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# REVITALIZATION OF THE AMERICAN PASSENGER FLEET

GOVERNMENT

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## HEARING BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE AND TOURISM OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE NINETY-SIXTH CONGRESS

FIRST SESSION

ON

**S. 1281**

TO CLARIFY THAT THE STEAMSHIP UNITED STATES MAY OPERATE IN THE DOMESTIC AND/OR FOREIGN COMMERCE OF THE UNITED STATES AND/OR BETWEEN FOREIGN PORTS

**S. 1365**

TO DIRECT THE SECRETARY OF THE DEPARTMENT IN WHICH THE UNITED STATES COAST GUARD IS OPERATING TO CAUSE THE VESSEL INDEPENDENCE TO BE DOCUMENTED AS A VESSEL OF THE UNITED STATES SO AS TO BE ENTITLED TO ENGAGE IN THE COASTWISE TRADE

JUNE 28, 1979

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# REVITALIZATION OF THE AMERICAN PASSENGER FLEET

THURSDAY, JUNE 28, 1979

U.S. SENATE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
SUBCOMMITTEE ON MERCHANT MARINE AND TOURISM,  
Washington, D.C.

The subcommittee met at 2 p.m. in room 235 of the Russell Senate Office Building, Hon. Daniel K. Inouye (chairman of the subcommittee) presiding.

## OPENING STATEMENT BY SENATOR INOUE

Senator INOUE. Today the committee will hear testimony on S. 1281, a bill to clarify that the steamship *United States* may operate in the domestic and/or foreign commerce of the United States and/or between foreign ports; and S. 1365, a bill to direct the Secretary of the Department in which the U.S. Coast Guard is operating to cause the vessel *Independence* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

While the issues involved in S. 1281 and S. 1365 differ, the bills have a common objective—revitalization of the American passenger fleet. As of September 30, 1978, the active U.S.-flag seagoing passenger fleet consisted of four combination passenger/cargo vessels.

Last fall, United States Cruises, Inc. (USCI) entered into a contract of sale with the Maritime Administration (MarAd) for the purchase of the SS *United States* with plans to refit the vessel for operation primarily in the cruise trade between the Hawaiian Islands and the mainland.

According to USCI, a recent appellate court decision has the potential to undermine the company's proposed plan of operation. The specific case to which it refers is the U.S. Court of Appeals decision in *Alaska Bulk Carriers, Inc., v. Kreps, et al.*, No. 77-2080 (D.C. Cir. Feb. 6, 1979), a decision which USCI maintains raises some questions about the ability of a vessel built with construction-differential subsidy, as was the SS *United States*, to operate permanently in the domestic trades, even after expiration of the vessel's statutory life.

USCI contends that a careful reading of the relevant statutory provisions, sections 215 and 506 of the Merchant Marine Act of 1936, supports the position that once a vessel built with CDS has outlived its statutory life any restriction against operation in the domestic trade also expire.

USCI maintains that notwithstanding this statutory interpretation and the fact that the court in *Alaska Bulk Carriers* did not directly address the issue, the opinion of the majority in that case casts sufficient doubt on the view that expiration of the 25-year statutory life frees a subsidy built vessel from the domestic trade restriction so as to jeopardize financing of the reconstruction of the *SS United States* and its eventual operation. The language of the majority opinion characterizes the subsidy restriction as follows:

The idea is one of permanence; once the ship has been constructed by Government assistance of up to 50 percent of its original construction cost, the ship is dedicated to the U.S. foreign trade. Payment of the subsidy stamps indelibly the character of the ship then and thereafter (slip op. at 16).

S. 1281 is therefore intended to clarify the situation with respect to the *United States*, inasmuch as USCI has said that the only timely course of action which could assure permissible operation of the ship in domestic Pacific cruise service as planned is special legislation clarifying the vessel's status.

S. 1365 is intended to allow the vessel *Independence* to operate in our domestic cruise trades. Unlike S. 1281, however, it is substantive legislation which would amend existing law.

Although built in the United States and documented as a U.S. vessel, the *Independence* was built with construction subsidy, and subsequently sold foreign, that is, transferred to Panamanian registry. In addition, a "bow thruster" is planned to be installed on the *Independence* in a shipyard in Taiwan.

American Hawaiian Cruising Line, Inc., a U.S. corporation, has contracted to purchase the *Independence*, and seeks to have her redocumented as a U.S. vessel with full privileges of engaging in our coastwise trades.

Our several "cabotage" laws limit in various manners rights to engage in maritime commerce closely affecting the United States.

For example, 46 U.S.C. 289, provides that no foreign vessel may transport passengers between ports or places in the United States.

Even though a vessel is built in the United States and documented as a U.S. vessel it may forever lose the right to engage in our coastwise trades if, for example, it is sold foreign in whole, or in part, placed under foreign flag, or rebuilt abroad (46 U.S.C. 883).

The cabotage principle is recognized in international law, and is commonly practiced throughout the world. It has been applied continuously in various forms throughout our own history, beginning with 3d and 11th statutes enacted at the first session of Congress in 1789.

Cabotage laws represent Government efforts to promote U.S. shipbuilding and its employees, U.S. coastwise shipping enterprises and their employees, and the general public.

Another protection for our Jones Act fleet is that provided by section 506 of the Merchant Marine Act of 1936.

That section, of course, is also relevant to S. 1281, and provides that the owner of any ship built with construction-differential subsidy must agree that the vessel is to be operated only in the foreign trade, except for certain intermediate stops in the United States or its territories as part of worldwide voyages or under temporary waivers granted by the agency not to exceed 6 months in any 1 year.

Consistent with the objectives of our national maritime policy I believe every effort should be made to encourage a resuscitation of the American-flag domestic cruise and passenger trades.

The hearings today are intended to determine whether S. 1281 and S. 1365 are consistent with and in furtherance of the objectives of that policy.

[The bills and agency comments follow:]

[S. 1281, 96th Cong., 1st sess.]

A BILL To clarify that the steamship United States may operate in the domestic and/or foreign commerce of the United States and/or between foreign ports.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 2 of Public Law 92-296 (86 Stat. 140), as amended by Public Law 94-536 (90 Stat. 2497), is further amended by inserting after the words "American flag" the following: "in the domestic and/or foreign commerce of the United States and/or between foreign ports."

[S. 1365, 96th Cong., 1st sess.]

A BILL To direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel Independence to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, notwithstanding the provisions of section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), and any other provision of law, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel Independence (official Coast Guard numbered 261147), an American-built vessel presently owned by American Hawaiian Cruising Line Incorporated, a corporation chartered under the laws of the State of Delaware, to be documented as a vessel of the United States with the privileges of engaging in coastwise trade, upon compliance with the usual requirements, so long as the vessel is owned by a citizen or citizens of the United States, as defined in the applicable laws prescribing the qualifications for vessels to engage in coastwise trade.

FEDERAL MARITIME COMMISSION,  
Washington, D.C., July 15, 1979.

Hon. HOWARD W. CANNON,  
*Chairman, Committee on Commerce, Science and Transportation,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your June 20, 1979 request for comments on S. 1281, a bill intended "to clarify that the SS *United States* may operate in the domestic and/or foreign commerce of the United States" and S. 1365, a bill to redocument the SS *Independence* as a vessel of the United States in order that it may engage in the U.S. coastwise trade.

This Commission's authority over passenger vessels is only peripheral to the substance of these bills. We therefore defer to the views of the Maritime Administration on the specific language of the subject legislation, since that agency is charged with primary responsibility for U.S. passenger vessel operations. However, it might be useful to review FMC regulations that would affect the operation of the SS *United States* and the SS *Independence*.

In addition to the exercise of limited control over the rates and practices of passenger vessel operators in the noncontiguous trades under the Shipping Act, 1916 and the Intercoastal Shipping Act, 1933, the Commission administers sections 2 and 3 of Public Law 89-777.

Section 2 of Public Law 89-777 requires owners and operators of vessels having berth or stateroom accommodations for fifty or more passengers, and embarking passengers at United States ports, to establish financial responsibility to meet any liability incurred for death or injury to passengers or other persons on voyages to and from United States ports.

Section 3 of the statute requires persons arranging, offering, advertising or providing passage on such vessels to establish financial responsibility for indemnification of passengers for nonperformance of transportation.

Under the Commission's regulations implementing sections 2 and 3 of Public Law 89-777, a vessel owner, operator or charterer is issued a Certificate (Casualty) by submitting satisfactory evidence of financial responsibility to meet the requirements of section 2 of the law, and, upon submitting satisfactory evidence of financial responsibility to the Commission to meet the requirements of section 3 of the law is issued a Certificate (Performance).

When the SS *United States* was owned and operated by United States Lines, Inc., that company qualified for and was issued both certificates of financial responsibility needed to cover the vessel.

On June 12, 1979, United States Cruises, Inc. (USCI), which has contracted to purchase the vessel from the Maritime Administration, was issued a Certificate (Performance) covering the SS *United States*. While the vessel was contracted for delivery on or before May 1979, the Maritime Administration has deferred delivery for up to 180 days, or until November, 1979. The Commission issued the performance certificate to USCI with the mutual understanding that USCI would not advertise, promote or collect deposits or fares for any ticket contracts for specific cruises or voyages of the SS *United States* prior to January 1, 1980. The Commission also stipulated that the performance certificate could not be used in the advertising, promotion or sale of memberships in the United States Cruising Society, a cruising club formed by USCI.

The SS *Independence*, as well as the SS *Constitution*, which American Hawaiian Cruising Line, Inc. indicates it has an option to purchase, were both formerly covered by performance and casualty certificates issued to American Export Isbrandtsen Lines, Inc. If either or both of these vessels are to be operated out of United States ports, American Hawaiian Cruising Line, Inc. will be required to obtain both certificates of financial responsibility.

Whether the vessels may operate in the domestic or foreign trades or under United States or foreign registry does not affect their obligation to obtain these certificates. Issues involving the scope of their operations and their registry should be addressed by Marad and the U.S. Treasury Department.

If I can be of further assistance, please feel free to contact me.

Sincerely,

RICHARD J. DASCHBACH, *Chairman.*

U.S. DEPARTMENT OF COMMERCE,  
THE ASSISTANT SECRETARY FOR MARITIME AFFAIRS,  
Washington, D.C., July 10, 1979.

HON. HOWARD W. CANNON,  
*Chairman, Committee on Commerce, Science, and Transportation,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for views of the Department on a proposal—

"To direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel SS *Santa Rosa* to be documented as a vessel of the United States entitled to engage in the domestic and/or foreign commerce of the United States and/or between foreign ports for the carriage of passengers and their accompanying baggage."

The proposal would direct the Coast Guard to document the SS *Santa Rosa* as a vessel of the United States, entitled to carry passengers in the U.S. domestic and/or foreign commerce and/or between foreign ports, notwithstanding any provision of law, including Section 506 of the Merchant Marine Act of 1936.

The history of the SS *Santa Rosa* is intertwined with legislative and administrative efforts to promote U.S.-flag ocean passenger service. After hearings which focused national attention on the unique problems of the U.S.-flag ocean passenger vessel operators, legislative initiatives were culminated by the enactment of Public Law 92-296 in 1972. The purpose of Public Law 92-296 was to relieve the financial burden on U.S. liner service operators with passenger vessels in lay up, by authorizing the sale abroad of five U.S.-flag passenger vessels. It requires that the net proceeds be used to construct new U.S.-flag vessels with the objective of revitalizing the merchant marine.

Section 503 of the Merchant Marine Act, 1936 (46 U.S.C. 1153), generally provides that a vessel built with the aid of CDS must remain documented under the laws of the U.S. for a period of 25 years. The passenger vessels SS *Brasil*, SS *Argentina*, SS *Constitution*, SS *Santa Paula*, and SS *Santa Rosa* had been out of service for periods ranging from 16 months to 4 years. These vessels were constructed with the aid of CDS and none had reached the end of its 25 year old statutory life. Therefore, the

vessels could not be sold and transferred to foreign registry without specific statutory authority.

Public Law 92-296 removes the restrictions of section 503 to permit these vessels to be sold foreign, subject to prior approval by the Secretary of Commerce of the purchaser, price and terms of sale. Such approval was subject to the further conditions that all indebtedness of these vessels be discharged prior to transfer, that transferees enter into agreements to make the vessels available to the U.S. in the event of an emergency, and that the vessels not compete with U.S.-flag passenger ships for a period of 2 years.

The SS *Santa Rosa*, a 28,713 dwt passenger ship, was built in 1958 by Newport News Shipbuilding and Drydock Company for Grace Line, Inc., (which was merged into Prudential Lines, Inc.), with CDS. The Preferred Ship Mortgage on the vessel contained "sole recourse" provisions which permitted Prudential to surrender the ship to the Government under certain conditions without further obligations on the part of the owner. In 1975 the Maritime Administration acquired title to the vessel in accordance with these provisions and the vessel was publicly offered for sale to United States citizens and to noncitizens for operation in world trade or for scrapping within the U.S. or a friendly foreign country.

In May 1975, the SS *Santa Rosa* was purchased from MarAd by the Vintero Corporation. The contract of sale included the restrictions imposed by Section 506 of the Merchant Marine Act which provides for the annual repayment of CDS for permissible operation in the domestic trade, based on an annual proration of the vessel's entire economic life, i.e. related to one-twenty-fifth of CDS paid for the vessel. The vessel was to be refurbished and reconditioned in the United States and transferred to Venezuelan registry. However, the shipyard doing the work was closed down by a five-month strike, and when the strike ended Venezuela brought suit in the U.S. District Court against all the corporations involved in the transaction. The court decided in favor of the U.S. corporations in February, 1979. During the four-year period of litigation, the owner of the SS *Santa Rosa* experienced financial difficulties which had an adverse impact on its working capital position. According to the owner, the financial difficulty of the company resulted, in part, from the drain on its financial resources occasioned by the litigation and the cost of maintaining idle tonnage.

We now understand that the Vintero Corporation plans to modify and convert the SS *Santa Rosa* to strictly passenger use, and intends to put the ship into service on an exclusive Hawaiian inter-island itinerary. The Vintero Corporation has read the Court of Appeals decision in *Alaska Bulk Carriers, Inc. v. Kreps, et. al.* (D.C. Cir. Feb. 6, 1979) as casting a cloud over the legality of Vintero's planned operations in the domestic Pacific cruise market. According to that decision, the Secretary of Commerce did not, with respect to a tanker recently constructed with the aid of CDS, have the authority to lift the Section 506 restrictions on the tanker's operation in the domestic trade even though the CDS would be repaid to the Federal Government. While we have some doubt that the Court's decision should be read so broadly as to govern the facts in this situation, we have no objection to the introduction of clarifying legislation as proposed.

We should stress that, since the contract of sale signed by the Vintero Corporation maintains the Section 506 restrictions, it would be consistent with Department policy to require the payback of CDS with respect to the remaining statutory economic life of the vessel before lifting the restrictions of Section 506. Any remedial legislation should contain such a condition.

With the adoption of the recommended amendment, the Department of Commerce has no objection to the legislation as proposed. It would (1) end the costly and useless drain on the financial resources of the owners of the vessel; (2) generate badly needed job opportunities for shipyard and seagoing labor, especially in Hawaii; (3) promote tourism; and (4) assist in the realization of the objectives of the Merchant Marine Act of 1936.

However, we are not able to comment at this time on the competitive aspects of allowing another ship into the cruise trade in Hawaii until publication of a market feasibility study analyzing the market of the pleasure cruise industry in the United States and Canada. One phase of the study, concerning the cruise market itself, is currently being contracted out to a commercial firm for analysis. The other phase,

concerning shipping aspects, is being completed within the Maritime Administration. We expect publication of the study by the end of the year, at the very earliest.

