken by Grace Line except for the commitments of the United States under the ODSA.

2. The statutory framework within which Grace Line's ODSA was executed was and is embodied in the Merchant Marine Act, 1936. That Act declares the national policy to be to provide for U.S.-flag shipping service on "essential" trade routes (Section 101), and authorizes and directs the Maritime agency to determine the "ocean services, routes, and lines . . . which are, or may be . . . essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States (Section 211(a)), all "with a view to furnishing adequate, regular, certain and permanent service" for both cargo and passengers in foreign commerce (Section 211(b)). For convenience we will refer to these concepts as the essential trade route/liner service concepts. They are reflected in numerous provision[1] and are the warp and the woof of the 1936 Act

3. To accomplish the statutory purposes the agency was authorized under Title VI of the Act "to enter into a contract . . . for the payment of an operating-differential subsidy . . . for the operation of such vessel or vessels in such service, route or line . . . for a period not exceeding twenty years, and subject to such reasonable terms and conditions, consistent with this Act, as the [Board][2] shall require to effectuate the purposes and policy of this Act . . . " (Section 603(a)). Section 605(c) provided that "No contract shall be made under this title with respect to a vessel to be operated on a service, route or line served by citizens of the United States which would be in addition to the existing service, or services, unless the [agency] shall determine after proper hearing of all parties that the service already provided by vessels of United States registry in such service, route or line is inadequate, and that in the accomplishment of the purposes and policy of this Act additional vessels should be operated thereon; * * * "

Further provisions of Section 605(c) declared that no such contract shall be made if the agency found it would result in undue advantage or be unduly prejudicial between citizens unless, after hearing, it was found that "it is necessary to enter into such contract to provide adequate service by vessels of United States registry."

4. Thus, the statutory policy and scheme contemplated contractual commitments up to twenty years and authorized the Maritime agency to extend operating-differential subsidy and contracts therefor only to vessels operating on essential services, routes, or lines in "regular, certain and permanent service." The statute permitted "some latitude to authorize deviation", the Comptroller General held in his Opinion No. B–58323, 36 Comp. Gen. 291, 293–95 (1956), but only "calls at privilege ports or minor deviation", and only provided they were "within the general trade areas of the particular service" and "not significant enough in time or distance to warrant altering the subsidy status of the vessel . . .". In the same Opinion he concluded that the Board could not pay subsidy for proposed "cruises" of the SS Independence and SS Constitution even though the voyages in question were but extensions beyond the trade route to which regularly assigned.

5. These statutory provisions also provided substantial protections for U.S.-flag competitors. In the present context, those protections were two-fold to an operator holding an ODSA. First, through the essential trade route/liner service concepts, the operator was assured that no additional U.S.-flag service would be subsidized to compete with it on the same essential trade route other than a *liner* operation having a commensurate responsibility to provide "regular, certain, and permanent service" on that route and to assist in development of its commercial potentialities through long range dedication and concentration of efforts to that route. Second, there was also the assurance that no additional liner service would be subsidized unless in accordance with the provisions of Section 605(c).

6. H.R. 12639 is the antithesis of the essential trade route/liner concepts and abrogates the protections of Section 605(c), so far as competing passenger service is concerned. It should not be overlooked also that in Grace Line's instance its passenger-carrying vessels are of the combination passenger/cargo type; in the economic feasibility of their operation, passenger and cargo services are inextricably related. Removal of the statutory protection from the passenger service would necessarily result in stripping that protection from the entire vessel, including its cargo operations.

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[1] *E.g.,* see Sections 101, 210, 211(a), 215, 601(a), 605(c), 606(3), 607(b), 608, 705, 706(a), 714, 809.

[2] United States Maritime Commission when the 1936 Act was passed, Federal Maritime Board when Grace signed its current ODSA, and now Secretary of Commerce/Maritime Subsidy Board.

7. The question for consideration is whether the departure from the essential trade route/liner service concept by H.R. 12639, with the ensuing loss of the statutory protections in existence at the time Grace Line's ODSA was executed, would deprive Grace Line of any legal rights. It seems clear that if the statutory provisions referred to above including those of Section 605(c) had been incorporated verbatim into Grace Line's ODSA it might fairly be said that Grace Line has now an existing contract right to the protections set forth above, *i.e.*, to the limitation of subsidized competition to regular, permanent and certain liner service, and that only after compliance with the provisions of Section 605(c). Those provisions are not set forth verbatim in Grace Line's ODSA. This does not resolve the question against Grace Line, however, because the law recognizes that the same provisions might be considered as incorporated by reference or implication.

8. It is important at this point to consider the context in which the new ODSA's were executed by Grace Line and others in the mid-1950s. As contemporaneously described by the House Merchant Marine and Fisheries Committee in June 1955, following extensive consideration of the vessel replacement problem then confronting the government and industry:

"The cost of replacing this fleet is staggering. The Committee of American Steamship Lines, composed of 15 of the 16 subsidized companies, has estimated the cost of replacing their 276 vessels at $3 billion.

* * * * * * *

"It was the unanimous view of the subsidized operators that the decision to enter into contracts for the purchase of new vessels is undoubtedly the most difficult decision which the management of any steamship company is called upon to make. Naturally this decision turns upon the prospects for a fair rate of return upon the new capital which must be invested in the business.[3] On the whole, however, there seemed to be a disposition on the part of these operators to proceed immediately with plans to accelerate the replacement of the fleet *provided certain firm commitments were made by the Maritime Administration under the terms of existing law.*" [H. Rep. No. 843, 84th Cong., 1st Sess., 1955 ("Vessel Replacement in the American Merchant Marine"), pp. 3–4. (emphasis added)].

9. In the hearings which preceded this report industry witnesses made quite clear the need for both clarification of certain aspects of subsidy administration and the assurance of stability in the essentials of the subsidy program through long term subsidy contracts—this as a *sine qua non* for entering into new contracts. Mr. C. C. Mallory, Chairman of CASL and then President of Grace Line, testified:

"We do not ask you to change the rules in the middle of the game, but we believe it is possible and desirable to clarify and stabilize them." [Hearings before the House Committee on Merchant Marine and Fisheries, 84th Cong., 1st Sess. ("Vessel Replacement Program"), 1955, p. 161; see also pp. 13, 45].

As stated by another industry representative, Mr. Ted Westfall, Vice President of Grace Line:

"Our purpose is to assure stability in the administration of the 1936 Act so that long-term construction programs can be initiated with confidence" (*id.*, p. 91).

The House Committee shared this concern, as evidenced by its statement:

"It is now conceded on all sides that unless some means is devised whereby companies desiring to build vessels under Title V are assured of valid and binding contracts, the object and purpose of this part of the statute is doomed to certain defeat." (H. Rep. No. 843, *supra*, p. 7).

Specific attention was focused on particular areas then considered to be problems—such as the need to assure parity in operating-differential subsidy payments, trade-in values, and construction-differential subsidy problems (*e.g.*, H. Rep. No. 843, *supra*, pp. 5–7), but the predicate for the entire discussion as well as the ensuing contracts was that for the life of the new contracts the ground rules would not be changed to the industry's detriment. The concern in 1955 was indeed the same as that motivating the Senate Commerce Committee to state in 1938:

"A subsidy contract based on the act is complete in itself and once consummated after negotiation at arm's length should not be amplified by additional strings and conditions, not contemplated in the basic subsidy law. This policy once firmly established should do much to overcome investor timidity and shipowner

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[3] A subsidy contract of course does not guarantee a profit.

reluctance to long-range ship replacement contracts." [S. Rep. No. 1618, 75th Cong., 3d Sess. (1938), p. 3].

It was on this predicate that the industry undertook new OCSA's, Grace Line on January 17, 1956, and vast new financial obligations.

10. These circumstances clearly demonstrate the inequity of later stripping an operator of the protections of the statute upon which it relied—but their effect is not limited to considerations of fairness. There are legal consequences as well. The Assistant Comptroller General held only last year that operating differential subsidy was payable without reduction for the carriage of military cargo because "*At the time these agreements were entered into it was the general understanding of all parties* that subsidy was payable . . . without regard to the type of cargo carried", that this understanding was imported into the contract, and that action in derogation thereof "*would constitute a breach of contract*". Opinion No. B–159245, SRR 10,264 (1966) (emphasis added).

11. In *Lynch* v. *United States*, 292 U.S. 571, 577 (1934), the Supreme Court pointed out with respect to insurance contracts issued by the United States under the War Risk Insurance Act of 1917, "The terms of these contracts are to be found in part in the policy, in part in the statutes under which they are issued and the regulations promulgated thereunder." The *Lynch* case arose when Congress in 1933 repealed "all laws granting or pertaining to yearly renewable term insurance." This repeal, if upheld, would have "abrogated outstanding [War Risk Insurance] contracts . . . and relieved the United States from all liability on the contracts without making compensation to the beneficiaries" (292 U.S. at 579). The beneficiary under one of these contracts sued to recover the insurance proceeds, and the complaint was dismissed in the lower court because of the 1933 enactment. The Supreme Court reversed, holding that Congress could not abrogate the contract rights of a beneficiary without compensation, notwithstanding the fact that the policy—unlike Grace Line's ODSA—expressly provided that it would be "subject to all amendments to the original Act . . . [and] to all regulations then in force or thereafter adopted" (*id.* at 577). The Court stated (*id.* at 579):

"The Fifth Amendment commands that property be not taken without making just compensation. Valid contracts are property, whether the obligor be a private individual, a municipality, a State or the United States. Rights against the United States arising out of a contract with it are protected by the Fifth Amendment."

12. The viability of the *Lynch* doctrine was acknowledged in *FHA* v. *The Darington*, 358 U.S. 84 (1958). In *El Paso* v. *Simmons*, 379 U.S. 497 (1965), the Court upheld a Texas statute placing a time limitation upon the contract right of redemption of land previously purchased from the state but then forfeited to the state on default in interest payments. Justice Black in dissent called attention to the Fifth Amendment, not discussed by the majority, pointing out (379 U.S. at 533–34):

"In spite of all the Court's discussion of clouds on land titles and need for 'efficient utilization' of land, the real issue in this case is not whether Texas has constitutional power to pass legislation to correct these problems, by limiting reinstatement to five years following forfeiture. I think that there was and is a constitutional way for Texas to do this. But I think the Fifth Amendment forbids Texas to do so without compensating the holders of contractual rights for the interests it wants to destroy. Contractual rights, this Court has held, are property, and the Fifth Amendment requires that property shall not be taken for public use without just compensation . . . . [citing *Lynch*] . . . The need to clear titles and stabilize the market in land would certainly be a valid public purpose to sustain exercise of the State's power to eminent domain, and while the Contract Clause protects the value of the property right in contracts, it does not stand in the way of a State's taking those property rights as it would any other property, provided it is willing to pay for what it has taken. . . . The Texas statute which the Court upholds, however, took away Simmons' contract rights without any compensation."