Sincerely,

C. G. CARAS,  
(FOR Samuel B. Nemirow,  
Acting Assistant Secretary  
for Maritime Affairs).

Senator INOUE. Senator Warner?

Senator WARNER. Thank you. Mr. Chairman, I commend you for scheduling these hearings.

I would like to express my support for S. 1281 and S. 1365 which would remove certain restrictions on the domestic operation of two U.S.-built passenger ships, the SS *United States* and the SS *Independence*.

The Merchant Marine and Tourism Subcommittee will soon be considering legislation to revise the U.S. maritime policy and create a more favorable climate for American ships operating in our liner and bulk trades. The two bills before us take an important first step toward revitalizing the once-great U.S. passenger fleet. There is limited U.S.-flag passenger service offered today on combination passenger/cargo ships. However, with the recent bankruptcy of Pacific Far East Lines, the last two U.S.-flag passenger vessels designed strictly for passenger cruises—the SS *Mariposa* and the SS *Monterey*—were laid up. It is a national disgrace that the United States, once a formidable world maritime leader, has now fallen to a position where we are not operating a single passenger ship and our lucrative cruise business goes almost entirely to foreign interests.

By assisting in the return of the SS *United States* and the SS *Independence* into our passenger trades, S. 1281 and S. 1365 represent a commitment by the maritime industry, the Maritime Administration, and the Congress that the United States redevelop an economically successful passenger cruise service. These bills will create hundreds of American seafaring jobs, not only aboard ship but also in U.S. shipyards where maintenance and repairs will be made. Furthermore, the cruise trade will boost many other segments of our economy through its need to provide passengers with many varied goods and services.

It must also be remembered that the Senate Commerce Committee has recently reported, and the full Senate has recently approved, a bill which is designed to encourage foreign tourism into the United States. Surely the reactivation of these vessels will greatly supplement our international tourism promotion efforts and keep American tourist dollars at home.

Mr. Chairman, we should seek prompt Senate approval of this most constructive legislation.

Thank you, Mr. Chairman.

Senator INOUE. Late Wednesday the committee received the testimony for today's hearing urging an amendment to the Merchant Marine Act of 1936, which would permit any passenger vessel which had been sold American and built with subsidy to operate in the coastwise trades.

This recommendation, of course, was made too late to be the subject of this hearing. However, the committee will be pleased to receive testimony on this subject this afternoon, and we will be soliciting comments on the proposal from interested parties.

Our first witness is the Honorable Samuel B. Nemirow, Acting Assistant Secretary for Maritime Affairs, Department of Commerce.

STATEMENT OF SAMUEL B. NEMIROW, ACTING ASSISTANT SECRETARY FOR MARITIME AFFAIRS, DEPARTMENT OF COMMERCE, WASHINGTON, D.C.

Mr. NEMIROW. Thank you, Mr. Chairman. As most of us recall, it was in 1972 that seven U.S.-flag passenger ships were laid up. Because the heavy costs of maintaining these vessels in layup, and the fact that these costs interfered with the financial ability of their operators to carry on their cargo liner operations, Congress enacted Public Law 92-296 to authorize the transfer of the passenger vessels in layup to foreign ownership and registry. Exceptions were made for the SS *United States*, because of its special defense features, and the SS *Independence*, because a U.S.-flag operator had expressed interest in purchasing the vessel.

That legislation also authorized the Secretary of Commerce to purchase the *United States* for the Reserve Fleet. With respect to the *Independence*, when the prospective sale did not materialize, the Congress enacted Public Law 93-330 in 1974, authorizing the transfer of that vessel to foreign ownership and registry. The vessel was transferred to Panamanian registry, as you had indicated, and it has been laid up in Hong Kong for several years.

I am most pleased to appear before this subcommittee today, to testify on behalf of the Department of Commerce on two bills which you have introduced, Mr. Chairman, which we believe could set the future courses of these two vessels.

Your introductory remarks in the Congressional Record of June 5, 1979, when you introduced S. 1281, contain a comprehensive description of the place the SS *United States* has in our maritime history. This subcommittee is well aware of the circumstances which led to the vessel's layup by the operator in 1969 and of the various legislative and administrative efforts undertaken since that time to encourage resumption of U.S.-flag service by this great ship.

On October 29, 1978, the Maritime Administration entered into a contract to sell the SS *United States* to United States Cruises, Inc. for \$5 million, for operation primarily in the cruise trade between the Hawaiian Islands and the mainland.

At the time of the contract of sale between the Maritime Administration and USCI, the vessel's age was greater than 25 years. As you have indicated, a new vessel built with the aid of CDS "to be used in the foreign commerce of the United States," is required to remain documented under U.S. laws, for not less than 25 years, or so long as there is any remaining principal or interest due the United States on the purchase price of the vessel. Since the SS *United States* had already passed the 25th year, and no principal or interest remained outstanding at the time of the vessel's sale, the Maritime Administration did not contemplate any legal obstacle to the operation of the vessel exclusively in the domestic trade, as might otherwise be imposed by the restrictions in section 506 of the 1936 act.

That provision of law specifically provides a formula for annual repayment of CDS for permissible operation in the domestic trade, based on an annual proration of the vessel's entire economic life, that is, related to one-twenty-fifth of CDS paid for the vessel.

USCI has read the court of appeals decision in *Alaska Bulk Carriers* case as casting a cloud over the legality of USCI's planned operations in the domestic Pacific cruise market. While we have some doubt that the court's decision should be read so broadly, we would favor enactment of the clarifying legislation in S. 1281. This should eliminate any need for further delays in the pursuit of what we consider to be a most worthwhile project.

S. 1365 would direct the Coast Guard to document the vessel SS *Independence* so as to allow it to engage in the coastwise trade.

In 1978, the American Hawaiian Cruising Line, Inc. (AHCL) purchased the *Independence* from a Liberian corporation, with the intention of renovating the vessel extensively and operating it strictly as a cruise ship among the Hawaiian Islands on voyages to various ports, beginning early next year. While the Maritime Administration has approved the retransfer of this CDS vessel to U.S. registry, the economic life of which, for CDS purposes, has expired, the Coast Guard has indicated that it cannot, pursuant to law, document the vessel with full privileges to engage in the coastwise trade.

With respect to the SS *Independence*, there are no competing U.S.-built unsubsidized vessels now in operation qualified to operate a full-time passenger service in the domestic trades. Furthermore, there are no prospects of new vessel construction for this purpose.

Accordingly, the Department of Commerce supports the enactment of both S. 1281 and S. 1365 as important steps forward in revitalizing U.S.-flag passenger and cruise service in our domestic trades. Initiation of such service by these vessels, with a potential for expansion, would be of significant benefit to the economy of the State of Hawaii, as well as to the national economy, and will result in jobs for U.S. merchant seamen and workers in ship repairing and other maritime-related industries, which are especially needed at this time.

Mr. Chairman, this concludes my prepared statement. I will be pleased to answer any questions that you or members of this subcommittee may have.

Senator INOUE. From your statement, am I correct to conclude that you believe these bills if passed will not do harm to our shipping policy?

Mr. NEMIROW. Yes. I think the appropriate course when you have exceptional circumstances such as these is to address them on an ad hoc basis and provide the exceptions that are required. We wouldn't at this time recommend general legislation modifying section 27 of the 1920 act.

But we support the bills relating to these two vessels on their own merits.

Senator INOUE. Are you aware of the ship called the SS *Santa Rosa*?

Mr. NEMIROW. Yes, I am.

Senator INOUE. I realize that the invitation to testify did not include the SS *Santa Rosa*, but from what you know, would you feel compelled to include the *Santa Rosa* in these bills?

Mr. NEMIROW. I would not.

Senator INOUE. Do you think the issues differ?

Mr. NEMIROW. I am not—the reason I hesitate and say I would not, is that any of these exceptions, whether they be through a private bill or a public bill, should be considered on their own merits.

I have recently read in Saturday's newspaper some statements by the owners of the SS *Santa Rosa* as to what their intentions are. Frankly, I don't know enough about the facts surrounding that case. I know of the vessel. I know they have some concept of what they would like to do with it in the domestic trade.

I believe it is a 22-year-old ship. But I know very little else about the project.

Senator INOUE. I believe the owners of the ship and the representative of the corporation intending to purchase this will be testifying this afternoon. If I may, I would like to share the testimony with you and ask for your comments.

Mr. NEMIROW. I would very much look forward to commenting, and I would also like to invite them to stop in and visit with us. We can discuss any questions we might have attendant to their application for use in domestic trade.

Senator INOUE. I think that is very generous of you, sir.

We have several questions I would like to submit to you. These are technical in nature. Appreciate your comments on them.

Mr. NEMIROW. Fine.

Senator INOUE. Thank you very much, Mr. Secretary.

Mr. NEMIROW. Thank you, Mr. Chairman.

[The following information was subsequently received for the record:]

#### QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

*Question 1.* The *Independence* was built with construction subsidy. Has her economic life (25 years) expired? If so, with respect to whether subsidy is a barrier to entering the coastwise trades, the *Independence* and the *United States* raise the same issue, do they not?

*Answer.* The *Independence* was delivered on January 11, 1951. The vessel was built with Construction-Differential Subsidy (CDS) under Contract No. MCC-C1468 and purchased by American Export Lines, Inc. In 1961 the statutory life of the vessel was extended from 20 years to 25 years. The vessel's 25 year statutory life expired on January 11, 1976.

Both the *United States* and the *Independence* have passed their 25th year. Further, no principal or interest remained outstanding at the time of the sale. Under the circumstances relevant to these two vessels, MarAd does not believe subsidy is a barrier to entering the coastwise trade.

*Alaska Bulk Carriers, Inc. v. Dreps, et al.* (D.C. Cir. Feb. 6, 1979) has been cited as casting a cloud over the entry of the United States in the coastwise trade. Although we do not believe the decision has such an effect, we have no objection to the clarifying legislation proposed. With respect to the S.S. *Independence*, any determination regarding section 506 of the Merchant Marine Act, 1936, would, of course, have no bearing on whether section 27 of the Merchant Marine Act, 1920, forbids operations in the coastwise trade.

*Question 2.* Although built in the United States and documented as a U.S. vessel, the S.S. *Independence* was subsequently sold foreign, i.e., transferred to Panamanian registry.

Now, of course, American Hawaiian Cruising Line, Inc., has contracted to purchase her, and seeks to have her redocumented as a U.S. vessel with full privileges of engaging in our coastwise trades.

In addition to having been "sold foreign", a "bow thruster" was installed on the *Independence* in a shipyard in Taiwan.

*Question (a).* In your opinion, what specific provisions of law prevent the *Independence* from being redocumented as a U.S. vessel with full privileges of engaging in our coastwise trades?

Answer. 46 U.S.C. 883. To the best of our knowledge, however, the bow thruster has not yet been installed.

*Question (b).* Is S. 1365 sufficient to accomplish this?

Answer. Yes.

*Question (c).* Does S. 1365 do more than is necessary to enable the *Independence* to be redocumented with full privileges of engaging in our coastwise trades?

Answer. If it does not specifically restrict the vessel to the carriage of passengers, the bill would afford the vessel an opportunity to compete in the carriage of cargo (to the extent the vessel has cargo carrying capacity) in the coastwise trade.

*Question (d).* Is S. 1365 consistent with the objectives of our maritime policy and our "cabotage" laws?

Answer. Since there are no passenger vessels built without subsidy qualified to operate a full time passenger service in the coastwise trades at this time, passage of this bill, limiting the operation of the vessel to passenger service, would not be inconsistent with our maritime policy and the philosophy underlying our cabotage laws.

*Question 3.* Supporters of S. 1281 urge that the legislation is necessary in view of the court of Appeals decision in the *Alaska Bulk Carrier* case. As a consequence of that decision they say it is unclear whether the *United States* which was built with CDS may engage in our domestic trades even though her statutory life (25 years) has expired.

*Question (a).* Should passenger vessels built with CDS be allowed to engage in our domestic trades once their statutory life (25 years) has expired?

Answer. Each such proposal should be judged on its individual merits and the applicable circumstances. Generally speaking, we do not believe there is a legal prohibition against vessels built with CDS engaging in the coastwise trade once their statutory life has expired.

*Question (b).* Do you believe legislation such as S. 1281 is necessary to enable the *United States* to enter our coastwise trades?

Answer. As stated previously in Question 1, the Maritime Administration has doubts whether legislation is required, but will support the legislation to obviate any uncertainty the owners may have.

*Question (c).* If you believe existing law would permit the *United States* to enter our domestic trades, it will not change anything or be contrary to the objectives of our shipping policy if Congress enacts S. 1281, will it? On the other hand, it could help achieve the objectives of our shipping policy by facilitating the revitalization of our passenger fleet.

Answer. S. 1281 would not be contrary to the objectives of our shipping policy. We agree that it could help achieve these objectives by facilitating the revitalization of our passenger fleet.

*Question (d).* Should other types of vessels, e.g., dry-bulkers, tankers, containers, which have been built with CDS, be allowed to engage in our domestic trade once their statutory life has expired? If not, why would you distinguish passenger vessels?

Answer. There is no existing legal justification for distinguishing between CDS built passenger vessels and other types of CDS built vessels.

*Question 4.* From press accounts, United States Cruises, Inc. needs to raise substantial amount of capital before the *United States* can be reactivated.

Indeed that is the reason why proponents of S. 1281 say the bill is necessary. Suppose S. 1281 is enacted, MarAd completes the sale of the *United States* to United States Cruises, Inc., and the United States Cruises cannot raise the necessary additional capital.

What would you do with the vessel?

Answer. The Maritime Administration would have several options open to it. One is to place the S.S. *United States* in permanent layup as part of the National Defense Reserve Fleet. Another is to offer the vessel for sale, probably under similar terms as the previous solicitation in 1978. Still another option would be to scrap the vessel. Our final decision would depend ultimately upon the market for such ships existing at that time.

*Question 5.* Suppose S. 1281 is enacted, and the contract of sale between MarAd and United States Cruises, Inc. is executed for the agreed upon purchase price of \$5 million.

Could United States Cruises, Inc., then decide to sell the *United States* without even re-activating her as represented.

And, if so, would the re-sale price be greatly increased beyond the \$5 million purchase price by virtue of enactment of S. 1281?

Answer. S. 1281 was introduced at the request of USCI in order to remove a doubt that was perceived by USCI's financial supporters regarding the ability of the S.S. *United States* to operate permanently in the domestic trade. This doubt was said to result from the recent decision in the *Stuyvesant* case (*Alaska Bulk Carriers v. Kreps*, 445 F.2d, 1134 (D.C. Cir., 1979)). This case is now pending before the United States Supreme Court.

Concerning the sale of the S.S. *United States* to USCI, the contract of sale has been executed. However, USCI must pay the remaining \$4.5 million of the sale price plus accrued lay-up costs to fulfill the terms of the contract before title will be transferred to it. Under Article 2 of the sales contract, USCI cannot sell or scrap the vessel or modify its proposed operation (including cruises to and among the Hawaiian Islands) without the prior approval of the Assistant Secretary for Maritime Affairs. If USCI were to offer the ship for sale, the Maritime Administration would have the first right to repurchase the ship at its depreciated value, as determined by the Assistant Secretary for Maritime Affairs. Any prospective sale to a non-U.S. citizen would be subject to the foreign transfer restrictions of section 9, Shipping Act of 1916, (46 U.S.C. 808), and, of course, to the restrictions of P.L. 92-296, as amended.

In our view, S. 1281 does not add significantly to the market price for the vessel (1) we believe that the vessel could be employed in the Hawaiian Islands' trades without S. 1281 and (2) no such buyer came forward in the years prior to *Alaska Bulk Carriers* when the vessel was repeatedly offered for sale. However, considering the doubts raised by USCI's financial supporters, it is conceivable that another buyer could perceive an increased value and, therefore, be willing to pay more for the ship. But since no such buyer has come forward, it is difficult to quantify the resale price.

*Question 6.* The uncertainty created by the Court of Appeals decision in the *Alaska Bulk Carrier* case has been cited as the reason why S. 1281 is necessary. In fact, those who urged enactment of S. 1281, told the Committee that "ultimate appeal of the Court's decision to the Supreme Court could involve years of additional delay", and therefore the "only timely and responsible course" is to seek this legislation.

Last week, I believe, the Supreme Court agreed to hear the *Alaska Bulk Carrier* case during the October term.

In view of this, is it still reasonable to say that the ultimate appeal "could involve years of delay" insofar as removing the uncertainty surrounding the *United States*?

Answer. If the Supreme Court decides the case on its merits, a decision is likely during the Court's next term, which begins in October 1979 and terminates in June 1980. Should the Court remand the matter for further consideration by the District Court, final disposition would be delayed, possibly for as much as a year from the date of remand.

*Question 7.* Those who urge enactment of S. 1281 say the legislation is necessary to remove the uncertainty as to whether the *United States* may engage in our domestic trades even though her statutory life has expired.

Will S. 1281 enable the *United States* to do anything more than that?

Answer. The only consequence of this bill's enactment would be to obviate the uncertainty which USCI believes exists because of the decision in *Alaska Bulk Carriers*.

*Question 8.* Matson Navigation Company has urged the following amendment to S. 1281:

On line 6 after the quotation marks insert the words "for carriage of passengers and their accompanying baggage" so that the amended amendment to be inserted after the word "American Flag" would read "for carriage of passengers and their accompanying baggage in the domestic and/or foreign commerce of the United States and/or between foreign ports."

Would you please comment on this amendment.

Answer. The effect of this amendment would be to disallow the carriage of cargo in all trades—domestic, foreign commerce and foreign-to-foreign. Such an amendment would be consistent with MarAd's support for a revitalization of U.S. flag

passenger and cruise service in all trades while limiting very selectively the erosion of protection afforded to commercial vessels dedicated to our domestic trades.

*Question 9.* In MarAd's view should the law be amended so that U.S. passenger vessels in lay-up which were built with subsidy and whose economic life has not expired be permitted to engage in our coastwise trade?

Answer. It is the view of the Maritime Administration that the law be amended so that U.S. passenger vessels in lay-up which were built with subsidy and whose economic life has not expired be permitted to engage in U.S. domestic trade, but only when demand for passenger service exists in that trade and when no suitable U.S.-flag ships constructed without CDS are available to satisfy the demand. There should also be a payback of CDS pursuant to the existing provisions of section 506, Merchant Marine Act, 1936.

*Question (10)(a).* How many other U.S.-flag vessels in lay-up have the same problem as the *United States*? (i.e., whose economic life has expired)

*Question (b).* As the *Independence*?

Answer. a.1. CDS-built ships in lay-up, over 25 years of age, and under U.S. registry:

S.S. *United States*.

S.S. *Monterey*.

S.S. *Mariposa*.

2. CDS-built ships in lay-up, less than 25 years of age, and under U.S. registry:  
S.S. *Santa Rosa*.

b. CDS-built ships that are under foreign registry:

Was S.S. *Independence*—Now S.S. *Oceanic Independence*; currently laid up in Hong Kong.

Was S.S. *Constitution*—Now S.S. *Oceanic Constitution*; currently laid up in Hong Kong.

Was S.S. *Santa Paula*—Now S.S. *Anthinai*; laid up in Piraeus, Greece since October, 1967.

Was S.S. *Brasil*—Now S.S. *Volendam*; operating as a cruise ship out of New York City.

Was S.S. *Argentina*—Now S.S. *Veendam*; operating as a cruise ship out of New York City.

Was S.S. *America*—Now exact name not known; probably operating or expected to operate as a cruise ship in the Mediterranean.

Was S.S. *President Roosevelt*—Now S.S. *Emerald Seas*; operating as a cruise ship out of Miami.

Was S.S. *President Wilson*—Now S.S. *Oriental Empress*; laid up in Hong Kong.

Was S.S. *Atlantic*—Now S.S. *Universe*; operating as a cruise ship in North America.

Senator INOUE. The next witness is the Chief of the Office of Merchant Marine Safety, U.S. Coast Guard, Department of Transportation, Rear Adm. Henry H. Bell.

**STATEMENT OF REAR ADM. HENRY H. BELL, CHIEF, OFFICE OF MERCHANT MARINE SAFETY, U.S. COAST GUARD; ACCOMPANIED BY JOSEPH A. YGLESIAS, CHIEF, MERCHANT VESSEL DOCUMENTATION DIVISION**

Admiral BELL. Good afternoon, sir.

Senator INOUE. Admiral, welcome.

Admiral BELL. Thank you.

I am Rear Adm. Henry H. Bell, Chief of the Office of Merchant Marine Safety, U.S. Coast Guard. I am accompanied by Mr. Joseph Yglesias, Chief, Merchant Vessel Documentation Division.

I have two very short statements, one each addressing the two bills under consideration; with your permission I will go ahead and read them.

Senator INOUE. Fine, sir.

Admiral BELL. Thank you.

I am pleased to appear before you today to discuss S. 1281, a bill to clarify that the steamship *United States* may operate in the

domestic and/or foreign commerce of the United States and/or between foreign ports.

The SS *United States*, official number 263934, was built in 1952 at Newport News, Va., by the Newport News Shipbuilding & Drydock Co. for the United States of America.

The vessel was first documented as a vessel of the United States on June 16, 1952 in the ownership of the United States of America. Since that time, the SS *United States* has undergone three changes of ownership: On June 18, 1952, to United States Lines Co., a New Jersey corporation; on June 23, 1967, to United States Lines, Inc., a Delaware corporation; and on February 2, 1973, to the United States of America, the current owner of record.

U.S. Cruises, Inc., reportedly entered into a sales contract with the Maritime Administration for purchase of the SS *United States* for operation primarily in the carriage of passengers on cruises between Hawaii and the mainland. S. 1281, by amending section 2 of Public Law 92-296, as amended, would permit the sale of the vessel for operation in the domestic and/or foreign commerce.

This legislation will have no appreciable effect on the programs or responsibilities of the Department of Transportation. We, therefore, have no objection to the proposed legislation. I want to point out that, subject to compliance with safety inspection and certification requirements, and all other requirements applicable to this type vessel, the Coast Guard perceives no impediment to documentation of the SS *United States* for operation in the intended employment.

If I may go on, sir, I will read the statement concerning S. 1365, which is a bill to direct the Secretary of the Department in which the Coast Guard is operating to cause the vessel *Independence* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

The SS *Independence*, official number 261147, was built in 1951 at Quincy, Mass., by the Bethlehem Steel Co. for the United States of America.

The vessel was first documented as a vessel of the United States on January 10, 1951, in the ownership of the United States of America. On January 11, 1951, the SS *Independence* was transferred to the ownership of American Export Lines, Inc., a New York corporation. In 1967, the corporation changed its name to American Export Isbrandtsen Lines, Inc., and the vessel remained of record in that ownership until 1974.

On July 3, 1974, the Maritime Administration approved sale of the vessel to Far East Lines, Inc., a Liberian corporation, and transfer to Panamanian registry. The SS *Independence* was removed from documentation as a vessel of the United States on July 18, 1974.

American Hawaiian Cruising Lines, Inc., has contracted to acquire the SS *Independence* for operation in a Hawaiian inter-island passenger service. The U.S. Customs Service, the agency primarily responsible for administering the coastwise trading laws, deems the transportation of passengers between points in the United States as an employment in the coastwise trade. Under section 27 of the Merchant Marine Act, 1920, as amended, a vessel sold foreign in whole or in part, or placed under foreign registry, loses its coast-

wise trading privileges. S. 1365 would restore coastwise trading privileges to the SS *Independence* so that it could engage in the intended employment.

It is to be noted, sir, that section 27 in effect also provides that a coastwise trade-qualified vessel of more than 500 gross tons rebuilt abroad will lose its coastwise trading privileges. In our view, if S. 1365 is enacted and the SS *Independence* thereafter undergoes work abroad of a nature that is deemed a rebuilding within the meaning of section 27, the vessel will lose the coastwise trading privileges intended to be restored by the bill.

If enacted, S. 1365 will entitle the SS *Independence* to documentation for, and employment in, the coastwise trade upon compliance with safety inspection and certification requirements and all other requirements applicable to this type vessel.

Sir, as a policy matter, the Department of Transportation favors the return of the *Independence* to the U.S. flag. The redocumentation of this vessel would return full passenger service to the U.S. fleet, would create additional job opportunities in the U.S. merchant fleet, and would promote increased activity at U.S. shipyards which will service this vessel.

That, sir, is the conclusion of my prepared statements. We would be pleased to answer questions.

Thank you, sir.

Senator INOUE. Thank you very much.

As to S. 1365, the so-called *Independence* bill, do you think it would be necessary to add any additional language to make certain that the ship would lose coastwise trade privileges if it subsequently, as you indicated, undergoes work abroad, within the meaning of that section? Or is the bill and existing law specific enough?

Admiral BELL. Sir, the reason this statement is in there is that we are concerned. As you know, the vessel is now foreign. We are not completely privy to all of the conditions of its sale. We understand some of the conditions, however, would entail some work abroad. The reason we brought this up is we are concerned that this bill might confer coastwise trading privileges and then, though inadvertently, sufficient repairs could be undertaken abroad as condition of sale that could subsequently withdraw the privileges again. That is our concern.

I don't feel, sir, that we would want to permit this vessel to undergo foreign repair ad infinitum, because then one of the intents of bringing it back under the U.S. flag, that of providing work for our U.S. shipyards, would be lost.

Senator INOUE. Then, it is your position that if S. 1365, the *Independence* bill, is enacted, and the SS *Independence* thereafter undergoes work abroad, which is deemed rebuilding within the meaning of section 27, the vessel will lose the coastwise trading privileges restored by S. 1365?

Admiral BELL. Yes, sir; that is a distinct possibility. I think we have a timing problem here. We are concerned enough about it that this might defeat the intent of the current bill. The intent of the bill could be defeated by this. That's why we are bringing it to your attention, sir.

Senator INOUE. What do you consider as rebuilding under the provisions of section 27?

Admiral BELL. Could I ask Mr. Yglesias, who is my documentation officer? He can address that for you, sir.

Mr. YGLESIAS. In the regulations, a rebuilt vessel is one which undergoes work to the extent that any considerable part of the hull in its intact condition, without having been broken up, is built upon or substantially altered.

Senator INOUYE. They intend to have some work done in Taiwan described as the bow thruster. I don't know what that is, but would that constitute rebuilding?

Mr. YGLESIAS. First of all, I don't know if a bow thruster has yet been installed on the vessel. But if it is, we would have to look past merely the installation of the bow thruster as to what other work is done on that vessel. In the normal course of events, we would receive a certificate of specifications as to what was done on the vessel, with plans of the work done. It is on the basis of the total work performed that a decision has to be made.

Senator INOUYE. Is it possible for the ship's owner to approach your agency prior to contracting for work to receive a certification?

Mr. YGLESIAS. We will accept a certificate of specification as to the work to be performed, with plans, and will respond to that as to whether in our consideration it is rebuilt or not.

Senator INOUYE. Now we are speaking of work abroad subsequent to the passage of this measure.

Mr. YGLESIAS. Yes.

Senator INOUYE. Would the work prior to the passage in anyway be affected?

Mr. YGLESIAS. No, sir.

Senator INOUYE. So if the bow thruster was in fact built in Taiwan, or will be prior to enactment of S. 1365, it will not affect the relations with your agency after the enactment of this bill?

Mr. YGLESIAS. That's right, sir, because the bill provides for that, notwithstanding section 27.

Senator INOUYE. Under the law, even though a vessel is built in the United States and documented as a vessel of the United States, if it is owned by a corporation, it may not be used in the coastwise trade unless 75 percent of the interest of the corporation is owned by citizens as required by section 2 of the Shipping Act, 1916.

Section 2 of the 1916 Act provides that no corporation shall be considered a citizen of the United States unless the controlling interest therein is owned by citizens of the United States.

Section 2 further provides that the controlling interest in a corporation will not be considered to be owned by citizens of the United States: (a) If the title to a majority of the stock thereof is not vested in such citizens free from any trust of fiduciary obligation in favor of any person not a citizen of the United States; or (b) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (c) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

Would enactment of S. 1365, in any way change these requirements? In other words, even if S. 1365 becomes law, the Coast Guard would still have to determine that American Hawaiian Cruising Line, Inc., satisfies these requirements before it documents the vessel with full coastwise trading privileges?

Admiral BELL. Yes.

Mr. YGLESIAS. Yes, sir.

I would like to add one thing.

The interest to be owned, controlled by Americans for coastwise trading purposes, is 75 percent.

Senator INOUE. So this bill will in no way amend or effect that provision of the law?

Admiral BELL. No, sir.

Senator INOUE. So your agency would make certain that these requirements are carried out before you would provide proper documents.

Admiral BELL. Yes, sir. It is required that they be carried out. Yes, sir.

Senator INOUE. Well, I thank you very much, gentlemen. You have been most helpful.

Admiral BELL. Thank you, Mr. Chairman.

Senator INOUE. Our next witness is the executive director of the Harbor Festival Foundation, Mr. Frank O. Braynard.

**STATEMENT OF FRANK O. BRAYNARD, EXECUTIVE DIRECTOR,  
HARBOR FESTIVAL FOUNDATION, INC., NEW YORK, N.Y.**

Mr. BRAYNARD. Thank you, Mr. Senator.

Now is certainly the time to give new thought to a revival of American passenger shipping. I welcome and endorse the efforts by you, Senator Inouye, to assist in every practical way the return of the liner *United States* to active service. I have seen with dismay the decline of the American passenger fleet following World War II. New efforts to restore coastwise passenger cruise shipping are most timely.

Every night throughout the year on the Baltic Sea, thousands of people board luxurious overnight liners and sail to a foreign port. The duty free shops alone on these little luxury liners represent a billion-dollar industry. There are plenty of plane routes, but the people over there prefer ships. It is a way of life that we have almost forgotten in this country, although our maritime achievements of the past are unmatched by any other nation. Why is there no steamer service between New York and Florida, to cite just one example. For years, people have talked of reestablishing such a line, there have been many highly optimistic studies made and surveys done. But we are so under the domination of the road and the auto mentality that no one has had the gumption to start such a service. I think it would pay.

Before the last war there were dozens of successful and much appreciated coastwise passenger ship lines. When the war came they turned over their ships and when the war ended they quietly liquidated. Virtually not a hand was raised to save them. One of these lines was the Merchants & Miners Co., which had a ship named after each letter of the alphabet: *Allagheny*, *Berkshire*, *Chatham*, *Dorchester*, *Essex*, *Fairfax* and so on. All lovely little

passenger ships. Then there was the Morgan Line, the Clyde Line, the Panama Pacific Line, the Alaska Line and many others.

The Baltic, the Black Sea, the Mediterranean, the Sea of Japan, and many other places still have dozens of healthy ship lines and hundreds of fine, modern, luxurious lady liners. America has virtually none. On the Volga River in the Soviet Union there are 80 beautiful, big, modern overnight passenger cruise ships. I have taken two 11-day cruises on them and they are outstanding vessels. On our entire inland waterways there are just two vessels which carry passengers on overnight runs—the heroic *Delta Queen* and the magnificent new *Mississippi Queen*. Superb vessels, marvelous service, but there should be a dozen of them or more. There was a time when there were more steamships on the Mississippi than in the entire British merchant marine. What has happened to our maritime enterprise?

A very large percentage of the passengers who use foreign cruise ships in the Mediterranean, or the Baltic, or elsewhere abroad are Americans. We have relearned to appreciate travel by sea elsewhere, why can't we have overnight ship services on our own Great Lakes, on our rivers and up and down our long coastlines?