13. The year after *Lynch* the Supreme Court considered a congressional joint resolution declaring all contractual provisions requiring payment in gold to be against public policy. In *Perry* v. *United States*, 294 U.S. 330, 354 (1935), it held that this enactment "went beyond the congressional power" insofar as it attempted to override the government's obligation to make payment in gold under gold certificates previously issued by it. The Court pointed out (*id.* at 350–351):

"There is a clear distinction between the power of the Congress to control or

interdict the contracts of private parties when they interfere with the exercise of its constitutional authority, and the power of the Congress to alter or repudiate the substance of its own engagements . . ."

14. *Seatrain Lines, Inc.* v. *United States*, 99 Ct. Cl. 272 (1943), is also instructive. There the plaintiff had a ten-year contract with the United States for the ocean carriage of mail between Cuba and the United States. With nearly nine years still remaining under the contract, Congress (in a proviso to the appropriations bill for the Post Office Department) declared that no part of the appropriated funds should be used to pay plaintiff under this contract. On the basis of this proviso, the Post Office notified plaintiff that no further mail would be dispatched on its vessels. The Court of Claims held that plaintiff had a right under its contract to be paid and that Congress could not remove that right without compensating plaintiff; accordingly, it awarded plaintiff nearly three-quarters of a million dollars in damages for breach of contract, stating (99 Ct. Cl. at 315):

"When Congress delegates to an agency of the Government the right to enter into a contract under certain terms and conditions and these terms and conditions are fully carried out and a contract entered into, it becomes a valid, binding agreement of the Government, and such valid contract is protected by the Fifth Amendment and cannot be taken away without making just compensation."

15. It may be suggested that a different result is required by such authorities as *Alabama Power Co.* v. *Ickes*, 302 U.S. 464 (1938) (electric utility has no standing to enjoin federal government from lending money to municipality in aid of constructing power plants in competition with utility) and *Larson* v. *South Dakota*, 278 U.S. 429 (1929) (construction by state of bridge competing with ferry operated under state franchise did not unconstitutionally interfere with rights of franchise holder). In those cases the claimants had no contractual rights as against the government comparable to those involved here. Nor is the line of authority reflected in *Horowitz* v. *United States*, 267 U.S. 458 (1925) here pertinent. That authority holds only that the United States as a contractor cannot be held liable for altering contractual obligations by virtue of acts taken in its sovereign capacity. In such cases, however, the sovereign action complained of is taken independently of, and in an entirely separate context from, the government's activities in a contractual capacity. Here H.R. 12639 proposes to alter contractual relationships by changing the very statutory scheme pursuant to which the government has contracted.

16. It must be acknowledged that the passage in 1961 of Public Law 87–45, the original "cruise legislation", raised legal questions similar to those discussed here.[4] We do not believe, however, that the passage of that Act disposes of these legal objections. The departure from the existing statutory scheme in 1961 and hence the invasion of such legal rights as Grace Line might have was of a much more limited and ascertainable extent. Under that Act cruising was limited to one-third of each year. By contrast, H.R. 12639 would remove that limitation and apparently would require only that the cruise operator provide service on its assigned trade route for an unspecified "part of each year" with cruising permitted for "all or part of the remainder of each year." Introducing still further uncertainty, the proviso to the proposed amendment to Section 613(b) states that "the operator shall not be required to schedule or make berth voyages in positions which will involve substantial loss." The failure to insist upon existing contract rights infringed by the 1961 Act could hardly be construed either to resolve legal doubts or to bar objections to the much more extensive proposal contained in H.R. 12639.[5]

17. It is no answer to suggest that equivalent protections would be available to Grace Line by virtue of Section 613(e), added to the Act in 1961. That section

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[4] Public Law 87–45 added a new section 613 to the 1936 Act, authorizing the Board to approve applications for the payment of operating differential subsidy for cruises for not exceeding one-third of each year, exempting such applications from Section 605(c), and making conforming amendments to other sections of Title VI.

[5] The General Counsel of the Maritime Administration has conceded, in the Subcommittee's hearings on this bill, that the bill would impinge upon the regularly established berth service of such operators as Grace Line in serving its purpose of helping "some [five] passenger vessels" and for that reason opposes H.R. 12639 in its present form (Transcript of Hearings on Oct. 25, 1967, p. 93). (See American President Lines, Ltd. v. United States, 154 Ct. Cl. 695, 705 (1961), as to the right to "non-discriminatory treatment, and freedom from unreasonably retroactive treatment"). In the 1961 hearings on the bill that led to Public Law 87–45 the Maritime Administrator stated the belief that the adverse effect of that cruise legislation upon Grace Line "would not be of particular consequence." Hearings before the Subcommittee on Merchant Marine of the Committee on Merchant Marine and Fisheries on H.R. 3160, 87th Cong., 1st sess. (1961), p. 27.

prohibits the Board from approving an application for "a specific cruise" if that single cruise would substantially adversely affect the existing operator's service. The overall effect of all authorized cruises could be ruinous to the existing operator, yet if no single cruise will have a substantial adverse effect all will presumably be authorized. Moreover, even if the Board undertook to assess the overall impact of intended cruises, the test of substantial adverse effect on "service" affords substantially less protection than do the essentiality "regular, certain, and permanent service" commitments and Section 605(c) which the Act imposed upon any future subsidized competition at the time Grace Line's ODSA was executed.

Sincerely,

ODELL KOMINERS.

Senator BARTLETT. Our next witness is John Mason.

STATEMENT OF JOHN MASON, ATTORNEY, ON BEHALF OF SOUTH ATLANTIC & CARIBBEAN LINE, INC.

Mr. MASON. Mr. Chairman, my name is John Mason, partner of Ragan & Mason, Washington. I appear for South Atlantic & Caribbean Line, Inc., SACAL.

SACAL operates roll-on, roll-off vessels between Florida ports and San Juan.

Senator BARTLETT. You say one vessel?

Mr. MASON. Two, two roll-on and roll-off vessels.

Both Miami and San Juan are popular cruise ports. SACAL carries no passengers. We are interested in this bill only insofar as it would permit the cruise vessels to carry cargo in the domestic trade between Florida ports and Puerto Rico.

The SACAL vessels, as I said, are roll-off, roll-on vessels. They have an effective cargo capacity of about 3,000—the larger of the two does—about 3,000 measurement tons. Each of these cruise vessels has a cargo capacity that exceeds the capacity of SACAL's largest vessel, and, obviously, SACAL's concern is that the intrusion of these vessels carrying cargo in the trade from Miami to San Juan will result in a very substantial disruption of the normal cargo flow.

Now, a nonsubsidized domestic operator looks only to his cargo flow for his cash flow, which he needs to finance ship construction, ship-debt servicing, et cetera. And when you have the likelihood, as you would with popular cruise ports such as Miami and San Juan, of these ships being dumped into the trade with substantial cargo capacities, this inevitably will have an effect on the cargo flow and thus on the cash flow that comes to SACAL.

If the ships, the cruise ships, operated in the trade with any substantial regularity, their cargo capacity is such that they would dominate the trade.

Now, the Puerto Rico trade is well and adequately served. There are at least six carriers providing service between the Atlantic coast ports and Puerto Rico. They encompass every variety of ship, roll-on, roll-off, lift-on, lift-off container ships, break-bulk ships and the tug and barge operation out of Florida, and they are not, any of them, standing still.

SACAL has put their second ship in this year and will be putting in a third ship next year. The barge company has plans on the way for a roll-on, roll-off barge. American Union Transport from New York is shortly putting in a very impressive roll-on, roll-off vessel.

It is a fact that the domestic carriers are adequately and effectively serving the Puerto Rican trade. And these ships aren't going to add anything. These cruise ships are not going to add anything toward lowering the cost of living or reducing freight rates into Puerto Rico because they are obviously expensive ships to operate. That is why these people are here.

I suspect that these ships have more bartenders than we have able-bodied seamen on our ships.

It is our hope not only that your committee will follow the House committee in eliminating the provisions relating to the carriage of cargo and particularly in the domestic trades, but we would hope you would go a little further than that, if it is possible, to make clear that there ought not to be any further intrusions, any further paring down of the protection that the domestic carriers are supposed to have had by section 805(a) which this bill, so far as the cruise ships are concerned, would write out of the act entirely.

The domestic trades have accomplished a very great deal. The ship that SACAL has put in this past year is the largest all-aluminum cargo vessel that has ever been built. That doesn't mean it is a very large ship. It carries about 40 highway trailers. It was built in association with Reynolds Metals, privately financed, didn't cost the public a penny. Yet it is in itself something that will advance the merchant marine, because through it we will learn, and the merchant marine will learn, what, if any, the benefits might be from aluminum construction as compared with current steel construction.

I think it is too little noted that it was in the domestic trades that the biggest thing that happened in world shipping since steam, the container revolution was conceived and developed by Sealand, Matson, and others. It seems to me that when we have had such a good thing going in the domestic trades, that has done so much to advance the merchant marine, I simply don't understand why anyone would want to interfere with it.

It seems to me we should leave a good thing alone and make it perfectly clear that the domestic cargoes are there, fundamentally available to the domestic operators for their operation.

That is about the size of it, Mr. Chairman. I unfortunately didn't get to my office, and I don't have a copy of my statement. I think I mentioned some of the things in my statement. But I understand it will go into the record.

Senator Bartlett. Well, you made a good statement anyway.

(The statement follows:)

PREPARED STATEMENT OF JOHN MASON, COUNSEL FOR SOUTH ATLANTIC & CARIBBEAN LINE, INC.

Mr. Chairman, members of the committee, by name is John Mason. I am a partner in the law firm of Ragan & Mason, counsel for South Atlantic & Caribbean Line, Inc. I appreciate the opportunity of appearing before the Committee today to express my client's views on S. 2360.

South Atlantic & Caribbean Line, Inc. (known in the industry as SACAL), is a common carrier by water in the domestic commerce of the United States. It operates between Miami and Jacksonville, Florida, on the one hand and San Juan, Puerto Rico, on the other hand, exclusively in the coastwise or intercoastal service within the meaning of Section 805(a), Merchant Marine Act, 1936. As a domestic carrier, SACAL of course receives neither construction differential subsidy nor operating differential subsidy. Until earlier this year, SACAL operated only one vessel in this trade. Recently, however, SACAL had con-

structed with private funds an additional vessel which has been placed in service in this trade. Its vessels are modern, roll-on roll-off vessels, with some capacity for break-bulk cargo.

Contract plans and specifications have been drawn for a third roll-on roll-off vessel for operation in the trade; construction price is right now under active negotiation with a prominent American yard, and negotiations for private financing have begun.

As a domestic, unsubsidized carrier committed to expansion and growth in the domestic trades, SACAL opposes that portion of S. 2360 which would allow subsidized passenger vessels to carry mail and/or cargo between domestic ports.