To make matters worse, there is not a single full-fledged passenger liner flying the American flag, as you mentioned before, on the oceans of the world. Only the four Delta Line combination passenger-cargo ships carry the Stars and Stripes in a cruise industry that is booming. Cruising is booming like few other industries. Whereas only a few years ago Cunard Line announced its new *Cunard Princess* as "The last cruise ship ever to be built," today 21 new, or newly rebuilt cruise liners are in shipyards throughout the world—not one to fly the American flag. A large percentage of the passengers creating this booming cruise liner business are Americans.

With the gasoline and fuel oil situation that we face today, every form of mass transportation should be encouraged. Travel by ship is mass transportation, probably the nicest form of mass transportation. I am happy to note that the Maritime Administration has called for a study on the possible revival of cruising under the American flag. I hope it produces good and quick results.

I believe, however, that it is even more desirable and perhaps easier to revive our dormant coastal and inland waterway passenger ship services. There is no foreign competition.

A major fear that has kept new money from coming into American passenger shipping field has been the fear of labor uncertainty. Labor has seen our passenger fleet decline from a high point in the early 1950's to today's bottom of the barrel disaster. I believe it can be said that maritime labor is fully aware of the need for establishing confidence to attract capital. To encourage new money to build new ships and restore domestic passenger services, there should be partial capitalization from some area of the labor movement, I believe. It need not be maritime labor, but startup money should come from a labor-oriented source. Thousands of new jobs would be created. Tourism from abroad would be given a great boost. Intra-American travel would be greatly stimulated. Our balance of payments situation would be improved.

I have not even mentioned one major reason for encouraging new coastal and inland waterways passenger ship enterprise. That is the sheer joy of going by ship. It is great fun to go by water. There are no traffic jams at sea. No gas fumes. It is a way of life that most people, except Americans, know how to enjoy. I think it is high time to bring back the American passenger shipping business and I certainly welcome your efforts in this behalf and thank you for the chance to be here.

Senator INOUE. Thank you very much, sir. I appreciate your words.

Our next witness is the chairman of the board of American Hawaiian Cruising Line, Inc., Mr. Conrad H. C. Everhard.

**STATEMENT OF CONRAD H. C. EVERHARD, CHAIRMAN OF THE BOARD, AMERICAN HAWAIIAN CRUISING LINE, INC.**

Mr. EVERHARD. Mr. Chairman, I have a short prepared statement. With your consent, I would like to read it.

Senator INOUE. Please proceed, sir.

Mr. EVERHARD. I greatly appreciate the opportunity to testify this afternoon as chairman of the board of American Hawaiian Cruising Line, Inc., in support of S. 1365, a bill which will contribute significantly to the revitalization of the U.S.-flag passenger fleet.

All of us who take pride in our Nation's historic leading role among the great maritime powers must reflect with genuine sadness upon the virtual disappearance of the U.S. passenger trade during the past two decades. But with your strong support of S. 1365, Mr. Chairman, and with the assistance of your colleagues in the Congress, we shall be witness to a rebirth of the American-flag passenger industry.

Last year my company contracted to purchase the former S.S. *Independence* for the purpose of returning the liner to U.S. registry and operating it on cruises among the Hawaiian Islands.

We are now in the process of extensively refurbishing the vessel and making the alterations required to meet the Coast Guard's documentation standards. We plan to launch our cruise enterprise in early 1980, assuming timely passage of S. 1365.

Mr. Chairman, the reentry of the *Independence* into U.S.-flag passenger service will clearly advance our national interests and will enhance our merchant marine and defense posture in numerous ways.

To summarize briefly, many hundreds of jobs will be provided for American workers in the seafaring trades, and in the shipyard and other maritime industries. Goods and services will be purchased from numerous other sectors of our economy.

Our present dependence on foreign-flag ships in the cruise ship trade will be diminished. The outstanding new mode of public transportation in Hawaii offered by the *Independence* will keep tourist dollars in the United States. The flow of foreign tourists will be increased, particularly from the Orient, and our balance-of-payments position will be improved.

The emergency capability of the National Reserve Defense Fleet will be greatly strengthened because it will gain access to a large

passenger liner which will be maintained in top operating condition in U.S. waters.

We think it important to stress that the *Independence* will be reactivated, returned to the American flag, and operated in the cruise trade entirely with private capital. We are confident that a strong market exists for our passenger venture.

Our negotiations have assured my company of the necessary funds from investors who believe the American-flag passenger trade can still be profitable. We will seek no subsidy from public funds.

At this point I would like to say that the American Hawaiian Cruising Line is pleased that the subcommittee is also holding a hearing this afternoon on a bill to clarify the ability of the owners of the S.S. *United States* to operate the vessel in the cruise trade between the west coast and the Hawaiian Islands.

It will be a good day indeed for the American Merchant Marine when both the *Independence* and the "Big U" once again are underway.

We view our cruise enterprise and that planned by the owners of the *United States* as essentially complimentary. We think the potential tourist market is sufficiently large to support both ventures profitably.

In any event, in a spirit of fostering free enterprise and competitive choices for the consumer in the transportation marketplace, we wish U.S. Cruises, Inc., good fortune and good sailing in their efforts at restoring their vessel to active passenger service.

Before closing, I wish to underscore that passage of the bill we are addressing today—S. 1365—is absolutely essential if the *Independence* is to rejoin our U.S.-flag fleet as an economically viable member. The reason for this is as follows:

After we had begun exploring the procedures for returning the *Independence* to U.S. registry with officials of the Coast Guard, their chief counsel ruled that the vessel's documentation would have to bear a restriction against engaging in the coastwise trade because of section 27 of the Merchant Marine Act of 1920.

The first proviso of that section was stated by Acting Assistant Secretary Nemirow, so I will not repeat that.

The *Independence* was built in Quincy, Mass., in 1951, flew the flag of American Export Lines for many years, and was transferred to the Panamanian flag in 1974 with congressional authorization.

In view of these facts, the Coast Guard holds that the first proviso in section 27 is applicable to the *Independence* and, accordingly, remedial legislation is required to permit the vessel to engage in passenger cruises among the Hawaiian Islands after it is returned to U.S. registry.

Although the Maritime Administration has approved my company's purchase and operation of the *Independence*, the legal authority to decide whether a vessel is entitled to coastwise privileges presently resides with the Coast Guard.

Under these circumstances, therefore, we concluded that our only recourse was to seek the assistance of the Congress.

That concludes my prepared statement, Mr. Chairman. I will be pleased to respond to any questions you or other members of the subcommittee might have.

Thank you.

Senator INOUE. Thank you very much, Mr. Everhard.

Just a matter of clarification. Is your company, the American Hawaiian Cruising Line, the owner of the *Independence* or do you have a contract to purchase her?

Mr. EVERHARD. We have a contract to purchase and we are in the process of finalizing the contract which should happen within the next 2 weeks.

Senator INOUE. Who is the owner of the *Independence* at this time?

Mr. EVERHARD. The Atlantic Far East Line. That is a Liberian company.

Senator INOUE. I ask this because the bill says you are the owner. But you would be the owner by the time—

Mr. EVERHARD. We will, yes, before the bill is enacted.

Senator INOUE. You were here when a brief discussion was held on the matter of repairs done abroad subsequent to the passage of this measure?

Mr. EVERHARD. Yes.

Senator INOUE. Do you have any plans to repair this ship?

Mr. EVERHARD. Not repair. A bow thruster, Mr. Chairman, is basically—in the bow of the hull you put a little propeller in order to facilitate the maneuvering of the vessel. You also save on tug-boats. Of course, I am not an engineer, but it would be a broad interpretation in my mind to consider that reconstruction of the vessel. But, if that is so, it is not done yet.

I anticipate that it will be done, I would say, in the next 4 or 5 weeks, before the bill or the legislation is enacted upon.

So, in other words, when she goes to—when she leaves Taiwan, after everything goes according to schedule, it will be after the bow thruster is put in, that it will be a full-fledged American vessel.

Now, the reason for this also creates a critical time element, because in Honolulu they cannot put a bow thruster in the vessel because they don't have a drydock to accommodate this vessel.

Also it would be difficult to do it on the west coast.

But, again, you would lose a lot of time going back and forth. Right there it is all set up to be taken care of.

Senator INOUE. In other words, you don't want this bill to pass within the next 5 weeks?

Mr. EVERHARD. I didn't say that, Mr. Chairman. If I feel that within the next 5 weeks the bill will be passed I will get on the phone right away.

Senator INOUE. This committee has a record of passing bills pretty fast.

Mr. EVERHARD. I learned that the other day. We in the industry, I might add, are very grateful that you are around. You move fast.

Senator INOUE. We will do the unusual, and put this on the shelf for a while.

Mr. EVERHARD. That's not my intent, either.

Senator INOUE. No, we will consider this. I thank you very much, Mr. Everhard.

Mr. EVERHARD. Thank you, Mr. Chairman.

Senator INOUE. Our next witness is the vice president of the United States Cruises, Inc., Mr. John Colbrunn.

STATEMENT OF JOHN COLBRUNN, VICE PRESIDENT, PLANNING, UNITED STATES CRUISES, INC.; ACCOMPANIED BY WILLIAM MYHRE, COUNSEL

Mr. COLBRUNN. Thank you, sir.

Mr. Chairman and members of the subcommittee, my name is John Colbrunn. I am vice president for planning of United States Cruises, Inc.—USCI. With me today is Mr. William Myhre, of Preston, Thorgrimson, Ellis, Holman & Fletcher, Washington counsel for the company.

Much of my prepared text has been articulated by others today, so with your permission I will summarize.

Senator INOUE. Without objection, your full statement will be made part of the record, sir.

Mr. COLBRUNN. Thank you, sir.

We appreciate this opportunity to appear before you in support of S. 1281 and to discuss our efforts to return the American flag to the domestic cruise trade. We also want to extend special thanks to you, Senator Inouye, and to Senator Matsunaga for introducing this legislation.

As has been said, United States Cruises, Inc., has entered into a contract for the purchase of the SS *United States* and accordingly has a vital interest in this legislation.

To you, as members of the Merchant Marine and Tourism Subcommittee and to many Americans the SS *United States* needs no introduction. It is this country's most significant ocean liner and the last to be constructed in a U.S. shipyard.

Shortly after her launching she was described by the eminent maritime historian, who is with us today, Mr. Frank Braynard, as "probably the most remarkable single moving unit ever designed by man."

Built in 1952 the ship was exceptionally advanced for its time and is still a marvel of naval architecture and engineering.

She was built with construction differential subsidy and designed with U.S. Navy participation to be utilized as a troop transport in time of national emergency and incorporates many design features long held secret for defense reasons. Among the innovations are the vessel's advanced hull design and the extensive use of aluminum which reduced her weight and correspondingly increased her speed. So successful was this design feature that the speed of nearly 36 knots she logged on her maiden voyage has never been equaled. By setting this record the SS *United States* won back the coveted Blue Riband, a title this country has not held for 100 years.

After nearly a decade in layup, the acquisition of the vessel by United States Cruises saves the flagship of the American fleet from oblivion or possible loss through foreign sale or scrapping.

Our plans for reconstructing the vessel are extensive and will insure that America's greatest ocean liner will be America's greatest and most luxurious cruise ship. The passenger load will be reduced for operation as a one-class, first-class, cruise ship. Navigation and communication equipment will be completely updated; fin stabilizers will be added to enhance passenger comfort; new outdoor swimming pools will supplement the existing indoor pool; shore tenders will be added so that passengers will be able to disembark at harbors otherwise too small for the ship; thorough

repairs and renovations inside and out will include new restaurants, clothing shops, beauty salon, barber shop, racquetball court, gym and other improvements.

We have distributed a brochure here today which explains in greater detail what we will be doing in renovating the ship and request that it be put in the record<sup>1</sup> as part of this hearing.

Our proposal for refitting the SS *United States* for use as a cruise ship rather than mere point-to-point transportation is designed to take advantage of the ever-growing cruise market. Last year more than 1.2 million passengers sailed from North American ports, an increase of 10 percent from 1977. As recently as last week, the Wall Street Journal reported that so far this year traffic on west coast cruise lines is up to 12 to 15 percent from a year ago with some of the larger lines reporting 25 percent gains. In the East, lines to the Caribbean and to Europe say business is up as much as 20 percent with cruises for this summer completely booked and winter bookings ahead of last year's.

It should be remembered that this entire demand is being met by foreign flag ships alone.

Earlier this year Newsweek magazine reported, in a feature article on the growing interest in cruising, that the entire cruise trade has doubled in the last decade to a \$20-billion-a-year industry and that it is expected to grow another 35 percent by 1983.

This latter figure assumes, of course, that new vessels will be constructed to meet that demand. This is where the SS *United States* has a significant economic comparative advantage. Built originally at a cost of nearly \$80 million, today it would cost some \$350 million to replace the ship. But with an acquisition price of \$5 million and renovation costs of approximately \$30 million, she can be refitted for first-class cruise service at a fraction of the cost of new construction. To put it in perspective, our capital cost will be approximately \$30,000 per berth as compared to \$100,000 to \$125,000 per berth presently being spent on new foreign construction. With this low capital cost, a rapidly growing market, and the ability to serve directly domestic ports, such as Los Angeles and Honolulu, from which foreign-flag vessels are precluded, United States Cruises, Inc., is confident that it can successfully compete with foreign operators in providing an American option to all ocean travelers.

Our purpose in being here today, however, is more than merely informational. A court decision handed down earlier this year could have a profound effect on our proposed operation in the domestic trade.

The U.S. court of appeals decision in *Alaska Bulk Carriers, Inc. v. Kreps* raises some question about the ability of a vessel built with construction differential subsidy, as was the SS *United States*, to operate permanently in the domestic trades, even after the expiration of the vessel's statutory life. Thus, United States Cruises, Inc. which entered into the contract of sale with the Maritime Administration for the purchase of the SS *United States* with the specifically stated intention of refitting the vessel for operation in the domestic Pacific cruise trade is now faced with a possible restriction which could substantially undermine the entire reacti-

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<sup>1</sup> The attachment is in the Subcommittee files.

vation project. It is for this reason that we are here before you today, sir, appearing in support of S. 1281 which would clarify the ability of the ship to operate between California and Hawaii as planned.

The full prepared testimony contains a detailed statement of the problem created by the court's decision, but to summarize, the problems created by failure to clarify the status of the SS *United States* under the holding on Alaska bulk carriers are obvious. If the vessel is precluded from operation in the domestic trade, not only is the basic purpose of the contract of sale with the Maritime Administration frustrated, but the substantial resources already expended in pursuit of the project will be put to waste.

On the other hand, the return of the SS *United States* to active service will be greatly facilitated by enactment of S. 1281 and will result in multiple benefits. It will provide Americans, who are now totally dependent on foreign flag ships for cruise and passenger ship service, a viable American alternative.

Operation of this ship will create nearly 1,000 ongoing jobs including crew, vacation/sick leave replacements and shore-related support positions. Moreover, reconstruction and repair work done in U.S. yards will create additional jobs. Reactivation of this ship will also mark the return of passenger ship service to Hawaii—which is now the only State in our country totally dependent on a single transportation mode.

Operation of the SS *United States* between the mainland and Hawaii, and around the globe, will help to correct our balance-of-payments deficits by giving Americans an alternative to foreign-flag cruise ships, by providing U.S. destinations rather than foreign ones, and by stimulating use by foreign tourists.

Finally, the future defense utility of this vessel will be enhanced by being maintained in an active state in the event it is necessary in a national emergency.