As we read the provisions of this bill—and I might observe, Mr. Chairman that the bill is certainly ambiguous to the extent of being susceptible to more than one interpretation—an operator of subsidized passenger vessels could operate on a farily regular basis between Miami and San Juan, loading and discharging mail and cargo at both ports. These cruise vessels have the speed and the cargo capacity to dominate the trade, if operated regularly between Miami and San Juan; if operated episodically, in the trade, their cargo capacity would disrupt the cargo flow which carriers regularly serving the trade require in order to maintain and expand their services.

As this Committee is well aware, Miami and San Juan are very popular cruise ports. There can be no doubt that operators of subsidized passenger vessels will take advantage of this legislation to extend their service at these ports, and, in the course of doing so, will further take advantage of the opportunity to carry any cargo that they can obtain on such cruises.

One of the ambiguities in this bill is its total absence of reference to Section 805(a). While we doubt that this Committee intends to particularly repeal by implication this critical section of the Act, we fear that administrative interpretation might arrive at just that result. If such the result, domestic carriers would be limited to Section 613(e) procedures in opposing this type of subsidized competition. Subsection (e), of course, provides no right of hearing. On the contrary, it limits the protesting domestic carrier to the eminently unsatisfactory right of sending a letter to the Maritime Administration.

Mr. Chairman, this rather innocuous looking bill—when most broadly construed—in reality encompasses broad changes of philosophy, both in substance and procedure, with respect to the protection of the unsubsidized domestic carriers from competition from subsidized carriers.

Substantively, the bill would grant another, substantial exception to the Congressional policy that the subsidized operators may not operate in the domestic trade. Unlike other exceptions, no diminution of subsidy is included, and neither geographic nor time limitations are imposed.

Procedurally, this proposed legislation might be administratively interpreted as dispensing with the domestic carriers' right to be heard and to cross examine the subsidized operators when exceptions from this policy are sought for the carriage of domestic cargo on cruises. Although 805(a) hearings have been something less than an effective method of opposing applications of subsidized carriers to operate domestically, this domestic carrier, for one, is loath to see that right further eroded since it is the only one the domestic carriers have.

In closing, Mr. Chairman, I would suggest that if the time is ripe for reconsidering the policy of the 1936 Act of protecting the non-subsidized domestic carriers from subsidized competition, then full blown hearings on that question would be appropriate. If such a change of philosophy is in the offing, small domestic carriers, such as SACAL, making substantial investments to develop and expand their domestic service should be made aware of these hazards. Such basic changes in Congressional policy should not be made piece meal or by implication.

For these reasons, SACAL opposes the enactment of S. 2360 as presently constituted, and urges that the legislation be revised so as to explicitly exclude any right to carry cargo or mail in the domestic commerce of the United States. Specifically, we respectfully suggest that this could be achieved by amending Section 2(c)(3) to read as follows:

"(3) may carry mail and/or cargo between domestic ports and foreign ports only, except that it shall not carry mail and/or cargo between domestic ports and foreign ports on the regular service of another operator of vessels of United States registry unless the Board shall determine in accordance with subsection (e) of this section that such carriage will not substantially adversely affect the existing operators' service."

Senator BARTLETT. Your clients have no real objection to the bill as reported by the House?

Mr. MASON. Insofar as it relates to passengers, of course not. Anything that can help these people out with these expensive ships we think it should be done.

Senator BARTLETT. What I mean is, it is sufficiently protective, insofar as cargo carrying, to satisfy you?

Mr. MASON. We are satisfied with any bill that comes out, so long as these cruise ships are not permitted to carry cargoes in the domestic trades.

Senator BARTLETT. So the House bill does satisfy you?

Mr. MASON. The House bill does satisfy us; yes, sir.

Senator, BARTLETT. Thank you.

Joseph G. Barkan, executive vice president, Prudential Lines. Is Mr. Barkan here?

(No response.)

Senator BARTLETT. His statement will be filed.

(The statement follows:)

STATEMENT OF JOSEPH G. BARKAN, EXECUTIVE VICE PRESIDENT, PRUDENTIAL LINES, INC., IN OPPOSITION TO S. 2360

My name is Joseph G. Barkan. I am the Executive Vice President of Prudential Lines, Inc., a subsidized steamship company operating a liner cargo service to and from the Mediterranean on Trade Route 10. I am appearing today to present our views in opposition to S. 2360, which is now before this Committee.

A vital safeguard of the operating-differential subsidy system is the principle contained in Section 605(c) of the Merchant Marine Act, 1936, as amended. Under this provision, subsidy may not be granted for a proposed service on any route unless the Maritime Administration determines after public hearings that the service already provided by United States flag vessels on that route is inadequate and that in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon, except that an existing service may be subsidized without a determination of inadequacy if the Maritime Administration determines that the subsidy would not give undue advantage or be unduly prejudicial as between citizens of the United States. These provisions extend to both cargo and passenger services. They are necessary in the public interest to protect against the use of subsidy money in a manner which would be deleterious to the United States Merchant Marine.

A qualified exception to the strict applicability of Section 605(c) is permitted by Section 613 of the Act. Under this provisions, the Maritime Administration may permit passenger cruises by subsidized operators on trade routes other than those covered by their normal service without the necessity of a Section 605(c) proceeding, but subject to a number of restrictions on the permissible scope of the cruises. This exception from the requirements of Section 605(c) is justifiable to permit passenger operators a limited degree of flexibility in coping with traffic problems in off-seasons. However, under paragraph (c) of Section 613, a proposed cruise may be approved only if, after notice to all other American flag operators who may be affected and an opportunity for them to submit data, views or arguments in opposition to the proposed cruise, the Maritime Administration determines that the proposed cruise will not substantially adversely affect an existing operator's service performed with United States flag passenger vessels.

It should be noted that 613(c) does not concern itself with the possible adverse effect of passenger cruises on existing service performed with cargo vessels. The reason for this is that under the present law, passenger cruises authorized under Section 613 are not allowed to carry *any* mail or *any cargo*, other than passenger luggage. Therefore, it is not necessary to determine the effect of a proposed service on existing cargo service.

The proposed legislation now before this committee (S. 2366) would discard many of the exising limitations on cruise operations. Perhaps the most dangerous feature of the Bill is that it would permit passenger cruise vessels to carry mail and any other kind of cargo without regard to the adequacy of the existing

United States flag service already being maintained on the particular route and without regard to the adverse effects on the United States flag operators on that service.

The Bill is, therefore, defective in that it undermines the salutary principles underlying both Section 605(c) and Section 613(c) of the Act by permitting cruise vessels to carry mail and cargo without a public hearing in which the Maritime Administration can determine the adequacy of the existing United States flag cargo service on the route or the effect on United States flag cargo operators.

The problem of competition from passenger vessels in carrying cargo is a very real one. At this time, I should like to submit a schedule showing the names, passenger capacity and cubic cargo capacities of a number of passenger vessels presently operated by subsidized lines. It will be noted that six of these vessels have cargo capacities of approximately 400,000 cubic feet or more. These vessels therefore have almost as much cargo capacity as three of the five cargo ships presently owned and operated by Prudential Lines, which have a capacity of 495,000 cubic feet each.

Furthermore, our experience on Trade Route 10 indicates that the speed of passenger vessels and other features of their operation (including their high degree of immunity from delays), enable them to attract the highest rated cargoes. As an example of this "cream skimming" by passenger vessels, statistics compiled by The West Coast of Italy, Sicilian and Adriatic Ports North Atlantic Range Conference ("W.I.N.A.C.") indicate that in 1965 the average revenue per deadweight ton of freight carried by cargo vessels from Genoa to New York was approximately $64 per ton, whereas the average revenue per deadweight ton carried by passenger vessels was $163 per ton, almost three times as high.

We therefore feel that S. 2360 should be amended in Committee either to delete altogether the authorization for cruise vessels to carry mail and/or cargo except passengers' luggage, or at least to require that the safeguards of Section 605(c) will continue to apply to any proposed cruise carrying mail and/or cargo. If the Senate Bill were so amended, as was its counterpart in the House of Representatives (H.R. 12639), Prudential would have no objection to it. The House Bill as reported out by the House Committee on Merchant Marine and Fisheries does not amend Section 613(c) of the Act as would Section 2 of S. 2360. The amended House Bill therefore leaves unimpaired all of the present limitations of Section 613(c) including the prohibitions of Section 613(c)(1) against the carriage of mail or cargo in the course of off-route cruises. We respectfully request that S. 2360 be similarly amended so as to preserve the salutary provisions of Section 605(c) as applied to the carriage of cargoes.

In conclusion, I wish to thank the Committee for affording Prudential Lines this opportunity to make its views known.

SUBSIDIZED PASSENGER VESSELS

Line	Vessel	Number of passengers	General cargo capacity (cubic feet)
American Export Isbrandtsen Lines, Inc	Independence	1,123	205,000
	Constitution	1,123	205,000
	Atlantic	880	194,000
American President Lines, Ltd	President Cleveland	828	227,000
	President Wilson	828	227,000
	President Roosevelt	452	145,000
Grace Line Inc	Santa Paula	300	426,000
	Santa Rosa	300	426,000
	Santa Mariana	121	394,000
	Santa Magdelana	121	394,000
	Santa Mercedes	121	394,000
	Santa Maria	121	394,000
Moore-McCormack Lines, Inc	Argentina	557	299,000
	Brasil	557	350,000
The Oceanic Steamship Co	Mariposa	365	239,000
	Monteray	365	239,000
United States Lines Co	United States	1,961	

Senator BARTLETT. Mr. Hoyt Haddock, executive secretary, AFL-CIO Maritime Committee.

STATEMENT OF HOYT S. HADDOCK, EXECUTIVE SECRETARY, AFL-CIO MARITIME COMMITTEE; ACCOMPANIED BY RICHARD W. KURRUS, ATTORNEY, AMERICAN EXPORT ISBRANDTSEN LINES, INC., WASHINGTON, D.C.

Mr. HADDOCK. Mr. Chairman, I have asked Mr. Kurrus to join me and deal on one point we wanted to make in connection with our statement.

I would like to file our statement, if I may, for the record, and emphasize four points of it. If I may, I will emphasize the points I want to make and then let Mr. Kurrus emphasize a specific point with respect to the accumulation of sailing time which is allowed if there is going to be a restriction on sailing time as contained in the House bill. This is one of the points that I want to dwell on very hard, as a matter of fact.

In the House this specific question of the 3-year limitation was raised when we testified, and we opposed this limitation and pointed to the fact that in prior testimony before the House committee several passenger agents had spelled out the need for knowing 5 and 6 years ahead what they were going to do with respect to the booking of passengers. And we felt then and feel more strongly now, because we have done a little checking into this point and find that particularly with respect to the convention trade, you just cannot have restrictions because convention trades are normally booked 2 or 3 or 4 and some of them 5 years ahead of time. So that any limitation with respect to the number of years that this is going to be effective ought to be eliminated, and permit the companies to plan as far ahead as possible on booking of passengers.

Now, if it is found that this is not going to work, I would submit the thing to do is to repeal the law. But it would seem to me that anything that is done to permit American-flag passenger ships to compete with the same ground rules that foreign passenger ships have who are competing against them ought to be done.

In that connection, I think perhaps before I leave this point, if Mr. Kurrus would spell out in detail our position with respect to the accumulation of days, this might be helpful.

Mr. KURRUS. Mr. Chairman, as the bill passed the House—and it doesen't seem to us that we can deviate particularly too much as a practical matter from the bill that has been reported out by the House Merchant Marine and Fisheries Committee—the amendment to the law would provide that each subsidized passenger vessel could cruise two-thirds of the year which would mean that each vessel would be entitled to cruise approximately 241 days out of the year.

Some of the operators have more than one ship. As a matter of fact, all of the subsidized operators who operate passenger ships have more than one passenger ship, except United States Lines.

American Export Isbrandtsen Lines has three passenger ships, one of which is the *Atlantic*, that ship being somewhat difficult to operate.

If the House bill could be amended—and it would only be a slight amendment—to provide that the cruising time could be accumulated between the vesseels that the subsidized operator has, it would afford a great deal more flexibility to the possible cruising operation. And it indeed would possibly make the *Atlantic* or the operations with the *Atlantic* possible.

For example, American Export Isbrandtsen Lines, having three subsidized vessels—if the bill were amended to allow the accumulation of these cruising days between the three vessels, they would technically have some 720 days to cruise between the three vessels. That would mean that the *Atlantic* could cruise the year-round. It is probably the only way the *Atlantic* could operate economically.

Senator BARTLETT. Why?

Mr. KURRUS. Because the *Atlantic* is a small ship. It was probably a mistake to construct it in the first place. It has rather a limited number of rooms, some 920 rooms, as I recall. Its operations have been economically disastrous to everybody who tried to operate with it.

The original operator for whom the vessel was constructed went bankrupt. American Export in 6½ years of operation with the ship has lost approximately $1.3 million, after subsidy, actually.

The only type of operation that has ever approached even a break-even point has been cruising operations. If the vessel has to operate in the transatlantic trade for even part of the year its operations are probably not possible.

The amendments to the law that I suggest are really very simple. I have them written out. I would state them very briefly, if you like.

Senator BARTLETT. Please.

Mr. KURRUS. Instead of the law providing that if the Secretary finds that the operation of any passenger vessel with respect to which operating subsidy is being paid, I would suggest the law be changed to if the Secretary finds that the operation of the passenger vessels of any operator with respect to which a contract for the payment of operating subsidy has been entered into—et cetera.

And after that there are only two changes required for grammatical reasons. One is to change an "is" to "are" and to add "is" to the word "vessels" in the subsequent part of the proposed amendment.

Mr. HADDOCK. This amendment of course would not be necessary if the Senate in its wisdom decided not to put on the limitations with respect to sailings in a year. But if they find that this is a wise thing, or if they find they have to agree with the House, this would be a helpful amendment.

Another thing which was done in the House, they decided not—well, they specifically prohibited coastwise and noncontiguous trades of these vessels—well, they prevented it all together, irrespective of whether or not any service has been provided to these places. And it seems to me that where we do not have adequate service to these places, that we just not only should permit, we actually ought to require U.S. passenger service vessels to call at these places.

For example, in the Caribbean you have San Juan and the Virgin Islands down there. You have Grace Line and Moore-McCormack operating passenger ships on the trade route where they wash the shores of Puerto Rico. Yet they are prohibited from carrying passengers there. And there is just no passenger service except foreign-flag passenger service from other places.

Our noncontiguous possessions and States need more than anything else an adequate economical freight and passenger service. And I think the longer we delay this the more we are flirting with disaster, because there is just no question about it, Puerto Rico and Hawaii in

particular, the shelves are starting to pile up with foreign-made articles. And so long as we permit a discriminatory freight rate or passenger rate system to prevail with respect to these States and possessions, to that extent we are turning that trade over to foreign governments.

Even more imporant, where natural resources exist as they do in Alaska, we are not only turning over the trade, but we are turning over the natural resources to foreign interests. And it seems to me that we just ought to face up to this and start doing something about it.

Now, the final thing the bill does not do, of course, it does not restrict the U.S. cruise service to American-flag ships. Here again we are refusing to face up to a problem that should have been faced up to years ago.

If our cruise trades had been restricted to American-flag ships, as is the freight service when carried in this manner, we would have not only a good passenger ship service, but we would have a lot more passenger ships in the service. The business is there and we feel our people would go after it and get it.

So long as we permit the foreigners to milk this trade, just that long will our passenger service continue to decline and we will end up with no passenger service, particularly in view of the fact that the Maritime Administration and the Government administration generally has put on a rather good campaign to kill the passenger ship services.

And with those comments, Mr. Chairman, I am hopeful that we can get a bill out of here that will correct all of those things and get it through, get it adopted by the House conference and put into law.

Senator Bartlett. Mr. Haddock, do you believe there ought to be additional cruise service to Hawaii?

Mr. Haddock. I have not specifically researched the Hawaiian passenger ship trade, so I could not say specifically whether there should be or not. But if present companies are not carrying 50 percent of the passengers that want to go to Hawaii, I would say that we need additional service there.

I just don't know what Matson is doing there. They have, I know in the past, provided a very good passenger service. I assume they are still doing it. I just don't know what the facts are.

Senator Bartlett. I am all in favor of it for Alaska, but I don't know whether we can coax anyone in there or not.

Mr. Haddock. I don't know about Hawaii. I think certainly where we have U.S.-flag passenger ship service on routes that we should not do things which will hurt those services if they are carrying out their responsibilities on them.

If they are not meeting their responsibilities, then I think there ought to be additional passenger service in. As a matter of fact, I think that there ought to be subsidized passenger service to Hawaii. I don't think Matson agrees with this. But I see no reason why our passengers going to Hawaii or Matson shouldn't have lower fares, and the Nation ought to pick up the difference that is required to make those fares lower, in my opinion.

And this goes for the freight that goes there also. I just don't think Matson can cut the prices down without subsidy to meet the needs of a growing economy that is necessary in Hawaii or in Alaska or in Puerto Rico or New America or any of these other places. We need low-cost passenger and low-cost freight services to these outlying areas.

Senator BARTLETT. You favor the elimination of the 3-year limitation imposed in the House bill?

Mr. HADDOCK. Yes; very definitely. This is a limitation that will not permit the full realization of the potential of American-cruise passengers.

Senator BARTLETT. What, though, if it proved during the 3-year period that all of the fears of Grace Lines were justified and that their business indeed was heavily damaged?

Mr. HADDOCK. Well, I don't think Grace's business ought to be heavily damaged. You must remember that this is one company who is operating passenger ships and they have had a policy of wanting to operate passenger ships, and have done so, and have made them pay. So that every encouragement ought to be made to them.

I would say with respect to the Grace Line routes, we have said, as a matter of fact, that these cruises should not be permitted to parallel their routes, and that they should not be permitted to go against Grace in these areas if Grace is carrying 50 percent of the passengers in that service, which is a requirement that they ought to be meeting.

Senator BARTLETT. Where would that be?

Mr. HADDOCK. Well, they are going to South America, the northern coast of South America and the west coast of South America.

Senator BARTLETT. And they go to Puerto Rico?

Mr. HADDOCK. No; they do not go to Puerto Rico. I wish they did. I think they ought to be required to go to Puerto Rico, as a matter of fact. I don't know that they would oppose going to Puerto Rico. I suspect they have tried to get in there and the Government wouldn't let them go in.

I don't know what the facts are, but I do know they should be required to go there, in my opinion.

Senator BARTLETT. Mr. Barer?

Mr. BARER. Mr. Kurrus, the amendment that you suggested, would that have the effect, if any operator had more than one vessel, of doing away with any limitation as to how many months in the year it could cruise?

In other words, it would turn out to be a year-round cruise bill as long as they had more than one ship?

Mr. KURRUS. It would for one vessel, but it seems to me it is consistent with the philosophy of the amendment anyway. The philosophy of the amendment is if the Maritime Administrator should find that the requirements of the essential trade route can bet met by utilizing the vessel or the vessels on that trade route for one-third of the year, then the vessels should be allowed to cruise for two-thirds of the year.

Now, it seems to me that it is perfectly consistent with that philosophy to extend the flexibility of these provisions so that the operators can accumulate the cruise days.

For example, if American Export Isbrandtsen Lines on Trade Route 10, which is the essential trade route, can meet the essential trade route requirements between their three vessels, what difference does it make if one of the vessels is cruising all year long?

Mr. BARER. Thank you.

Senator BARTLETT. Thank you very much.

Mr. HADDOCK. Thank you, Mr. Chairman.

Mr. KURRUS. Thank you.

(The prepared statement of Hoyt S. Haddock on behalf of the AFL-CIO Maritime Committee follows:)

PREPARED STATEMENT OF HOYT S. HADDOCK, EXECUTIVE SECRETARY, AFL-CIO MARITIME COMMITTEE

I am Hoyt S. Haddock, Executive Secretary, AFL-CIO Maritime Committee.

Mr. Chairman, we supported the legislation later enacted into law in 1961 which authorized the payment of operating differential subsidy for cruises. This change permitted the steamship companies to divert their passenger ships from their essential trade routes for up to four months during slack periods and authorized them to engage in special cruises during such periods. We supported this legislation because it was our belief that it would be beneficial, even on a minimal basis, to our passenger ship operations. The subsequent years of operation have borne this out.

We believe the legislation (S. 2360) now before us, does not go far enough in aiding American-flag passenger ships.

Although we believe it to be inadequate, we support its basic purpose and ask that it be amended as set forth later in our statement.

Because the basic steps necessary to bring about a healthy American-flag passenger fleet have not been taken, it is gradually disappearing from the high seas. This is directly converse to the trend in maritime nations throughout the world who are not only maintaining, but replacing their passenger fleets. Our national interest is not served when American-flag passenger ships are allowed to become nonexistent. Our national defense posture, our balance of payments position, our world prestige, and our foreign commerce—all require a vigorous passenger ship fleet.

As our remaining passenger ships struggle under the restrictions that prevent them from competing on an equal basis with their foreign counterparts, we hear continuing suggestions to phase them out because they are not doing well. This is an entirely negative approach and is an excuse for not attacking the basic problems involved.

Because of inadequate passenger ships capacity, lack of low-cost facilities, unnecessary restrictions and their attendant depressing effects, the demand for passenger vessels for strictly transportation purposes is decreasing. This is borne out by the fact that in 1961 there were approximately 500,000 passengers *exclusive of cruise passengers* departing U.S. ports by ship as compared to the approximately 400,000 in 1966.