One last thought, sir, and I don't expect you to recall me by name, but I am sure you will recall the occasion some 10 years ago when Neil Armstrong and his gallant crew returned from their Apollo mission after being the first people to walk on the moon. They returned to Hickam Air Force Base. I was serving there as chief of protocol at the time and was in charge of the ceremonies involved in welcoming these people back from the first trip to the moon. It was a very emotional and historic occasion. As we interviewed Armstrong and his crew from their air-conditioned trailer in which they were to be confined for 2 weeks in quarantine, he told us about his feelings and his trip to the moon and coming back.

He said the most emotional point of the whole trip was when he came back from oblivion, so to speak, and reentered the Earth's atmosphere and saw the blue, blue Pacific ocean around Hawaii.

I suggest that the emotion of that day will be comparable to the emotion that will happen when the Royal Hawaiian band strikes up "Aloha Hawaii," and welcomes back from oblivion the SS *United States* across the blue Pacific to its new home in Honolulu.

Thank you very much.

Senator INOUE. Thank you very much, sir. I gather that the Congress of the United States will be required to play a role in

this, in the sense that if this bill is not passed, the arrangement or sale between MarAd and United States Cruises, Inc., would not be expected.

I gather passage of this bill is one of the conditions.

Mr. COLBRUNN. Sir, we have agreed with MarAd not to claim any indemnity or damage. If the bill is not carried out, we would take the loss. But in all probability, we would not culminate the purchase of the ship.

Would you like to add anything to that, Mr. Myhre?

Mr. MYHRE. Under the terms of the amended contract we have agreed not to seek rescission of the contract if the legislation is not obtained. However, the company views the legislation as very important to its proposed operation. The plans of the company would be seriously jeopardized were it not passed, and the company would have to reassess the situation as far as proceeding with the project.

Senator INOUE. Subsequent to the passage of this measure, would the contract with MarAd permit you to sell this vessel without ever reactivating her as you have so represented?

Mr. MYHRE. With the consent of the Maritime Administration, we would be permitted to sell the vessel. Any transaction has to receive their approval. It is my opinion that the contract of sale does not bind us to reconstruct the vessel as we have proposed.

Senator INOUE. But you could resell it without ever going into business?

Mr. MYHRE. Yes, it could be sold subject to approval of the Maritime Administration.

Senator INOUE. I have been told that you plan to sell rooms aboard the ship?

Mr. MYHRE. The proposal is to time-share a certain part of the ship, about one-sixth of the ship's capacity, each year. The proposal stems from our principal's—Richard Hadley's—experience in real estate and development both in the islands and in the State of Washington. The proposal he has put forth and which is described in the literature we have brought with us today is for establishment of the U.S. Cruising Society which essentially is the application to the ship of the time-share concept that has been used in condominiums. It doesn't involve equity ownership of the vessel. It's merely the right to use a stateroom of a specified category for a certain number of days per year for a specified number of years.

Incidentally, we have with us a film which fully describes the club membership program and the U.S. Cruising Society—I don't want to take your time now—but we will be happy to show it at the end of the hearing for those who are interested in seeing it.

Senator INOUE. Has MarAd approved this condominium concept?

Mr. MYHRE. It has not been placed before MarAd for approval. They are aware of the proposal. It's been described to them in various submissions and in various ways, but it's not been scrutinized by MarAd as such.

Senator INOUE. The Matson Navigation Co. has communicated with this subcommittee and has urged that the following amendment be made. On line 6 after the quotation marks insert the words "for carriage of passengers and their accompanying baggage," so that the amendment to be inserted after the word

"American flag" would read "for carrying of passengers and their accompanying baggage into domestic and/or foreign commerce of the United States and/or foreign ports."

I gather that Matson Navigation Co. wants to limit your operation.

Would you find any objection to that?

Mr. MYHRE. The facts of our reconstruction plan speak for themselves as to whether we plan to carry cargo on the vessel. We are removing the cargo booms and altering the cargo capacity of the ship; we certainly don't anticipate converting it to a cargo vessel.

As far as the amendment itself goes, our legislation seeks merely to clarify existing law. I would see the proposed amendment as being an expansion or alteration of the existing statute. Which goes beyond present law. It's not in harmony with our plans.

Senator INOUE. If it's your intention to use the ship just for passenger purposes, you would have no objection to this, would you?

Mr. MYHRE. No, the specific language proposed might be clarified as it relates, for example, to the shops on board the ship. Whether such merchandise would be classified as "accompanying baggage" of passengers, since presumably they would not have purchased it yet, needs to be resolved as well as the status of the ships stores or any of the other commodities or things carried on the ship in connection with its operation, as a cruise vessel.

Senator INOUE. I would like to ask Mr. Everhard the same question. Would you find any objection to an amendment of this sort in your bill?

Mr. EVERHARD. No, sir, we have no intention of carrying cargo. [The statement follows:]

STATEMENT OF JOHN COLBRUNN ON BEHALF OF UNITED STATES CRUISES, INC.

Mr. Chairman and members of the Subcommittee, my name is John Colbrunn. I am Vice President for Planning of United States Cruises, Inc. (USCI). With me today is Mr. William Myhre, of Preston, Thorgrimson, Ellis, Holman & Fletcher, Washington counsel for the company. We appreciate this opportunity to appear before you in support of S. 1281 and to discuss our efforts to return the American flag to the domestic cruise trade. We also want to extend special thanks to you, Senator Inouye, and to Senator Matsunaga for introducing this legislation.

As you know, United States Cruises, Inc. has entered into a contract of sale with the Maritime Administration (Marad) for the purchase of the SS *United States* and accordingly has a vital interest in this legislation.

To you, as members of the Merchant Marine & Tourism Subcommittee and to many Americans the SS *United States* needs no introduction. It is this country's most significant ocean liner and the last to be constructed in a U.S. shipyard. Shortly after her launching she was described by the eminent maritime historian Frank Braynard as "probably the most remarkable single moving unit ever designed by man." While the intervening years and subsequent developments in air and space travel may outdate this assessment to some observers there are few who would disagree that the SS *United States* is one of America's greatest maritime achievements.

Built in 1952 the ship was exceptionally advanced for its time and is still a marvel of naval architecture and engineering. Designed by the noted naval architect William Francis Gibbs the vessel has long been regarded as the pre-eminent American superliner. She was built with Construction Differential Subsidy and designed with U.S. Navy participation to be utilized as a troop transport in time of national emergency and incorporates many design features long-held secret for defense reasons. Among the innovations are the vessel's advanced hull design and the extensive use of aluminum which reduced her weight and correspondingly increased her speed. So successful was this design feature that the nearly 36 knots she logged on her maiden Trans-Atlantic voyage has never been equalled. By setting this record

the SS *United States* won back the coveted Blue Riband, a title this country had not held for 100 years. This was not her fastest speed, however, last year with the government's declassification of performance data on the ship it was disclosed that in her then-secret sea trials in May 1952, the SS *United States* achieved a top speed of 38.32 knots.

After nearly a decade in lay-up, the acquisition of the vessel by United States Cruises, Inc. saves the flagship of the American fleet from oblivion or possible loss through foreign sale or scrapping. United States Cruises, Inc. is now actively involved in preparing for the task of reconstructing the ship for a new, useful and active life in providing warm water cruise service between the West Coast and the Hawaiian Islands, as well as in other trades.

#### 1. RECONSTRUCTION PLANS

Our plans for reconstructing the vessel are extensive and will insure that America's greatest ocean liner will be America's greatest and most luxurious cruise ship. The passenger load will be reduced for operation as a one-class, first-class, cruise ship. Navigation and communication equipment will be completely updated; fin stabilizers will be added to enhance passenger comfort; new outdoor swimming pools will supplement the existing indoor pool; shore tenders will be added so that passengers will be able to disembark at harbors otherwise too small for the ship; thorough repairs and renovations inside and out will include new restaurants, clothing shops, beauty salon, barber shop, racquetball court, gym and other improvements. We have here today copies of certain brochures which describe in greater detail our plans for the ship and which we request be put into the record of this hearing.

#### 2. CRUISE MARKET

Our proposal for refitting the SS *United States* for use as a cruise ship rather than mere point-to-point transportation is designed to take advantage of the ever-growing cruise market. Last year more than 1.2 million passengers sailed from North American ports, an increase of 10 percent from 1977. As recently as last week, the Wall Street Journal reported that so far this year traffic on West Coast cruise lines is up 12 to 15 percent from a year ago with some of the larger lines reporting 25 percent gains. In the East, lines to the Caribbean and to Europe say business is up as much as 20 percent with cruises for this summer completely booked and winter bookings ahead of last year's. It should be remembered that this entire demand is being met by foreign flag ships alone. Earlier this year Newsweek Magazine reported, in a feature article on the growing interest in cruising, that the entire cruise trade has doubled in the last decade to a \$20 billion a year industry and that it is expected to grow another 35 percent by 1983. This latter figure assumes, of course, that new vessels will be constructed to meet that demand. This is where the SS *United States* has a significant competitive advantage. Built originally at a cost of nearly \$80 million, today it would cost some \$350 million to replace the ship. But with an acquisition price of \$5 million and renovation costs of approximately \$30 million she can be refitted for first class cruise service at a fraction of the cost of new construction. To put it in perspective, our capital cost will be approximately \$30,000 per berth as compared to \$100,000 to \$125,000 per berth presently being spent by foreigners on new construction. With this low capital cost, a rapidly growing market, and the ability to serve directly domestic ports, such as Los Angeles and Honolulu, from which foreign flag vessels are precluded, United States Cruises, Inc. is confident that it can successfully compete with foreign operators in providing an American option to all ocean travellers.

#### 3. THE NEED FOR LEGISLATION—ALASKA BULK CARRIERS V. KREPS

As this Subcommittee meets here today to discuss the revitalization of the U.S. passenger fleet, we think it is important that you be apprised of the plans of United States Cruises, Inc. and its progress in bringing the SS *United States* back into operation. Our purpose in being here today, however, is more than merely informational. A court decision handed down earlier this year could have a profound effect on our proposed operation in the domestic trade. The United States Court of Appeals decision in *Alaska Bulk Carriers, Inc. v. Krepis* raises some question about the ability of a vessel built with Construction Differential Subsidy, as was the SS *United States*, to operate permanently in the domestic trades, even after the expiration of the vessel's statutory life. Thus, United States Cruises, Inc. which entered into the contract of sale with the Maritime Administration for the purchase of the SS *United States* with the specifically stated intention of refitting the vessel for operation in the domestic Pacific cruise trade is now faced with a possible restriction

which could substantially undermine the entire reactivation project. It is for this reason that we are here before you today, appearing in support of S. 1281 which would clarify the ability of the ship to operate between California and Hawaii as planned.

Although the decision in *Alaska Bulk Carriers* has been appealed and the Supreme Court has recently granted certiorari ultimate resolution of the case is nonetheless some time away and even then would not necessarily resolve the problem facing the SS *United States*. Shortly after the court's decision, we reluctantly decided that the only prudent course in an undertaking of this magnitude would be to seek legislation clarifying the status of the vessel to operate in the proposed trade. Because of the uncertainty created by the court's decision, the Maritime Administration granted, under the terms of the contract, a written extension of the delivery date to allow time to seek enactment of this clarifying legislation.

Before proceeding to explain the exact nature of the uncertainty created by the court's decision I would like to emphasize that what this legislation seeks to do is clarify dicta in the case, and not overturn the judicial determination.

As you know, vessels built with Construction Differential Subsidy (CDS) are restricted from operation in domestic trades except for intermediary domestic stops made on foreign voyages and temporary six month waivers granted at the discretion of the Secretary of Commerce (§ 506 Merchant Marine Act of 1936). In the *Alaska Bulk Carriers* case the owners of a new oil tanker entered into an agreement with the Secretary of Commerce to pay back the entire subsidy in order to lift the domestic trade restriction, thus allowing the vessel to enter the Alaska oil trade. The District Court upheld the Secretary's discretion to make such a waiver, only to be reversed by the Court of Appeals in an unexpected decision which held that ships built with CDS are permanently barred from domestic trade and that the Secretary did not have the discretion to permanently waive the restriction even upon the payback of subsidy. In so holding, the court cast doubt on the ability of a vessel whose statutory life has expired—like the SS *United States*—to operate permanently in the domestic trades.

#### 4. THE LAW BEFORE ALASKA BULK CARRIERS

Prior to the decision in this case it was generally understood that once the statutory life of a vessel built with CDS had expired, the vessel would be eligible for permanent domestic service. Both United States Cruises, Inc. and Marad fully recognized that the intended use of the SS *United States* was to be in the domestic trade. From the first communications between USCI and Marad the proposed operation between California and Hawaii was clearly set forth. In fact, it was the heart of the bid submission and formed the basis of the pro forma analysis of economic feasibility and other information which was incorporated in the contract of sale as the officially proposed plan of operation (deviation from which, incidentally, is a sufficient basis for Marad to exercise its authority under the contract to repurchase the vessel). Thus, not only was it the intention of the parties that the vessel be used in the domestic trade but such operation is specifically mandated by the contract of sale.

The Act which authorized the Maritime Administration to sell the vessel, (Public Law 92-296, as amended), clearly does not preclude domestic use and requires only that the vessel be used "for operation under the American flag."

The House Report to the bill which amended Public Law 52-296 to allow the SS *United States* to be used as a floating hotel further illustrates the general understanding that restrictions imposed on subsidized vessels were lifted at the end of the vessel's statutory life. That report noted that the then-pending legislation was necessary because at that time the vessel's statutory life had not expired but that when it had the ship could be used for a hotel or "any other purpose." The bill was required at that time only because the prospective owners wanted to acquire the ship before expiration of her statutory life, although that sale was never consummated the Report language makes clear that the understanding at the time was that the vessel's restrictions were lifted at the end of her statutory life. In fact, in a subsequent passage of the same report the Committee referred to the proposal of a company which sought to operate the vessel in the same trade as United States Cruises, Inc. With apparent approval, or at least without criticism, the Committee reported that under this proposal "the vessel would operate in the domestic trades and thereby be protected from foreign competition."

A careful reading of the relevant statutory provisions of the Merchant Marine Act of 1936 (§§ 215 and 506) supports the position that once a vessel, built with CDS, has outlived its statutory life any restriction against operation in the domestic trade also expires. Section 506 requires every owner of a vessel for which CDS has been

paid to agree that the vessel will be operated exclusively in the U.S. foreign trade with the only exceptions being for certain intermediary stops on foreign voyages and the temporary (six months or less) transfer of vessels to domestic trade provided that a proportionate amount of the CDS is repaid. When read in conjunction with P.L. 88-225, (which appears in footnote 5 to § 215) these two provisions lead directly to the conclusion that Congress specifically contemplated that a subsidized vessel would be free to enter unrestricted domestic trade without any further repayment of subsidy after its economic life had expired. Public Law 88-225 amended the basis for computing the amount of subsidy to be repaid pursuant to § 506. Application of that formula yields a zero repayment once the subsidy has been fully depreciated at the end of the vessel's statutory life. This interpretation, which is set forth by Judge Bazelon in his dissenting opinion in *Alaska Bulk Carriers*, is also amply supported in the legislative history of these sections.

##### 5. UNCERTAINTY CREATED BY ALASKA BULK CARRIERS

Notwithstanding this statutory interpretation and the fact that the court in *Alaska Bulk Carriers* did not directly address the issue, the opinion of the majority casts sufficient doubt on the view that expiration of the 25 year statutory life frees a subsidy-built vessel from the domestic trade restriction so as to jeopardize the financing arrangements for the reconstruction of the SS *United States* and its eventual operation. The language of the majority opinion characterizes the subsidy restriction as follows:

The idea is one of *permanence*; once the ship has been constructed by government assistance of up to 50 percent of its original construction cost, the ship is dedicated to the U.S. foreign trade. Payment of the subsidy stamps *indelibly the character of the ship then and thereafter*. [Emphasis added.]

The court's majority narrowly read the statutory language of § 506 reasoning that "the specific enumeration of the permissible exceptions to the vessel's permanent dedication to U.S. foreign trade" was meant to be "exclusive, and that any other exception \* \* \* is ruled out implicitly."

The "other exception" to which the court refers is the permanent waiver or revocation of the vessel use restriction through accelerated pay back of the subsidy. However the language of the opinion could also be read to rule out expiration of the statutory life as an exception.

It could be argued that the use of the term "permanent," which is repeated so frequently in the majority opinion, was understood to be limited by the 25 year statutory life prescribed in the statute since that period had not expired for the tanker under conderation by the court. Thus, the issue of lifting trade restrictions under such circumstances was simply not addressed. The issue is nevertheless clouded by the absence of any specific definition of the vessel's life in the court's decision; various terms are used, apparently interchangeably, such as "life," "entire life," "permanent life," and "remaining life." By characterizing the term "permanent life" as "a period in excess of 25 years" the court in one passage indicated that it had in mind something other than a 25 year statutory life.

The absence of a precise definition creates doubt as to the proposed operation in the domestic trades of a vessel which has outlived its statutory life. While it is true that any language of the court which is applied to such overage vessels is dicta and that the facts of the *Alaska Bulk Carriers* case are distinguishable in a number of substantial respects from those surrounding the SS *United States*, USCI is nevertheless led to the conclusion that it cannot reasonably proceed with its proposed operation of the ship in the domestic Pacific cruise trade without seeking the additional clarification contained in S.1281 as it relates to the ability of the SS *United States* to operate permanently in that trade.

##### 6. CONCLUSION

The problems created by failure to clarify the status of the SS *United States* under the holding in *Alaska Bulk Carriers* are obvious. If the vessel is precluded from operation in the domestic trade, not only is the basic purpose of the contract of sale with the Maritime Administration frustrated but the substantial resources already expended in pursuit of the project will be put to waste.

One the other hand, the return of the SS *United States* to active service will be greatly facilitated by enactment of S.1281 and will result in multiple benefits. It will provide Americans, who are now totally dependent on foreign flag ships for cruise and passenger ship service, a viable American alternative. Operation of this ship will create nearly 1,000 new ongoing jobs including crew, vacation/sick leave replacements and shore-related support positions. Moreover, reconstruction and repair

word done in U.S. yards will create additional jobs. Reactivation of this ship will also mark the return of passenger ship service to Hawaii—which is now the only state in our country totally dependent on a single transportation mode. Operation of the SS *United States* between the mainland and Hawaii, and around the globe, will help to correct our balance of payments deficits by giving Americans an alternative to foreign flag cruise ships, by providing U.S. destinations rather than foreign ones, and by stimulating use by foreign tourists. Finally, the future defense utility of this vessel will be enhanced by being maintained in an active state in the event it is necessary in a national emergency.

United States Cruises, Inc. remains firm in its belief that the American flag will return to the cruise trade and that the SS *United States* will be the standard bearer. USCI's commitment to that goal is amply demonstrated by its purchase of the SS *United States* and the time, effort and expense it has devoted to making the vessel's operation a reality. Faced with the uncertainty created by the decision in *Alaska Bulk Carriers*, United States Cruises, Inc. has again reaffirmed that commitment by seeking the Committee's support for this legislation clarifying this ship's ability to operate in the proposed trade. USCI is confident that early enactment of this legislation will be a major step toward revitalizing America's passenger fleet.

Senator WARNER. I would like to introduce an old friend, in the audience, Frank Braynard, a very humble man we referred to as the Father of the Tall Ships for the Nation's Bicentennial. No individual had more responsibility, vision, and foresight for bringing that great spectacle to the United States on the 4th of July, than Frank Braynard. I know because I was the head of the Federal effort doing what I could to hold the program together. I thank you, Frank, publicly. I am delighted that you are continuing to provide your wisdom for America's merchant marine.

Thank you, Mr. Chairman.

Senator INOUE. Thank you. Late Wednesday afternoon the committee received a request from Mr. Vincent De Lyra, president of the Vintero Corp., to testify at today's hearing. The Vintero Corp. is the owner of the SS *Santa Rosa*, a cargo/passenger vessel which is in layup. Although we do not have legislation before us relating directly to the SS *Santa Rosa*, I have invited Mr. De Lyra to testify and also to invite a very dear friend, former Congressman from Virginia, the Honorable Thomas Downing, representing a group who intends to purchase the SS *Santa Rosa*, to testify.

Is Mr. De Lyra here?

Mr. DE LYRA. Yes, sir.

Senator INOUE. And Mr. Downing?

Mr. DOWNING. Yes. Thank you, Mr. Chairman.

**STATEMENT OF THOMAS N. DOWNING, FEDERAL EXPRESS, ST. LOUIS, MO.; ACCOMPANIED BY VINCENT A. DE LYRA, PRESIDENT, VINTERO CORP., NEW YORK, N.Y.; AND STEPHEN J. DE LYRA, VICE PRESIDENT, VINTERO CORP., NEW YORK, N.Y.**

Mr. DOWNING. Mr. Chairman, Senator Warner, thank you so much for this opportunity. I am Thomas N. Downing of Newport News, Va. I am a lawyer and I am representing a Mr. Kenneth B. Wallis who is a special consultant for the Federal Express Co. of St. Louis, Mo.

Federal Express intends to acquire the SS *Santa Rosa* and use her in service between the west coast of this country and Hawaii, around the islands and return. The SS *Santa Rosa* is now in drydock in Baltimore in an inactive layup status under chapter 11 bankruptcy proceedings. She has always been American flag. She has never changed registry.

I support S. 1281, concerning the *United States*. But I would also like to see added to that the SS *Santa Rosa*. The two are similar. In fact, it would almost seem to be inequitable not to include the *Santa Rosa*.

Early this month, June 3 or 4, I discussed this in some detail with Mr. Ravenhold, Senator Inouye's administrative assistant. I presented to him an amendment which I thought would accomplish the purpose. It did not name a vessel but allowed all vessels in a similar category as the *United States* and *Santa Rosa* to call at domestic ports. The *United States* is a great ship. It was built in my backyard at Newport News shipyard. I watched it from the time the keel was laid to the time it was christened. It is a great ship. I want to see her back in service. I also want to see the *Santa Rosa* back in service.

Mr. Chairman, Senator Warner, there are literally thousands of people in this country who want to go to Hawaii, but they are afraid to fly. This would give them an opportunity to visit your beautiful State. There are also thousands of people who would like to go, as previous witnesses have said, because they love the sea. And they want to relive this wonderful style of living. There are no American flag passenger vessels on the high seas anywhere. So I think it's now time.

All I ask the committee is to give consideration to including the *Santa Rosa* along with the *United States*. And, again, I thank you for this opportunity.

Senator INOUE. Thank you very much.

Mr. Downing, has the statutory life of this ship expired?

Mr. DOWNING. No, sir. I believe it's 22 years old.

Senator INOUE. Then are you suggesting that it be permitted to sail before the expiration?

Mr. DOWNING. Yes, sir.

Senator INOUE. That would mean the payment of two twenty-fifth?

Mr. DOWNING. That would mean the payment under the schedule of the differential subsidy under which she was built.

Senator INOUE. I am certain you were here when the Assistant Secretary, Mr. Nemirow, testified that he would prefer to have these matters considered individually upon their individual merits because it is in variance with the present statutes. I would think it might be better if, in your behalf, I introduced a measure and then circulated the bill among interested parties and ask for their views and consider it separately.

Unfortunately, we can't do it today because we are not in session. I can assure you on July 9, if you so wish, we will have a *Santa Rosa* bill.

Mr. DOWNING. Well, that certainly is accommodating of you, Mr. Chairman. I would hope that you will still consider adding the *Santa Rosa* to the *United States* bill.

Senator INOUE. I will listen to my colleague, Senator Warner, here.

Mr. DOWNING. I have talked with the Senator about this, too. Again, I thank you.

Senator INOUE. Whichever way, we will try to accommodate you, sir.

Mr. DOWNING. Thank you.

Senator WARNER. Congressman Downing, I think we should have on the record the fact that you served in Congress for some 20 years and are familiar with the maritime industry, having served as chairman of the Merchant Marine Subcommittee of the House Merchant Marine and Fisheries Committee. So tell us the advantages and disadvantages of proceeding with the alternative suggested by the chairman.

Mr. DOWNING. Mainly time, Senator. Federal Express cannot go forward with its acquisition of the vessel, *Santa Rosa*, unless it knows that once it acquires the vessel it can call at a domestic port, namely, Hawaii. The longer that situation is delayed, the longer the proceedings for acquisition are delayed.

Senator WARNER. But I am sure you would agree that these are sensitive subjects. I think the chairman possibly has selected the route that provides the maximum integrity to this proposal. I would be interested in hearing your thoughts as to the amount of delay that would be incurred by the chairman's recommendation and whether or not this would impair your plans.

Senator INOUE. If the Senator will yield, I can assure you that there won't be any delay whatsoever, because the two measures here cannot be considered at least until the 9th of July. We are going to be in recess.

Mr. DOWNING. That is right. I had forgotten that. The chairman is absolutely right.

Senator INOUE. Obviously, we will not be able to have a full committee markup. So for your own purposes, it might be better to have a special *Santa Rosa* bill. Furthermore, I think the *United States* interests here might object to a *Santa Rosa* tying up with her.

Mr. DOWNING. Well, I don't know; a little competition is sometimes good. I believe there are enough people here who want to go so that both of those ships could be profitable. And I will tell you what it might do in addition to all these other great things, economic benefits and balance and payments and things like that. It may just boost, if only for a little bit, the sagging morale of this old country of ours to see a flag, our flag, on a majestic passenger liner.

Senator INOUE. Oh, I'm all with you, sir.

Senator WARNER. I do feel that we should notify the Maritime Administration and others interested so we might receive the benefit of their comments.

Mr. DOWNING. Thank you.

[The statement follows:]

#### STATEMENT OF THOMAS N. DOWNING

Mr. Chairman and members of the subcommittee, I am Thomas N. Downing of the Law Firm of Bateman, Downing, Redding & Conway, located in Newport News, Virginia, I am appearing here today representing Mr. Kenneth B. Wallis of California who is a Special Consultant to the Federal Express Company of St. Louis, Missouri. I am most grateful to you for giving me the opportunity to express my support for Senate bill ———, the Bills presently under consideration.

The Federal Express is trying to acquire the SS *Santa Rosa* which is presently in inactive lay-up status in Baltimore, Maryland. It is presently the subject of bankruptcy proceedings under Chapter 11 of the National Bankruptcy Act. If Federal Express is successful in acquiring this ship, they propose to use it as a cruise,

passenger vessel to carry passengers between some point on the West Coast and the State of Hawaii and return. There are many problems, of course, but there is one legislative problem which must be resolved if the ship is ever to apply this service.

Under § 506 of the Merchant Marine Act, 1936 (46 USC 1156), any vessel constructed with Construction Differential Subsidy Funds is required to operate in the foreign trade. The purpose of this section was to achieve balance between the cost of building and operating American flag vessels and the lesser cost incurred by competing foreign shippers. One of the goals of the Merchant Marine Act of 1936 was, and is, to provide this Country with a modern viable merchant marine built in American Shipyards so that it could successfully compete with foreign built ships which could be constructed and operated at a much lesser cost. In the good old days when we had passenger vessels operating in and out of domestic ports without having the benefit of financial subsidy it would have been most inequitable for these subsidized U.S. flag "foreign trade" liners to compete with the domestic coast trade. But, now as you know, there are no American flag passenger vessels operating in either domestic or foreign trade so it now appears that no inequity will exist by allowing some of these inactive vessels to call in domestic ports.

It is disheartening, to say the least, to see the American flag disappear from ocean/passenger service at the same time that our foreign competitors calling at U.S. port and carrying American citizens are thriving and expanding. In my judgement, there is no reason why an American operation, soundly based and properly managed, cannot meet this competition. And this is what Federal Express and possible others, propose to do.

Present law (46 U.S.C. 1156) provides that every owner of a vessel for which a Construction Differential Subsidy has been paid shall be operated exclusively in the foreign trade but does permit calling at certain domestic ports if the owner pays annually to the Secretary of Commerce a stated percentage of the Construction Differential Subsidy paid for such vessel in proportion to the gross revenue derived from the domestic trade. There are many more Americans who have not lost their love of the sea and would prefer traveling by ocean liner rather than by the airplane. Getting these ships back into service would provide additional maritime employment, be financially beneficial to both Hawaii and the West Coast and, hopefully, if the operation is profitable, yield additional revenues to our Federal Treasury. And conceivably, it could, give a small boost to our sagging national morale.

Again, I thank you for this opportunity to appear before you and I shall be happy to try to answer any questions you may have. End of statement.

Senator INOUE. Mr. De Lyra.

Mr. VINCENT DE LYRA. Senator, with the permission of the committee, I would like to ask my son, Stephen, who is the vice president of our firm to make the comments that we would like to have on the record.

Senator INOUE. Proceed.

Mr. STEPHEN DE LYRA. Mr. Chairman, members of the subcommittee, I am Stephen De Lyra, vice president of Vintero Corp. I wish to thank you for allowing our testimony on such short notice. I would especially like to thank Mr. John Hardy and his staff for being so accommodating in the hectic finalization of the plans for this hearing.

We will not take much time with this testimony as we don't have a prepared statement and you don't have the benefit of examination of same. Our purpose at this time is just to make our existence known and to let this committee know of our plans regarding the SS *Santa Rosa*.

I would like at the outset to note that we are the only actual owners present here today, and that Federal Express is just one of many suitors for the *Santa Rosa*. In May 1975 Vintero Corp. was a successful bidder at an international auction borne out of Public Law 92-296 which authorized the foreign sale of the vessel. The *Santa Rosa* has many similarities to the *United States* in that both ships were built at Newport News shipbuilding and drydock, both

were designed by the same naval architectural firm of Gibbs & Cox, both were built with U.S. Navy specifications, and both built with construction differential subsidies. The *Rosa* is a newer vessel, however. Her maiden voyage was in 1958.

Our plans are to operate interisland cruises exclusively in Hawaii, never leaving the waters of Hawaii, with the exception of the annual drydocking required of all passenger ships, at which time we would go to the west coast and back. All work we have done on the vessel to date has been done in U.S. shipyards, and all the work we would do to rehabilitate and convert the vessel will be in U.S. shipyards. She's a passenger-cargo ship. We have plans underway now for the conversion into all-passenger use, going into the cargo areas.

We have been assisted greatly in our plans so far by the State of Hawaii, Department of Planning and Economic Development, and I have met with several State legislators. We did not become aware of the problems regarding construction differential subsidies until the *Stuyvesant* case became an issue. Our discussions with potential joint-venture partners were broken off because of the implications of that case.

Senator Warner had wanted to know if this delay was affecting us in any way. It is. Carrying idle tonnage is no more desirable for our corporation than it was for the Maritime Administration.

Senator INOUE. I should point out, if I may at this juncture, that everything seems jolly here, but you should anticipate problems on the other side of the Capitol.

Mr. STEPHEN DE LYRA. Thank you for the warning, Mr. Senator.

I understand there has been a companion bill in the House introduced to S. 1281, H.R. 4416, a bill by Congressman Akaka.

Senator INOUE. I believe so; yes.

I will issue a notice from this committee and invite comments even before the introduction of the measure, so that by the time the ninth of July should come about, you will have official comments from the agencies. I think that is the best way to proceed. If I may, I will keep the record open to permit you to submit your full and formal statement, both of you.

Mr. STEPHEN DE LYRA. Thank you, sir.

Senator INOUE. Thank you very much.

[The statement follows:]

STATEMENT OF VINCENT A. DE LYRA, PRESIDENT OF VINTERO CORP.