This does not mean, however, that the overall demand for American passenger travel is disappearing. In 1966, the number of passengers including cruise passengers departing a U.S. port by ship was over 750,000 as compared to the approximately 740,000 in 1961.

The number of passengers *exclusively in the cruise* trade *out of United States ports* has increased from approximately 228,000 in 1961 to approximately 367,000 in 1966. The American flag-ships share of this cruise trade has increased from approximately 26,500 in 1961 to approximately 50,500 in 1966. We believe that this increase in passengers going by U.S.-flag ships was brought about in great measure by the legislation enacted in 1961.

It is our belief that American-flag passenger carriage would have been greater if our companies were allowed to meet the diversification that the passengers demand. Many of these cruise passengers do not want to return to the same area year after year. Instead, they demand variety—last year, Europe; this year, South America; next year, the Orient, Scandanavia, the Mediterranean, Africa, etc. Such diversification also relates itself to different times of the year. Currently, the only way the traveling public can obtain this diversification is on foreign-flag ships. American vessels can only compete for this type of business on a limited basis.

The support given subsidized American-flag operations is intended to place our passenger fleet on a parity with foreign competitors, but it also requires them to make a certain number of yearly voyagers on an established trade route. When the number of passengers decreases on these established trade routes, it becomes uneconomical to maintain the required sailings. It is our understanding that most of the U.S. companies engaged in passenger service are loosing from $200,000 to $300,000 annually on some of their sailings with the result that the overall passenger ship operation results in a financial loss. It makes good sense, therefore, to provide an escape from such unprofitability situations wherever or whenever they exist and thus, place our passenger service on an equal footing with foreign competition which enjoys such flexibility on a broad basis.

This was the primary concern of Congress in 1961 when they enacted the so-called "cruise legislation".

As we understand it, this is the primary reason for S-2360. This legislation would reduce or eliminate the current berth voyage requirements; particularly those where obvious losses would occur. Additionally, the operators would be allowed to use their subsidized sailings to compete for passengers without the restrictions which require that cruises must begin and end on the same seacoast; and would also eliminate the restrictions which prevent the carriage of mail and/or cargo except between ports of the line's regular berth service.

These changes would place the American operator on a more equal competitive basis with the foreign operator, thereby permitting a greater opportunity to capture the rapidly expanding cruise trade.

In supporting this legislation, we are mindful of the fact that it may be harmful to certain United States flag operators that are established on a given trade area. To prevent this, we suggest that the Maritime Administration be instructed not to give permission to an operator to make cruises that would parallel an existing operators route. We would also suggest that the Maritime Administration be instructed to deny all applications for cruise undertaking where the existing operator is carrying at least 50% of the passengers, including cruise passengers, over the route.

While such legislation would aid the American-flag passenger operations in their struggle for survival, we think it does not go far enough. We, therefore, suggest the following admendments:

1. Restrict the cruise trade exclusively to American-flag ships. Foreign-flag vessels are at present, prohibited from transporting passengers between ports or places in the United States, either directly or by way of a foreign port. This prohibition was interpreted by the Attorney General in 1912 as not applying to cruises because they do not begin at one port or place in the United States and end in another port or place in the United States.

It is a recognized fact that cruise passengers from the States are not, by their very nature, making trips to any foreign port. These cruise passengers sign on for round-trip cruises which merely visit foreign ports, usually for a minimum of one day. The business is essentially the domestic commerce of the United States. It should, therefore, be limited entirely to U.S.-flag vessels. Passenger ships serving this cruise business from United States ports carry American passengers almost exclusively.

2. Permit American-flag ships to carry passengers under the subsidy program between domestic ports. (It may be that this proposed amendment is already included in S. 2360. If it is, we would then suggest that you may want to reword that particular section of the bill to make the intent more understandable.) There was a time when the United States domestic passenger trade was a flourishing business. For all practical purposes it has ceased to exist. Modification of the law to permit our passenger ships to again engage in this business would, therefore, not displace domestic passenger service and would further promote U.S.-flag shipping. It is our belief that there are many travelers, for example, from New York and Florida that would travel by ship if the service were available. By the same reasoning, increased passenger travel would result between the Mainland and Puerto Rico and Alaska.

3. Permit subsidized operators to carry cargo between the continental United States and the non-contiguous states or possessions. Unless this problem is solved at an early date we will see United States products disappear from their shelves and foreign-made products take their place.

At most, this is a stop-gap measure. This will only permit the profitable operation of our present passenger vessels. Steps must be taken to research, design and build new efficiency passengers vessels for all services.

Joseph Curran, when he last appeared before this Committee, submitted a comprehensive maritime program for your consideration. Important recommendations contained in this submission (Program Imperatives) dealt with the passenger ship problem. We would emphasize that his recommendations should be implemented.

We testified before the House Merchant Marine and Fisheries Committee in support of H.R. 12639, the companion bill to the one you are considering today.

We urge the adoption of S. 2360 with our suggested amendments. In making this request we are mindful of the fact that the House Committee watered down considerably this legislation when it was before them.

Senator BARTLETT. The next witness is Wayne Horvitz, vice president, Matson Navigation Co. and Oceanic Steamship Co.

STATEMENT OF WAYNE HORVITZ, VICE PRESIDENT, MATSON NAVIGATION CO., AND OCEANIC STEAMSHIP CO.

Mr. HORVITZ. My name is Wayne Horvitz. I am vice president, Matson Navigation Co. and the Oceanic Steamship Co.

I mention these two because, as you know, Senator, Matson is an unsubidized steamship operator, operating unsubsidized passenger ships in the Hawaiian trade and the Oceanic Steamship Co. has two passenger ships in the South Pacific routes, subsidized.

As per your request, I am going to confine myself in my comments, having submitted my statement for the record, principally to the matters that have been raised as a result of the amendments that were made to the original bill that was introduced in the House.

I cannot, however, refrain from commenting on the previous witness' statements with respect to the State of Hawaii which is of particular concern to us, because of the fact that we do operate as an unsubsidized operater. I think I would be forced to agree with him that he doesn't know very much about Hawaii. I think that our record there with respect to running an unsubsidized passenger ship operation and our record on which there have been extensive comments before you, sir, with respect to the container problem, the record of Matson's container operation in Hawaii, a minimum conversation with Safeway, I think, would convince him, if he cared to make a trip out there, that the shelves are far from loaded with foreign foods. In fact, most of the people in Honolulu today live pretty much from the supermarket the way we do here.

With respect to the possibilities of consideration by this committee, since my formal statement deals with our basic objections to the bill as it has been introduced, and you raised the question at the outset as to reactions you wanted to get to the changes that have been proposed by the House bill, which simply is a numerical change in the present legislation which permits this off-route or off-season cruising 4 months a year, will now be 8 months a year, I would direct you to the comments I made in my formal testimony on pages 4 and 5.

Section 613 permits a subsidized passenger ship to sail off its regular route on off-season cruises for not more than a 4-month period when the passenger business on its regular route is at a low ebb. Off-season cruises, which are limited to this 4-month period, may compete on the regular route of another American-flag passenger vessel without establishing under section 605(c) of the act that the existing American-flag service on the other route is inadequate, or that the off-season cruise would not give undue advantage to the off-season cruise operator or be unduly prejudicial to the regular operator.

You heard testimony from the Maritime Administration this morning pretty much confirming the fact that in our experience little or no criteria have ever been established which go to the question of how the existing American-flag service on the other routes might be adversely affected. You have also heard testimony this morning I think that the Maritime Administration has never had occasion to deny any of these applications.

And I believe the Grace Line people have testified in this respect, that in their experience there was little or no response to objections that have been raised other than pro forma communications.

I would like to suggest the possibility that if this committee undertakes to give serious consideration to the form in which this bill has been reported out in the House, that we have some criteria to suggest that we think would be minimal and I would like to put those in the record and constitute that plus my formal statement as our testimony today.

Senator BARTLETT. That will be permitted.

(Above-mentioned material follows:)

PREPARED STATEMENT OF WAYNE HORVITZ, VICE PRESIDENT OF MATSON NAVIGATION CO., AND THE OCEANIC STEAMSHIP CO.

My name is Wayne Horvitz. I am a Vice President of the Matson Navigation Company and of The Oceanic Steamship Company. I wish to thank the Committee for allowing us to appear today to comment on S. 2360.

As most of you are aware, Matson Navigation Company is an unsubsidized United States flag operator providing passenger and cargo service between ports on the West Coast of the United States and Hawaii and cargo service from ports on the West Coast to ports in Japan. The Matson Navigation Company operates what may well be the only unsubsidized passenger ship in the world, the SS *Lurline*, which provides year-round passenger service every other week from the ports of San Francisco or Los Angeles, California, to Honolulu, Hawaii, and in addition, furnishes cruise service in the Pacific. This ship also carries cargo.

The Oceanic Steamship Company, a wholly-owned subsidiary, operates the only American flag ocean passenger and freight service between California, New Zealand, Australia, and the South Pacific islands. Oceanic operates two passenger ships, the SS *Mariposa* and the SS *Monterey*, with voyages leaving California every 21 days. The Oceanic Steampship Company has an extensive cruise promotion program in this trade.

It is important to note that there are both differences in trade routes and subsidy eligibility between the two companies. The comments I intend to make on S. 2360 must inevitably be divided with respect to those sections which adversely affect the domestic passenger operations and those that may affect the foreign.

Matson shares the concern of the Government, of the American flag passenger operators, and of this Committee over the present plight of the American flag passenger ships. We are always interested in pursuing both private and public solutions that will aid the distressed condition of the American flag companies. A careful reading of the provisions of S. 2360, however, has convinced us that as presently written, the Bill would be detrimental to the best interests of the long-established operation of Matson's domestic service to Hawaii and its foreign services to Australia, New Zealand, and the South Pacific. First, I should like to turn my attention to the provisions of the Bill which affect the Matson Navigation Company's operation between California and the State of Hawaii.

Matson Navigation Company operates the only unsubsidized passenger service under the United States flag with its SS LURLINE. When the off-season cruise legislation was adopted, safeguards were incorporated to protect this service from subsidized competition. S. 2360 would eliminate all, or substantially all, of these safeguards.

Early drafts of the 1936 Act prohibited domestic trade service by a subsidized vessel. When finally enacted, Section 506 of the 1936 Act required refund of construction-differential subsidy and Section 605(a) required reduction of operation-differential subsidy when a subsidized vessel provided domestic service on certain types of voyages. The Act prohibited all other domestic service by subsidized vessels. S. 2360 would eliminate these 31-year old safeguards to unsubsidized domestic services by permitting the carriage of domestic trade passengers on off-route cruises in all domestic trades without diminution of subsidy. There is no need or justification for this fundamental change in the 1936 Act. No foreign-flag vessel may carry such domestic trade passengers. Unsubsidized passenger service is difficult enough to maintain without subjecting it to this kind of unfair, Government-supported competition.