Mr. Chairman and members of the subcommittee, my name is Vincent A. De Lyra. I am the president of Vintero Corporation which owns the SS *Santa Rosa*. I wish to thank Senator Inouye for allowing our testimony.

We request legislative action to permit the SS *Santa Rosa* to engage in the domestic commerce of the United States.

Vintero Corporation (Vintero) supports S. 1281 and has sought to be heard because of a similar situation regarding the SS *Santa Rosa*. The re-entry of our flag in the cruise business means literally thousands of jobs in our maritime industry from shipboard to shipyard, as well as in related service industries. Cruise business at home will keep dollars at home as well as attract foreign tourist dollars to help our balance of payments situation.

Vintero is grateful to Mr. John Colbrunn of United States Cruises, Inc. (USCI) for the statement he filed with this Subcommittee, as there are many similarities with regard to the ships involved and the legislation needed. The SS *Santa Rosa* was designed by the same naval architect as the SS *United States*—William Francis Gibbs—both ships were built at Newport News Shipbuilding and Drydock Company,

both ships incorporated U.S. Navy specifications in their design, and both ships were built with construction differential subsidy (CDS).

One difference is that the SS *Santa Rosa*, built in 1958, is a younger ship than the SS *United States* and is within its 25 year statutory life for DCS purposes.

In this regard it is Vintero's position that Public Law 92-296, as amended—the legislation which made this firm's purchase of the SS *Santa Rosa* possible—is a concession that the economic life of the vessels affected is over as far as the U.S. Maritime Administration (MARAD) is concerned.

On this basis, the SS *Santa Rosa* is in the same situation as the SS *United States* with regard to CDS. I would therefore respectfully suggest that any legislation proposed for the SS *Santa Rosa* include the proviso that the statutory life of the ship has ended for CDS purposes.

The SS *Santa Rosa* has never had any work done on her in foreign shipyards and all work contemplated will be done in U.S. shipyards. The only flag she has flown is the Flag of the United States.

Vintero's plan of operation is to form a new corporate entity (the Corporation) with qualified joint venture partners to implement inter-island cruises in the State of Hawaii. The Corporation will seek reconstruction loan guarantees pursuant to Title XI of the Merchant Marine Act, 1936, as amended. This financing will be used to convert existing cargo space into additional passenger accommodations in keeping with the same luxurious theme as presently exists (on average, the SS *Santa Rosa* has the largest staterooms of any ship afloat). The reconstruction would also include a bow thruster, a sports deck, a second swimming pool, a disco and several boutiques.

We have worked with two top naval architectural firms in matters relating to the conversion: Gibbs & Cox, the firm which originally designed the vessel; and JJ Henry Co., Inc.

The proposed itinerary will be exclusively within the waters of Hawaii. The ship will be convenient and luxurious means of seeing the "Neighbor Islands" of Hawaii without the tedious affairs of hotel check-in, check-out and travel to and from airports.

Our joint venturers consider the need for legislative clarification to permit the SS *Santa Rosa* to engage in the domestic commerce of the United States to be of paramount importance prior to their investment of the necessary capital to realize the goal explained above.

We are confident Mr. Chairman, that with the support of this Subcommittee the day is near at hand when we shall once again see our U.S. Flag on U.S. built and U.S. operated passenger ships, among which will be the "new" SS *Santa Rosa*. Thank you.

Senator INOUE. Out next witness is the president of the Transportation Institute, Mr. Herbert Brand.

**STATEMENT OF HERBERT BRAND, PRESIDENT,  
TRANSPORTATION INSTITUTE, WASHINGTON, D.C.**

Mr. BRAND. Thank you, Mr. Chairman.  
Good afternoon.

Senator INOUE. Always good to see you, sir.

Mr. BRAND. I have a very brief statement, but inasmuch as many of the details have been touched upon by the witnesses, I will just skip over this and just make one comment, if I may.

Senator INOUE. Without objection, your full statement will be made part of the record.

Mr. BRAND. Thank you, sir.

First of all, we appreciate this opportunity to testify on legislation that would clarify the eligibility of the SS *United States* and the SS *Independence* to participate once again in the passenger trades of the United States. Accordingly, we support passage of S. 1365, directing the U.S. documentation of the *Independence* for the coastwise trade, and S. 1281, enabling the *United States* to operate in both the domestic and foreign commerce of the Nation.

The Transportation Institute, which is comprised of 174 companies engaged in U.S.-flag marine transportation, enthusiastically hails this hearing because it deals with the very vital question of revival of a once proud trade for the American flag.

I think this hearing, Mr. Chairman, points up your leadership—and I do not mean to embarrass you in seeking new ways and means to not only protect American-flag shipping, but to open up new areas for revitalization of our declining U.S. merchant marine. Beyond that, there is a promise of beneficial effects for tourism which this country and the American economy do not presently enjoy.

I think the institution of these two vessels into your domestic trades would be a very, very important development for the American flag. I think, as Congressman Downing expressed, it would perhaps show to the world that the United States is not to be counted out in this respect. Moreover I think it represents a tremendous challenge to the American maritime industry, to management, to labor, both seafaring and shipyard, and to the Government as well, for them to get together and demonstrate to themselves and to the world that we can compete and perform the functions of a viable U.S. maritime industry that has been the subject of some criticism and I think unfairly so, over the past few years.

I think, Mr. Chairman, you and the committee ought to be thanked and to be the object of our appreciation for your efforts in getting us going in that direction.

I thank you very much.

Senator INOUE. I thank you for your generous words, Mr. Brand, and hope we will be successful in this.

Mr. BRAND. Thank you.

[The statement follows:]

#### STATEMENT OF HERBERT BRAND, PRESIDENT, TRANSPORTATION INSTITUTE

Mr. Chairman and members of the subcommittee, we appreciate this opportunity to testify on legislation that would clarify the eligibility of the SS *United States* and the SS *Independence* to participate once again in the passenger trades of the United States. Accordingly, we support passage of S. 1365, directing the U.S. documentation of the *Independence* for the coastwise trade, and S. 1281, enabling the *United States* to operate in both the domestic and foreign commerce of the Nation.

The Transportation Institute, which comprises 174 companies engaged in U.S.-flag marine transportation, must enthusiastically hail this hearing on the revival of these ships. It bodes well for the U.S.-flag maritime industry, and beyond that, there is the promise of beneficial effects for tourism and the American economy in general.

The return of these vessels would constitute a remarkable and important step in the revitalization of our merchant fleet. As this subcommittee knows, American-flag shipping has virtually disappeared from the seas, and the irony of that fact cannot be overemphasized. The United States is of necessity a maritime nation. We depend on ocean transportation for a staggering flow of imports and exports needed for the maintenance of our economy. Increasing numbers of American citizens also take advantage of foreign-flag passenger ships, and we believe that many of these citizens would turn to new services once they became available under U.S. flag. To those American citizens would be added a potentially substantial number of foreign travelers who would be attracted to the kind of service that the *Independence* and *United States* would offer.

We have never given up hope for the U.S.-flag passenger trade. On the contrary, we have always believed that a successful service could be redeveloped in this country, and today we have a unique opportunity to augment the limited U.S.-flag passenger services that exist at present. A return of these passenger ships would not

only strengthen the U.S. merchant fleet, but it would benefit our shipyards, our balance of payments, state and local tax revenues, and, through ripple effects, the many other sectors of our economy that interconnect with the maritime industry.

The opportunities presented in the reactivation of these two vessels to commercial service constitute a challenge to American shipping management, a challenge to American shipyards, and a challenge to the Federal Government. We are breaking new ground with these vessels, and every effort should be made to assist every shipping company that shows an interest in putting capital into this kind of venture.

The subcommittee does this country a great service by pursuing an interest in these vessels and the opportunities they represent. We respectfully urge the committee to proceed as quickly as possible to restore these vessels to active service under the American flag.

Senator INOUE. Our next witness is Mr. Charles Mollard, vice president of the Seafarers International Union of North America, AFL-CIO.

Welcome, sir.

**STATEMENT OF CHARLES MOLLARD, VICE PRESIDENT, SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO.**

Mr. MOLLARD. Thank you.

Mr. Chairman, members of the subcommittee, my name is Charles Mollard, I'm vice president of the Seafarers International Union of North America, AFL-CIO.

The Seafarers International Union of North America has long believed that there is a place under the U.S. flag for efficient and successful passenger ship service, and therefore it is with special pleasure that we testify today in support of returning the SS *United States* and SS *Independence* to operation.

The legislation under consideration involves, in our view, largely technical amendments to assure that the intent of our national maritime policy is fulfilled. But the importance of the legislation is far more than technical, for it is essential to rebuilding the vital passenger component of the U.S. merchant marine. The new services into which the vessels would be placed show a need for innovation, for daring, and for resourcefulness. With these ingredients, American-flag passenger service can be rejuvenated to the status it once enjoyed.

As it stands today, the members of the Seafarers International Union man the only U.S.-flag passenger ships still in operation. Accordingly, we are aware of the needs and economic realities faced by passenger ship operators. We look forward to any new opportunities to advance this sector of the industry.

The Seafarers International Union has been in the forefront of the effort to break with tradition in whatever ways are necessary to rebuild the merchant marine. We have a deep interest in the return of these vessels and we want to contribute in anyway possible. The American seaman has demonstrated his willingness to cooperate. In fact, workers in perhaps no other industry have better information on the inroads made by foreign competitors, including those that are market-oriented and those that are state-controlled.

It is important to keep in mind that both the *Independence* and the *United States* were built in this country, were operated under the U.S. flag, and will be manned by American citizens in their

new services. These vessels would be reactivated in viable commercial enterprises without the need for expenditure of Federal tax dollars. But the significance of the return of these vessels includes not only gains for the merchant fleet and for ship repair and shipbuilding facilities, but for the economy as a whole. As such, these vessels present a unique opportunity that this country cannot afford to ignore.

We appreciate the subcommittee's interest in the revitalization of the American-flag passenger fleet, and we hope this legislation will be expedited in order that the substantial benefits of the return of these vessels can begin to accrue to American citizens at the earliest possible moment.

Thank you very much.

Mr. Chairman, this concludes my written testimony which has been submitted to the committee, but I would like to just add a couple remarks.

Basically, the position of the Seafarers International Union is a position that is similar to a statement that was adopted by the AFL-CIO executive council on the maritime industry in Bal Harbour, Fla., on February 23, 1979.

I would like, for the record, to read a section from that statement, to illustrate that this position has the support of the labor movement in general.

I quote:

As a means of enhancing U.S. international prestige, another aspect of national maritime policy must be the encouragement of incentives which will contribute to the revitalization of U.S.-flag passenger service. This revitalization can be accomplished at no cost to the Federal Government. The industry has the capability of generating substantially increased employment opportunity, income for the economy and a favorable tilt for the balance of payments situation.

I think while obviously we are considering two specific pieces of legislation, the introduction of the *Independence* and *United States* into this service really could open up a whole new era for American passenger vessel trade. I think it would just be the beginning of some very progressive steps, and hopefully some new construction, so we really can make the U.S. flag better known throughout the world.

That concludes my statement.

Senator INOUE. Thank you very much.

Would you object if these bills contained a proviso to make certain these ships are used just for the passenger fleet? Not for cargo?

Mr. MOLLARD. I certainly would see no objection. Obviously we represent the seagoing labor force, and I think that probably those that operate the vessels from the company management could better indicate whether or not there are other services where they could be handled and used.

Obviously, we would support anything that would increase use of American ships, whether they be in the passenger trade or the freight trades. But I think specifically on these—as best I understand it—that the two vessels being considered here are to be used exclusively for the passenger vessel service in the United States.

Senator INOUE. Thank you very much.

Senator WARNER. How many pages is that statement, part of which you just read?

Mr. MOLLARD. My statement was two pages. We had a statement that I read a section of, which was a statement adopted by—

Senator WARNER. That is the one I'm referring to.

Mr. MOLLARD. That is four pages.

Senator WARNER. Mr. Chairman, I suggest the statement be put in the record in its entirety. I think it would be wise if we had it.

Senator INOUE. Without objection, so ordered.

[The statement follows:]

STATEMENT BY THE AFL-CIO EXECUTIVE COUNCIL ON THE MARITIME INDUSTRY—  
BAL HARBOUR, FLA., FEBRUARY 23, 1979

The maritime industry in the nations of the free world has been faced with serious problems in recent year. Many of these problems are directly traceable to the cut-throat competition of runaway flag fleets and the predatory practice of the Soviet bloc maritime interests.

The United States merchant marine has suffered from a devastating lack of attention and direction in the implementation of the nation's stated national maritime policy.

In the last 30 years, the U.S. waterborne export and import tonnage has increased nearly six-fold. In contrast, the number of U.S. flag ships has decreased by 75 percent. As a result, the country's merchant marine has fallen from number one in the world to number ten. This has had great impact on thousands of American workers who are no longer employed onboard the vessels and in the many industries that provide equipment, supplies and repairs to American vessels.

Today, there are less than 550 American flag vessels in service and they carry less than 5 percent of U.S. foreign commerce. In 1946, U.S. ships carried 62 percent of U.S. foreign waterborne commerce. If American ships were carrying just 50 percent of the nation's foreign trade today, there would be some 4,000 ships operating under the U.S. flag. This would be of substantial benefit to the U.S. economy and result in tens of thousands of jobs for American workers in steel production, shipbuilding, ship repair, ship operations and allied industries.

The American merchant marine is a vital ingredient in America's national defense policy as well as its trade, energy and mineral policy. Similarly, the construction and operation of American vessels provides the greatest measure of protection for the marine environment and safety of life and property at sea. It is equally important that the U.S. vigorously pursue a national maritime policy that will maintain, promote and strengthen the industry.

We urge that concerted efforts be made to give greater meaning and direction to a basic American maritime policy.

#### I. NATIONAL TRADE POLICY

A healthy U.S. flag merchant fleet is crucial to the vitality of the national economy and is clearly mandated in existing laws.

A substantial number of nations now practice cargo preference, closed conferences, bilateral shipping agreements and favorable tax, tariff, currency or customs treatment which directs substantial commerce toward their national flag lines. In addition, many nations permit non-official actions including rebates, rate-slashing and other favorable treatment which increase the amounts of cargo carried by their own flag operators. The U.S. has refused to undertake such activities on behalf of its merchant marine either directly or indirectly.

About 85 percent of shipping revenues involved in United States trade go to foreign flag lines. This has created the largest balance of payments deficit of any United States service industry.

To deal with current trade problems and to encourage U.S. flag participation in U.S. trade, the following points should be incorporated into U.S. maritime trade policy:

1. The negotiation of bilateral shipping agreements must be the key component of any maritime trade policy. Such agreements serve to increase U.S. sailings, increase employment, protect against overtonnaging and provide a means to enter restricted trades.

In the negotiations with the People's Republic of China it is imperative that the U.S. insure, through a bilateral trade agreement, that trade with China include U.S. flag vessels.

2. The Trade Act of 1974 is intended to protect manufacturing and service industries. However, while U.S. shipping is defined as a service industry, it is not receiving the stipulated protection provided to other industries under the Trade Act. The anti-dumping protection afforded to goods-producers must be extended to the maritime industry. Furthermore, merchant seamen and other service workers must be fully covered by trade adjustment assistance.

## II. NATIONAL ENERGY AND MINERALS POLICY

The United States is heavily dependent on foreign sources of energy and minerals as well as the transport of these vital materials. It is therefore extremely important to develop and implement a policy which will enhance America's energy production and transportation security. The U.S. merchant marine must be considered as essential component of such an energy and minerals policy. Increased use to the U.S. fleet for transportation of energy and minerals provides product availability, reliability, security and economic benefits.

1. Alaskan oil must not be exported to or swapped with Japan or any other foreign nation. The U.S. needs all of its oil and energy resources in order not to further weaken the national energy system.