Section 613 permits an off-season cruise vessel to call at intermediate domestic ports only for the same time and the same purposes as a foreign-flag vessel which has embarked passengers at a domestic port. S. 2360 would eliminate this

restriction. One-way passengers could use the vessel as a hotel during prolonged calls at intermediate domestic ports. No need or justification has been shown for abandoning these safeguards for domestic passenger service.

No subsidized vessel may engage in domestic trade unless the operator has obtained written permission from the Maritime Subsidy Board under Section 805(a) of the 1936 Act. This permission is not granted if the Board determines that the proposed domestic service by a subsidized operator would result in unfair competition to any person, firm, or corporation operating exclusively in the coast-wise or intercoastal service, or that it would be prejudicial to the objects and policy of the 1936 Act. Section 805(a) has been applied to off-season cruises operated under Section 613. S. 2360 would amend Section 613 in a way that could be interpreted as rendering unnecessary the requirement to obtain written permission under Section 805(a) before rendering a domestic service on off-route cruises. If S. 2360 is enacted, the test for entry into domestic service by an off-route cruise vessel may be merely whether it would substantially adversely affect the existing operator's passenger service. This test would fall far short of the finding required by the Section 805(a) of the Act.

To summarize:

1. S. 2360 would eliminate domestic trade subsidy refund and reduction now required by the 1936 Act.
2. S. 2360 would eliminate the restrictions on time and purpose for off-route cruise calls in intermediate domestic ports.
3. It is possible that S. 2360 would eliminate the requirement for written permission under Section 805(a) of the 1936 Act.

I would now like to comment on the specific provisions of S. 2360 as it affects The Oceanic Steamship Company.

The proposed changes, and Oceanic's reasons for opposing such changes, can be stated very briefly.

Section 613 permits a subsidized passenger ship to sail off its regular route on off-season cruises for not more than a four-month period when the passenger business on its regular route is at a low ebb. Off-season cruises, which are limited to this four-month period, may compete on the regular route of another American-flag passenger vessel without establishing under Section 605(c) of the Act that the existing American flag service on the other route is inadequate, or that the off-season cruise would not give undue advantage to the off-season cruise operator or be unduly prejudicial to the regular operator. Elimination of the four-month limitation, proposed by S. 2360, converts "off-season" cruising to "off-route" cruising, and should be accompanied by the elimination of the "off-season" cruise exemption from Section 605(c). Oceanic invested million of dollars in passenger ships and is serving Trade Route No. 27 in the Pacific Coast/Australia trade on a year-round basis. Other subsidized passenger ships should not be permitted to compete on this route for substantial parts of each year unless they first meet the tests of Section 605(c).

While Section 613(e) would require disapproval of an "off-route" cruise if it would substantially adversely affect an existing operator's service performed with passenger vessels, this test falls far short of the standards required by Section 605(c) of the Act. Oceanic knows of no instance where a cruise application has been denied because of determination by the Maritime Subsidy Board that a cruise would substantially adversely affect an existing operator's United States flag passenger service.

"Off-season" cruises are subject to "strong" trading restrictions designed to protect the existing service and still permit the "off-season" cruise vessel to engage in cruise business. S. 2360 would eliminate these protections to the existing service. Passenger vessels which have qualified for subsidized services in the Atlantic would be free to come to the Pacific and compete with Oceanic on Trade Route No. 27 or any number of cruises during the major part of the year without returning to their Atlantic base. They could pick up one-way passengers between California and foreign ports on Trade Route No. 27 on every cruise, in direct competition with Oceanic, even though they are subsidized basically to serve passengers traveling off the Atlantic. "Off-route" cruise vessels would be permitted to carry cargo and mail in competition with Oceanic freight and passenger vessels without the safeguards of Section 605(c). Oceanic's investment justifies retention of "strong" trading restrictions. Oceanic has been serving the Australia route since 1885 and has developed a worldwide reputation for passenger service in the finest American tradition. Passage of S. 2360 would make it very difficult for Oceanic to maintain such passenger service.

To summarize:

1. The change from "off-season" to "off-route" cruises would be detrimental to Oceanic.

2. The change from "strong" to "weak" trading restrictions would adversely affect Oceanic.

On behalf of the Matson Navigation Company and The Oceanic Steamship Company, we urge that S. 2360 not be enacted in its present form.

Mr. HORVITZ. I think an essential criteria would be whether the existing operator is already being subjected to extensive competition, so new competition would divert revenues needed by the existing operator.

You have heard testimony from the proponents of this legislation that they want to be in a position to compete successfully against foreign-flag competition. Nobody seems to pay much attention, but we must in the Pacific, where the principal competition in our South Pacific service, through Tahiti to Australia and New Zealand, in those cruises is from foreign-flag competition, and the fact of the matter is that we are subjected to increasing foreign-flag competition.

In 1967 P. & O., which is our principal competitor in that area, had a capacity of 36,000-some-odd berths, of which 13,000 were first class. We operate one-class ships, and we have 10,700 berths, and we filled up about 90 percent for the year of those berths.

Holland-America Line, the Swedish Line, and others are scheduling South Pacific cruises for 1968. P. & O. is continuing to expand in the area. We think the question of whether or not additional competition is warranted must take into account that we are subjected to heavy foreign competition and that we are presently able to compete with that competition and want to stay in a position to do so.

The second point I think would have to be considered would be whether or not the off-route cruises attract passengers from areas in the United States that are historical sources of passengers for the existing operator, thereby diluting his market.

This is of particular concern in the Pacific where our eastern markets would obviously be threatened if any of the other companies, although they protest to us they do not intend to do so, once they have the option of two-thirds of the year, or the whole year, as they are requesting here this morning, I think they would take a serious look at whether or not cruises could be instituted which would originate on the east coast of the United States and sail into the attractive areas of the Pacific, at a time of year when the North Atlantic is unattractive and it is summer down under.

The third criteria that I think would be important is whether the existing operator's service is dependent on continuation of a regular schedule throughout the year.

In this I would include both cargo and passengers, despite what was said here this morning by the representative of the Maritime Administrator. The *Mariposa* and *Monterey*, for example, which are the principal ships I am concerned with at this moment in this testimony—there are revenues on an annual basis there, 33 percent of them are accounted for by cargo. We cannot properly be insured of these revenues if we don't continue an adequate and regular service on these routes where we pick up and deliver that cargo now.

The fourth criteria that I would like to submit would be this: Can the existing operator reduce the fares to meet further competition? The Oceanic Steamship Co., as the operator of the two vessels I men-

tioned, has had to raise its fares in order to continue to be profitable on the average of 7 percent per year for each of the last 3 years.

With respect to air competition, which, by the way, is a serious problem in Hawaii, too, and other forms of competition for the travel dollar, whether it be in hotels or in other areas of the world or whatever, raises a serious question as to what the upper limit is that you can continue to raise fares and continue to attract business. I think that constitutes what I want to say, Senator.

Senator BARTLETT. Mr. Barer.

Mr. BARER. You have expressed an objection to this proposed legislation both on the basis of impact upon a nonsubsidized domestic operator and a subsidized operator; is that correct?

Mr. HORVITZ. That is correct.

Mr. BARER. We have one passenger ship that is unsubsidized, which, as far as I know, is the only unsubsidized passenger ship left in the world, which continues to operate at a profit. We don't really need any help in increasing the difficulties with that ship.

Senator BARTLETT. Do these foreign-flag carries subsidize their passenger ships?

Mr. HORVITZ. I am not qualified as an expert on this, but in general I would say the answer is "yes," although the subsidies that I am familiar with in foreign countries on passenger ships do not take the form that they do in this country. But the subsidy by another name amounts to the same thing.

Senator BARTLETT. Where do the *Mariposa* and the *Monterey* depart?

Mr. HORVITZ. They go from San Francisco and Los Angeles on the west coast of the United States to Tahiti, Bora Bora, Australia, New Zealand, Samoa—it is a circular cruise back through Hawaii and back to the United States. It is a 42-day cruise. That is the regular route.

Senator BARTLETT. And did you say two-thirds of the revenue is derived from passenger service?

Mr. HORVITZ. No; approximately one-third.

Senator BARTLETT. How many passengers do these ships carry?

Mr. HORVITZ. Well, they are sister ships, they are identical. And I think their normal passenger count would run around 325.

Senator BARTLETT. And the rates, the tariff is identical with the tariff on the foreign-flag ships?

Mr. HORVITZ. No, the tariffs are higher. This is a comparison which is difficult to make for two reasons. As I said before, the principal foreign competitor there is P. & O. We have difficulty getting comparative figures from them.

Also, they run a ship of more than one class which always makes comparisons difficult. And thirdly, we don't think, frankly, that their first-class service is quite up to ours, that we spend more not only on labor, but on other things, and that also makes comparison difficult.

But if you look at the numbers of first class versus first class or one class versus first class, and then build into that the reductions for second and third class, I think our tariff generally would run higher.

Senator BARTLETT. These are, the *Mariposa* and the *Monterey*—are they one-class ships?

Mr. HORVITZ. Yes, so is the *Lurline*.

Senator BARTLETT. Isn't that rather new—the *Lurline?*

Mr. HORVITZ. No, no, sir.

Senator BARTLETT. How often does the *Lurline* go to Hawaii?
Mr. HORVITZ. Well, we make a round voyage every 11 days.
Senator BARTLETT. What competition do you have on the run to Hawaii in respect to American or foreign passenger-carrying ships?
Mr. HORVITZ. Well, from the west coast of the United States, with the exception of certain limited privileges that America, that the line has to take passengers to Hawaii on the way to Japan, which they have permission within certain numerical limits per year to do, of course the only other passenger ship competition we have is from the west coast of Canada by foreign-flag ships. And we understand that Canadian-Pacific is looking seriously at inaugurating a new service of this kind.
Senator BARTLETT. Would you have any idea of what share of the passenger traffic is commanded—I am talking about the South Seas now—is commanded by ships of whatever nation as compared with airlines?
Mr. HORVITZ. No, sir; I wouldn't. The airlines competition, of course, is enormous. Pan Am and United fly into Hawaii from San Francisco in 4 hours and 30 minutes, or 40 minutes, and we make the trip in four and a half days.
You can go down and back to Honolulu in 1 day these days with no trouble at all. I don't quite understand the theory advanced here a few minutes ago as to taking account of the number of passengers presently being carried in relation to some overall passenger figure because, for example, in the Hawaiian trade you are not cruising, you are competing directly with the passage from point to point with the airlines. And that is tough competition.
Senator BARTLETT. And the airline fares are much lower; are they not?
Mr. HORVITZ. You can go back and forth now for—well, if you only want a cup of coffee, you can go for $100.
Senator BARTLETT. One way?
Mr. HORVITZ. One way.
Senator BARTLETT. If you want more than a cup of coffee, and you go on the *Lurine*, what do you pay one way?
Mr. HORVITZ. Even if you pay $110 you get food on the airlines. And the *Lurline* for four and a half days, the cheapest accommodation would be $350 to $360.
Senator BARTLETT. But you manage to fill up the *Lurline* pretty well on every voyage; don't you?
Mr. HORVITZ. No, sir; not on every voyage. Going out it is better than coming home. In fact, we have a problem with the homebound voyage that is rather serious. We get some help, of course, with military personnel there, because there is a good deal of movement back and forth between the islands of military personnel and some of them go by ship.
Senator BARTLETT. How do you account for the fact that there is more business west than east?
Mr. HORVITZ. I don't know. I know one theory our passenger people have and I can't explain it: People like to relax going out and fly home.
Senator BARTLETT. So they will be sure to arrive home unrelaxed. Thank you very much. I have no more questions.
Mr. Barer.

Mr. BARER. Under the existing cruise legislation which allows up to one-third of the year for cruising what has been the impact of that on the Oceanic trade?

Mr. HORVITZ. The Oceanic has not been affected.

Mr. BARER. Has Matson been affected at all?

Mr. HORVITZ. No.

Mr. BARER. In other words, you have never filed a 613 protest alleging substantially adverse effects?

Mr. HORVITZ. No, we have no reason to.

Mr. BARER. And you have never submitted this criteria to the Maritime Administration, or have no idea what their response would be to it?

Mr. HORVITZ. No; we do not.

Mr. BARER. Thank you. I have nothing further.

Senator BARTLETT. Thank you Mr. Horvitz.

The committee will be in recess subject to the call of the Chair. The record will be left open for 1 week for additional statements or amendatory statements or for whatever other purpose might be desired.

(Whereupon, at 11:35 a.m., the hearing was adjourned, subject to call of the Chair.)

(The following material was submitted for the record:)

NEW YORK, N.Y., *November 29, 1967.*

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

Appreciate your recording U.S. lines as favoring in principle the objectives of S. 2360. We appreciate that some difference of opinion exists among American-flag passenger operators but hopeful this can be resolved. U.S. Lines is not heavily engaged in the cruise trade but we feel that within reasonable limits operators of American-flag passenger ships should have increased flexibility in their operations. Appreciate this message being made part of the record.

ALEXANDER PURDON,
President, U.S. Lines, Inc.

LAW OFFICES OF RAGAN & MASON,
Washington, D.C., December 6, 1967.

Re. S. 2360.

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

DEAR SIR: At the close of the hearings on this matter on November 30, the Chairman announced that the record would be held open for one week for the receipt of supplemental material. Accordingly, I would like to submit the following supplemental material in rebuttal to the statements of Mr. Hoyt Haddock that United States goods were disappearing from the shelves in Puerto Rico; and that this situation was attributable to some "discriminatory" freight rate structure.

First, I attach a copy of the first and last pages of a statement, "Summary of Trade Between United States and Puerto Rico, 1953–1965", prepared by the Office of Transport Economics, Federal Maritime Commission as an exhibit (Exhibit No. 4), in remand proceedings before the Federal Maritime Commission in FMC Docket 1187, and 1187, Sub–1, *Reduced Rates on Machinery and Tractors from United States Atlantic Ports to Ports in Puerto Rico.* I do not attach the balance of the 14-page exhibit because the intervening pages merely break down by commodity descriptions certain of the totals shown on the first page.

It will be noted from this Maritime Commission prepared exhibit that over the period 1953 through 1965 the total merchandise shipments from the continental United States to Puerto Rico increased from $471.4 million to $1,275.5 million, an increase of about 170%. The source of those figures, *i.e.*, Bureau of

Census, FT 800 Report, shows that the value of exports from the continental United States to Puerto Rico for the year 1966 was $1,419.9 million. Thus, in the 14-year period, 1953–1966, the dollar value of merchandise shipments from the continental United States to Puerto Rico has approximately tripled. Granted that any comparison of dollar values over that period must take into account an inflationary element, it will be noted that there also was a substantial increase over the period in terms of net tons. Regrettably, the relevant net tonnages for the years 1965 and 1966 are not available, according to advice from the Federal Maritime Commission, but there is little doubt that the growth trend continues in terms of tonnage as well as dollar values. There is, I suggest, little likelihood of U.S. goods disappearing from the shelves in Puerto Rico, rather, the trade is a growing one.

Second, as to the allegation that the freight rate structure between the continental United States and Puerto Rico is, in some undisclosed way, "discriminatory", it probably is enough to point out that the trade is a regulated one. By the Intercoastal Shipping Act, 1933, the Federal Maritime Commission is authorized to investigate rates, to suspend and investigate changed rates, and to prescribe just and reasonable maximum and minimum rates.

There is no rate making conference or agreement between carriers in the trade, and the rate (as well as service), competition, particularly between the six carriers serving the U.S. Atlantic Coast is severe. That trade has been marked, over the past five years, by frequent and at times continuous cost, litigation instigated by the Federal Maritime Commission as to whether rates initiated by one or another of the carriers are *too low*, and therefore unjust and unreasonable. Some of those cases follow:

Docket 1167, ***Reduced Rates on Automobiles, Atlantic Coast Ports to Puerto Rico***, 8 F.M.C. 404, (decided February 4, 1965).

Docket 1182, ***Rates from Jacksonville, Florida to Puerto Rico***, (decided May 9, 1967).

Docket 1187, ***Reduced Rates on Machinery and Tractors from United States Atlantic Ports to Puerto Rico***, 9 F.M.C. 465 (decided May 9, 1966).

Docket 65–43, ***Investigation of Household Appliance Rates in the Atlantic-Gulf/Puerto Rico Trade***, Dismissed.

That the carrier rate competition is not only severe, but sometimes excessive, is evidenced by the fact that in two of these cases the Commission, by order, prescribed *minimum* rates, which orders are still in force.

By regulation of the Commission, carriers are required to file all proposed rate changes not only with the Commission but with the Commonwealth of Puerto Rico as well. In the face of this aggressive, even over-, regulation of the carriers' rates and practices by the Federal Maritime Commission, I do not know what Mr. Haddock means by his reference to "discriminatory rates". Possibly he means to suggest that freight rates from continental U.S. ports to Puerto Rico are "discriminatory" when compared to freight rates from European ports to Puerto Rico. But it needs no documentation to know that not only does the European ship operator enjoy lower ship construction and operating costs, including crew costs than the U.S. carriers, but also enjoys lower labor costs than in stevedoring at the European ports. In these circumstances, it is difficult to see how, if a problem exists permitting U.S. subsidized ship operators to serve the domestic Puerto Rican trade will solve anything, unless Mr. Haddock proposes not only that ship construction and operation be subsidized by also that the higher longshoreman labor costs at U.S. ports also be equalized, by Federal subsidy, with European water-front costs.

In any event, it is by no means clear that the premise I have laid to Mr. Haddock (*i.e.*, that the rate structures favor European suppliers), is correct. A quick check of the comparative rates on a few random commodities, from tariffs on file with the Federal Maritime Commission [1] shows that in some cases the rates from U.S. Atlantic ports are lower, in other higher [2] than from Scandinavian

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[1] The tariffs examined were: Hamburg-Amerika Line Outward Puerto Rico Tariff No. 3, FMC No. 5, naming rates from Continental and Scandinavian ports, filed with the Federal Maritime Commission pursuant to section 18(b), Shipping Act, 1916. Sea-Land Service, Inc., Freight Tariff FMC–F. No. 3 (Pan Atlantic series) naming rates from U.S. Atlantic ports to Puerto Rico, filed pursuant to the Intercoastal Shipping Act, 1933, as amended.

[2] The ocean freight on a Volkswagen sedan from Hamburg to San Juan is slightly higher than on a like size motor car (bumpers removed, and placed inside the car), from New York, and substantially higher in the case of a Mercedes sedan. From Florida ports the automobile rates are lower than from New York. On the other hand, the European rates on iron and steel sheets are substantially lower than from U.S. Atlantic ports.

and Continental ports, and on one commodity checked, the rates were so like as to suggest a conscious equalization on one side or the other.[3]

In view of Mr. Haddock's statements, I request that this letter, and enclosure, be placed in the record. A copy of it has been sent to Mr. Haddock.

Very truly yours,

RAGAN & MASON,
JOHN MASON.

SUMMARY OF TRADE BETWEEN UNITED STATES AND PUERTO RICO, 1953–65

DOLLAR DATA

Trade between the United States and Puerto Rico is growing rapidly, in both directions. In the 13-year period, 1953–65, trade from the United States to Puerto Rico increased by about $804 million, or about 170 percent. In this same 13-year period, trade from Puerto Rico to the United States increased by about $624 million in Puerto Rican products alone, or about 197 percent. The more rapid rise in the volume of trade from Puerto Rico to the United States, than in the other direction, had the effect of bringing the dollar volume of this exchange more nearly into balance: in 1953, the trade from Puerto Rico was about 67 percent of the outbound trade, and in 1965, the trade from Puerto Rico had risen to about 74 percent of the outbound trade. Thus, in the past 13 years, merchandise carriers have had an opportunity to share in a trade which is increasing substantially in volume, and is coming closer to balance in the value of inbound and outbound cargoes.

TEXT TABLE 1.—TRADE BETWEEN UNITED STATES AND PUERTO RICO: 13-YEAR, IMPORT-EXPORT RATIOS

	To Puerto Rico—Total merchandise shipments		From Puerto Rico				Import/export	
			Total shipments		Shipments of Puerto Rican products		Total import shipments (percent)	Puerto Rican product shipments (percent)
	Amount (millions)	Index, 1953=100	Amount (millions)	Index, 1953=100	Amount (millions)	Index, 1953=100		
1953	$471.4	100	$324.7	100	$316.4	100	68.9	67.1
1954	484.6	103	335.5	103	324.1	102	69.2	66.9
1955	548.0	116	368.7	114	357.5	113	67.3	65.2
1956	595.4	126	415.4	128	404.4	128	69.8	67.9
1957	640.3	136	430.4	133	419.5	133	67.2	65.5
1958	629.9	134	452.2	139	438.3	139	71.8	69.6
1959	718.6	152	559.2	172	542.4	171	77.8	75.5
1960	760.9	161	588.4	181	570.5	180	77.3	75.0
1961	836.8	178	697.7	215	674.4	213	83.4	80.6
1962	931.6	198	789.1	243	750.9	237	84.7	80.6
1963	984.5	209	826.6	255	804.9	254	85.0	81.8
1964	1,233.9	262	900.5	277	873.2	276	73.0	70.8
1965	1,275.1	270	968.9	298	940.5	297	76.0	73.8

Source: Basic data from Bureau of the Census FT-800 reports.

[3] Beans, a Puerto Rican staple. The European rate is $28.00 per 1,000 kilos (2,204 lbs.); the Atlantic Coast rate $1.25 per 100 lbs. ($28.00 per 2,204 lbs.).

VOLUME OF OCEANBORNE DRY-CARGO TRADE BETWEEN THE UNITED STATES AND PUERTO RICO[1]

[In thousands of short tons]

	To Puerto Rico						From Puerto Rico						Total dry cargo, inbound/outbound (percent)	Liner, inbound/outbound (percent)
	Total		Liner		Industrial and irregular		Total		Liner		Industrial and irregular			
	Short tons	Percent	Short tons	Percent	Short tons	Percent	Short tons	Percent	Short tons	Percent	Short tons	Percent		
1964 [2]	2,079	100	1,696	81.6	383	18.4	1,232	100	335	27.2	897	72.8	59	20
1963	1,667	100	1,312	78.7	355	21.3	1,057	100	276	26.1	781	73.9	63	21
1962	1,757	100	1,374	78.2	383	21.8	1,302	100	285	22.0	1,016	78.0	74	21
1961	1,739	100	1,389	79.9	349	20.1	1,388	100	364	26.2	1,025	73.8	80	26
1960	1,616	100	1,408	87.1	208	12.9	1,468	100	320	21.8	1,148	78.2	91	23
1959	1,464	100	1,356	92.6	108	7.4	1,387	100	313	22.6	1,074	77.4	95	23
1958	1,426	150	1,209	84.8	217	15.2	1,174	100	300	25.6	874	74.4	82	25
1953	1,300	100	1,217	93.6	83	6.4	1,421	100	1,384	97.4	37	2.6	109	114

To Puerto Rico

	Total industrial and irregular	Rice	Corn	Wheat	Grain sorghum	Other flour and grain plus animal Feeds	Sulfur, dry	Fertilizer and fertilizer materials	Tons	Total itemized items—Percent of total industrial and irregular
1964 [2]	383	10	93	87	24	70	25	60	369	96.3
1963	355	95	69	117	20	23	----------	30	354	99.7
1962	383	73	85	87	8	34	28	46	361	94.3
1961	349	75	57	76	21	25	28	36	318	91.1
1960	208	42	51	58	----------	11	18	25	205	98.6
1959	108	----------	9	7	40	2	13	30	101	93.5
1958	217	1	2	----------	----------	19	15	61	98	45.2
1953	83	2	----------	----------	----------	----------	----------	79	81	97.6

Footnotes at end of table, p. 64.

VOLUME OF OCEAN-BORNE DRY-CARGO TRADE BETWEEN THE UNITED STATES AND PUERTO RICO [1]—Continued

[In thousands of short tons]

From Puerto Rico

	Total industrial and irregular	Sugar	Cement	Aluminum	Tons	Total itemized items—Percent of total industrial and irregular
1964 [2]	897	647	249		896	99.9
1963	781	512	268		780	99.9
1962	1,016	741	238	37	1,016	100.0
1961	1,025	636	271	117	1,024	100.0
1960	1,148	698	252	197	1,147	100.0
1959	1,074	787	287		1,074	100.0
1958	874	454	297		751	85.9
1953	37		5		5	13.5

[1] Puerto Rico region includes Virgin Islands.
[2] Preliminary figures, subject to revision.

Source: Maritime Administration, "Domestic Oceanborne and Great Lakes Commerce of the United States," and unpublished data.

LAW OFFICES OF RAGAN & MASON,
Washington, D.C., December 7, 1967.

Re S.2360
CLERK, SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES OF THE SENATE COMMERCE COMMITTEE,
U.S. Senate, Washington, D.C.

DEAR SIR: Much as I dislike to take two bites at the apple, I would like to supplement my letter of yesterday by transmitting a copy of an article appearing on page 3 of the *San Juan Star* of Tuesday, December 5, which I received only this morning. You will see that the article reports on an address by Governor Sanchez, of Puerto Rico, to the Maritime Trades Department, AFL–CIO, at Miami. You will note in the last two columns the tremendous increases in vessel tonnage serving Puerto Rico; the Governor's statement that 95% of the Island's trade is conducted with the United States and that, in 1966, Puerto Rico became the fifth largest market for United States exports.

Very truly yours,

RAGAN & MASON,
JOHN MASON.

[From the San Juan Star, Dec. 5, 1967]

CARIBBEAN PORT CENTER EYED—SANCHEZ ADVOCATES ECONOMIC STIMULATION OF AREA

(By James McDonough of the Star Staff)

Gov. Sanchez sees the Caribbean developing into a "major shipping center" and a potential market for post-Vietnam shipping surplus.

In a speech prepared for delivery before the Maritime Trades Department of the AFL–CIO in Miami. Sanchez stated that Puerto Rico and the maritime industry "have a lot to do to help these countries (in the Caribbean) stimulate their economic growth."

However, the island's chief executive said that today's shipping technology is having an adverse effect on Caribbean trade. "For larger ships and more advanced techniques are making the port facilities of the Caribbean obsolete," he said.

He stated that the future of Caribbean shipping would seem to depend on creating central distributions points "along the periphery of the sea." From these centers, Sanchez envisions goods distributed to the islands by a large fleet of small and fast vessels.

The importance of shipping to the Caribbean was demonstrated by the fact that it moves 90 per cent of its cargo by sea, Sanchez noted. He said the area's shipping already accounts for 12 per cent of the world's maritime cargo total.

In pointing to the future, he noted that the Caribbean, with 15 million people and an annual gross regional product of $8 billion, will have a "great thirst for more imports and trade."

He said to assist this development, Puerto Rico in 1965 created the Caribbean Economic Development Corp. and recently signed a commercial agreement with the Dominican Republic.

Puerto Rico's interest in the Caribbean is both vital and cultural, Sanchez said. The countries of the Caribbean are the natural trading partners of Puerto Rico. Their prosperity is our prosperity.

But Puerto Rico's ability to spearhead Caribbean development and trade is limited by some of its own problems. The Governor said he was particularly disturbed by the island's "lack of control over its shipping."

He noted that 99 per cent of Puerto Rico's trade is carried by ships, over which the island has no control.

This heavy dependence on trade prompted the Governor to say, "Many Puerto Ricans, proud of their association with the United States, are nonetheless concerned because their island has no control over the shipping."

The shipping on which the island survives tripled in tonnage between 1950 and 1960, the Governor said. He reported that in 1950, island maritime tonnage amounted to 3.8 million tons. By 1960, the tonnage had jumped to 12.2 million. Today, it stands at 17.8 million tons or 46 per cent more in 1960.

He asked for an opportunity to work out the problem of control, Sanchez noted that 95 per cent of the island's trade was conducted with the United States. In addition, in 1966 the island became the United States fifth largest

market. "The political and economic relationship between Puerto Rico and the United States thus becomes a two-way street," he said.

The Governor also noted that Caribbean development is the subject of a study now being conducted by the U.S. Department of Commerce and the island on Caribbean transportation.

GRAHAM & JAMES, ATTORNEYS AT LAW,
San Francisco, Calif., December 11, 1967.

Re S. 2360.

Hon. E. L. BARTLETT,
Chairman, Subcommittee on Merchant Marine and Fisheries of the Committee on Commerce, U.S. Senate, Washington, D.C.

DEAR SENATOR BARTLETT: We have watched with some interest the progress of S. 2360 and its companion bill in the House of Representatives, H.R. 12639, over the past few months, in our representation of certain foreign-flag so-called "cruise" operators. Because of its wholly domestic orientation, in seeking amendment to Section 613(b) of the Merchant Marine Act of 1936, we have heretofore had neither occasion nor desire to comment on either of the bills, nor have we now any reason to take a position on H.R. 12639 as passed by the House on December 4 of this year.

Our concern is, however, very gravely raised by a statement recently submitted to your Subcommittee by Mr. Hoyt Haddock, executive secretary of the AFL-CIO Maritime Committee, on or about November 30, 1967. The portion of Mr. Haddock's prepared statement which causes our concern is his first proposed amendment, which, together with its explanatory paragraph, reads as follows:

"1. Restrict the cruise trade exclusively to American-flag ships. Foreign-flag vessels are at present, prohibited from transporting passengers between ports or places in the United States, either directly or by way of a foreign port. This prohibition was interpreted by the Attorney General in 1912 as not applying to cruises because they do not begin at one port or place in the United States and end in another port or place in the United States.

"It is a recognized fact that cruise passengers from the States are not, by their very nature, making trips to any foreign port. These cruise passengers sign on for round-trip cruises which merely visit foreign ports, usually for a minimum of one day. The business is essentially the domestic commerce of the United States. It should, therefore, be limited entirely to U.S.-flag vessels. Passenger ships serving this cruise business from United States ports carry American passengers almost exclusively."

As your Subcommittee will at once recognize, this proposal and statement (the factual basis of which is seriously open to question) inject an entirely different note into the pending legislation. The proposal goes beyond questions of subsidy into the entirely unrelated area of cabotage laws. The Section which presently governs this latter is contained in 46 U.S.C. § 289, which reads:

"No foreign vessel shall transport passengers between ports or places in the United States, either directly or by way of a foreign port, under penalty of $200 for each passenger so transported and landed."

Simply as a matter of sound legislative procedure we would consider it a somewhat chaotic step to commingle these two very different statutory objectives in one piece of legislation, particularly, amendatory legislation. This becomes even more so when it is considered that the two disparate statutory provisions are administered by wholly different agencies, the cabotage provisions coming, of course, under the jurisdiction of the Bureau of Customs.

In the particular circumstances, attention to Mr. Haddock's proposal by your Subcommittee, in connection with the pending bill, would be peculiarly inappropriate. This is because the Bureau of Customs has, for nearly a year now, had under active consideration its own reconsideration of the cabotage law, as published in the Federal Register of January 5, 1967. Pursuant to this publication, the Bureau has solicited comments from all interested segments of the public, and, as we understand, has received a considerable amount of thoughtful response, from American-flag operators as well as foreign-flag. We would moreover point out that, far from subscribing to the view of Mr. Haddock, the American-flag operators have repeatedly over the past few years urged a relaxation, rather than a tightening, of the cabotage restrictions, in frank acknowledgment of the fact that American vessels simply cannot handle the large volumes of cruise

traffic which the American travelling public is currently generating. We would hope that the Congress would not take action on this very important and very different problem without hearing from and considering the views of a large and very concerned segment of the U.S. foreign commerce.

Because the proposal is so far afield from the subject of S. 2360, we would not expect the Subcommittee to undertake its review at this time. Should, however, this belief be erroneous, we would respectfully request that we be afforded an opportunity of appearing before the Subcommittee, or otherwise making our views and our clients' positions known, before any such Subcommittee action. We would, as well, be appreciative if this letter could be made a part of the Subcommittee's Hearing Record in connection with S. 2360, lest the views of Mr. Haddock stand alone and unchallenged in that Record.

Very truly yours,

GRAHAM & JAMES,
By F. CONGER FAWCETT.

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