2. The loophole in the Jones Act, which allows foreign flag vessels to engage in commerce between the Virgin Islands and the U.S. mainland, should be closed. Oil accounts for 99% of the outboard shipments from the Islands to the U.S. As a result of the loophole, this oil is carried in foreign flag ships. The loophole encourages dependency on foreign ships for transportation of vital energy resources.

3. The carriage of oil from offshore trans-shipment vessels to the U.S. mainland must be restricted to U.S. flag vessels. The use of foreign-flag vessels in lightering operations works to the great detriment of U.S. vessels, seamen, shipbuilders and metal trades workers. Furthermore, use of foreign-flag vessels increases the likelihood of oil spills and resultant environmental damage to U.S. coastal waters.

4. Importation of liquified natural gas, by ship, is an important supplement to the declining U.S. supply of natural gas and its continuance must be encouraged. Because of the United States' advanced technology and skill in LNG, approximately 50 percent of LNG imports should be carried on U.S. ships.

5. The deep seabed is rich in copper, cobalt, manganese and nickel. Unless the U.S. becomes self-sufficient in these substances, it could find itself at the mercy of a third-world cartel, similar to OPEC. The United States alone has the technology to mine the deep seabed for these minerals. This new industry has the potential of creating thousands of jobs and providing the U.S. with a supply of these minerals essential to our economy and security. The growth of U.S. ocean mining industry that includes the use of U.S. built and documented vessels and domestic processing facilities should be promoted.

## III. NATIONAL MARITIME POLICY

Federal maritime programs should promote and strengthen the U.S. merchant marine in a manner similar to that used by other nations. It is important that existing programs be maintained at levels which foster maximum use and growth of the private merchant marine fleet, including full implementation of the stated policies of the nation's merchant marine acts. Government agencies should be directed to use the private merchant marine fleet to the fullest extent possible. Existing law should be implemented so that no less than 50% of U.S. government generated cargoes be carried in U.S. flag vessels.

As a means of enhancing U.S. international prestige, another aspect of national maritime policy must be the encouragement of incentives which will contribute to a revival of U.S. flag passenger vessel service. This revitalization can be accomplished at no cost to the federal government. The industry has the capability of generating substantially increased employment opportunity, income for the economy and a favorable tilt for the balance of payments situation.

National maritime policy should reaffirm and include steps to implement the maritime program outlined by President Carter in 1976. This would include continuing efforts to enforce our American cabotage laws, such as the Jones Act; developing a national cargo policy which would assure the U.S.-flag merchant marine a fair share of all types of cargo, and developing a program which would result in a U.S.-flag merchant marine with ships that are competitive with foreign flag ships.

The implementation of such a maritime policy would help the economy, promote national security and provide additional jobs in shipping and allied industries.

Senator INOUE. The next witness is Edward V. Kelly, special assistant to the president, district 2, MEBA.

**STATEMENT OF EDWARD V. KELLY, SPECIAL ASSISTANT TO THE PRESIDENT, DISTRICT 2, MEBA-AMO, WASHINGTON, D.C.**

Mr. KELLY. Good afternoon. District 2 MEBA supports both S. 1365 and S. 1281 because our union of licensed officers believes that the return of the *United States* and the *Independence* under the American flag would do more than resurrect the U.S. passenger trade. The return of these vessels would be of symbolic importance to the U.S. Merchant Marine as a whole.

In a way, we are talking indirectly about three ships, since Conrad Everhard, in his letter to the Subcommittee on Merchant Marine and Tourism, has suggested that his company may also bring back the *Constitution*, if the way is cleared for the return of the *Independence*. Three U.S.-flag liners suddenly restored to a sector of the maritime industry that has had little or no business for years could only be viewed as a practical and psychological boost for the beleaguered U.S. Merchant Marine.

As Mr. Everhard commented in his letter, the return of these ships as U.S.-flag passenger liners would mean jobs for U.S. seamen and shipyard workers, keep tourist dollars in the United States, and encourage foreign tourists to cruise on U.S. vessels—a welcome reversal of the current situation. As a practical fact in the industry, it would also give more legitimacy to the very title of your Subcommittee on Merchant Marine and Tourism, which harkens back to the days before jets eliminated tourism from the U.S. merchant marine.

I would make only two additional points:

The *Queen Elizabeth II*, as the ranking survivor of a long and proud tradition of British seafaring, is recognized as a symbol of Great Britain wherever she sails. The return of the *United States* and the *Independence* would give the United States of America two worthy counterparts to the *Queen Elizabeth II*. They are not relics, nor “art deco” restorations. When refitted, both vessels can sail as living classics of nautical design. To paraphrase the Marines, we need only a few good passenger lines, given the realities of the market.

My second point pertains to national defense. Let’s be frank about it: The United States has no Navy transports able to carry troops in a crisis. The *United States* and the *Independence* could function as troop carriers in the event of an emergency, if they were available for a defense role as part of the U.S.-flag merchant marine.

I would like to add, Mr. Chairman, that we in district 2 are of the opinion that all members of maritime labor and related industries, industries related to the maritime field, should support this legislation, and come out in favor of bills.

We in district 2 are concerned when we realize that the Russians today have 71 passenger ships capable of being converted to troop transports, while we are dependent solely on airlift. We were able to get away in the Vietnam war, but in any future war of any

length or duration we would be stuck with putting troops on any vessel available to us today.

We thank you very much for giving us the opportunity to appear before your committee.

Senator INOUE. We will be sending you a copy of the bill relating to the *Santa Rosa* and will be asking you for comments on those. What do you have to say about the proviso to limit the operations on these ships to strictly passenger work?

Mr. KELLY. Just speaking from labor's viewpoint, we have no problem with it. It would be up to the operators as to what best suits their requirements.

Senator INOUE. I see.

Mr. KELLY. One other thing. We have talked about it and discussed it. We feel that labor and management can come up with realistic crewing levels with realistic contracts to operating these vessels so that the operators could make a profit in this trade that we are talking about.

Senator INOUE. Thank you very much.

Senator Warner.

Senator WARNER. Mr. Chairman, I would just like to observe that it's comforting to all of us to see labor and management getting together on a unified approach to this problem. I commend you for coming in and the gentleman that preceded you. Let's hope that this goes forward and is a hallmark of success, and perhaps we will begin to build again.

Mr. KELLY. Thank you.

Senator INOUE. Thank you very much, Mr. Kelly.

Our next witness is the research director of the National Maritime Union, Mr. Eugene Spector. He will be accompanied by Mr. Tal Simpkins, executive director of the AFL-CIO Maritime Committee.

**STATEMENT OF EUGENE SPECTOR, RESEARCH DIRECTOR, NATIONAL MARITIME UNION OF AMERICA, AFL-CIO; ACCOMPANIED BY TAL SIMPKINS, EXECUTIVE DIRECTOR, AFL-CIO MARITIME COMMITTEE**

Mr. SPECTOR. Good afternoon, Mr. Chairman.

Mr. Chairman, and Senator Warner, I am Eugene Spector, research director of the National Maritime Union of the AFL-CIO appearing on behalf of the AFL-CIO Maritime Committee. Accompanying me is Tal Simpkins, executive director of the AFL-CIO Maritime Committee. I am also told that our statement is concurred in by the International Organization of Masters, Mates, and Pilots, and the International Longshoremen's and Warehousemen's Union.

We appreciate the opportunity to testify before this subcommittee and wholeheartedly support S. 1281, a bill to clarify that the steamship *United States* may operate in the domestic and/or foreign commerce of the United States and/or between foreign ports.

Historically, the NMU has manned the U.S. passenger-ship fleet. We consistently opposed the foreign sale as authorized by Public Law 92-296 and subsequent legislation which allowed the foreign sale of the S.S. *Independence* despite the provisions of Public Law 92-296.

In the interim, we have expended considerable time, effort, and money in a study of the passenger ship industry in an effort to reactivate the SS *United States* in the domestic trade, namely, servicing the Hawaiian Islands. Apparently these efforts have borne fruit in light of the recent spate of interest in just such a proposal.

As an aside, it is our position that it is difficult to compete with \$45-a-month labor in the foreign trade of the United States. But the Jones Act provides protection for American vessels that qualify under the Jones Act. Therefore, there is no such competition. Therefore, the economic situation is quite different. And we have proposed to prospective operators to give new consideration to the domestic trade and, in particular, to the Hawaiian trade.

The *United States* project has been given new life through the efforts of U.S. Cruises, Inc. We have also been advised of real progress with respect to the possible reactivation of the SS *Santa Rosa* and by another potential operator who is considering the use of the SS *Monterey* and SS *Mariposa* in the domestic Pacific cruise service. These vessels have never run afoul of the section 27 prohibition of the Jones Act. However, the recent U.S. Court of Appeals decision in *Alaska Bulk Carriers, Inc. vs. Kreps et al.*, No. 77-2080 (D.C. Cir., February 6, 1979), raises some question as to whether these ships, having been built with construction differential subsidy, as was the SS *United States*, can operate on a permanent basis in the domestic trade of the United States.

We believe the Congress should approve S. 1281 as proposed. However, prompt consideration should also be given for the overall approval for any passenger ship built with a construction-differential subsidy which has been deemed to have reached the end of its economic life in light of the implications of the *Stuyvesant* case.

I might add that the Maritime Administration and the industry up to this point have written off all U.S. passenger ships as having reached the end of their economic life. Since there are no U.S.-flag passenger ships currently operating in the domestic trade, such action cannot have any detrimental effect.

The committee and the NMU are strong proponents of the Jones Act and we are opposed to any action which would further weaken it. We believe that S. 1365 represents special-class legislation in direct conflict with the provisions of section 27 which provide:

That no vessel having at any time acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in, or documented under the laws of the United States, and later sold foreign in whole or in part, or placed under foreign registry, shall hereafter acquire the right to engage in the coastwise trade \* \* \*

Frankly, we are caught in a dilemma. We urgently seek the development and have historically sought the development of U.S.-flag passenger ship capacity, while at the same time are committed to upholding all the provisions of the Jones Act. S. 1281, as applied in a limited manner to passenger ships, presents no problem to us, while S. 1365 is in direct contravention of an expressed prohibition of the 1920 act. The long term consequences appear to us out of proportion to the short term gain. We are quite fearful of where these exceptions may lead and to the ultimate loss of the needed protection of the Jones Act.

The purchasers of those ships never registered abroad had the right to believe that they could be used in the domestic trade prior to the *Stuyvesant* decision. It would be inequitable to deprive U.S. Cruises, Inc., of this option which it considered to be open at the time of purchase, and similar treatment should be afforded to all others on the same footing.

In the case of the SS *Independence*, the purchaser knew that section 27 foreclosed any domestic operation upon transfer to foreign registry. The proposed legislation could open the door to the movement in and out of U.S.-flag operations as market conditions warrant. It also raises serious questions as to the other U.S.-built ships in the same situation, namely, the SS *Brazil*, SS *Argentina*, SS *Constitution*, and the SS *Santa Paula*.

All of these were U.S.-made and sold foreign. We have no problem with redocumentation of any of these vessels under U.S. flag for operation in the foreign commerce of the United States. We would welcome such a development. We are talking about a ship coming into the domestic trade of the United States where there is no competition. If the two bills before you were enacted, it would effectively bar any other ships from going in, even though they are American built. We think that would stifle competition and would be wrong. It also puts pressure on foreign vessels over vessels who have never been registered foreign.

We do not believe the Jones Act and its basic principles should be sacrificed or weakened for expediency. These ships are all old, in excess of 25 years. Future operating life is limited. Replacement costs would undoubtedly result in attempts to bring foreign-built vessels into the trade in the future to reduce capital costs and debt service.

We would propose an amendment to section 613(a) of the Merchant Marine Act, 1936, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, notwithstanding any other provisions of law or of prior contract with the United States, any vessel heretofore operated as a passenger vessel, as defined in section 613(a) of the Merchant Marine Act, 1936, as amended, under a construction-differential contract with the United States and sold or chartered to a qualified operator for operation under the American flag may engage in the domestic commerce of the United States with the prior approval of the Secretary of Commerce.

We believe this is somewhat along the lines of the legislation proposed by ex-Congressman Downing, and we would support that approach.

Our long battle for a balanced U.S.-flag merchant fleet to include adequate passenger ship capacity appears to be bearing fruit. We are particularly heartened by a MarAd request for proposals for an analysis of the North American pleasure cruise industry for the purpose of enabling the Maritime Administration to evaluate the potential for future U.S. flag entry into the passenger cruise industry and to evaluate the potential for new domestic cruise ship construction.

We are now talking about bringing overage and obsolete ships under American flag. Fine, we are all for it. We are not for it in

terms of sacrificing the Jones Act and where it might lead us down the road. When you say, "Well, we can do this," somewhere down the road we are going to be faced with the fact that we did it.

There are vessels who do not run afoul of section 27, and consideration should be given them. That consideration would bring those ships into the trade if the economics were correct. But they are old ships, as I have said before. We must look forward to a situation where these ships can be replaced and where there will be a continuity of operation. The domestic trade should not be used as a potential bonanza for an operator who has no other use for a ship.

We recall in 1969, when these ships were laid up, nobody wanted to operate them anywhere. In 1972, when the ships were sold foreign, no one wished to come forward and operate them anywhere in U.S. trade. Some of the ships mentioned have been operated in the foreign trade for some number of years. Apparently they are no longer economically viable even in that trade. We would welcome their coming in and being under American flag and competing head-to-head with foreign-flag operators in the foreign trade of the United States. This would be fine. They have a capital cost advantage which would overcome the labor cost disadvantage.

I might say our union is quite concerned with the fact that in the United States we allow people who practically live in the United States, operate out of the United States, and are paid \$45 a month, with no protection as laborers. And then we are told we cannot compete with them. They don't have to meet American labor standards. They do not meet Coast Guard standards as to safety, and on and on and on. There are loopholes in the tax laws, and it makes more sense to put them under foreign flag than American flag.

We would hope the committee would take cognizance of that and do something about it. We would like to see the vessels flying the American flag helped so that they can compete in the American cruise trade. We think it's begging the question to take these obsolete ships that have run afoul of the Jones Act, which by strict application of the Jones Act are not permitted in domestic trade, to waive the Jones Act and allow them in with the knowledge they have no other economic viability.

We greatly appreciate the assistance rendered by this committee and its chairman over the years, and we hope that that assistance and cooperation will continue. I feel a little bit like we are the ant at a picnic here today, but I think we have to say what we feel and we have to look at what we consider to be in the long-range interests of our membership, long-range interests in American Merchant Marine, and look at the facts and not get carried away by the emotion of the minute and the fact that perhaps there are a few jobs out there for the moment, and look at where we are going in the long run.

Thank you.

Senator INOUE. Thank you very much, Mr. Spector. I don't suppose that you are speaking for the labor movement, are you?

Mr. SPECTOR. I am speaking for the labor movement in terms of the National Maritime Union, the American Radio Association, International Longshoremen & Warehousemen's Union, Master Mates & Pilots Association, Local 5,000 of the United Steelworkers

of America. This is a considerable portion of the total maritime labor movement.

And again I want to emphasize, with respect to S. 1281, we have no objections, and that we would prefer to see it move ahead as is.

We also would like to see legislation to put other ships on the same footing as the *United States*—on the same basis as the *United States* as soon as possible.

Senator INOUE. Thank you very much, sir.

Senator WARNER. Do you know of anyway this could be worked out to the satisfaction of all parties without setting a precedent that would be detrimental to the Jones Act? I mean we have jobs at stake now. That seems to me to be an imperative consideration. Moreover, I am much impressed by the testimony today to the effect that these bills signal that America's Merchant Marine is revitalized.

Mr. SPECTOR. Is it in fact revitalized by taking vessels that cannot compete in the foreign trade of the United States, putting them into a protective trade where they have no right by law, waiving the law, putting them in? In point of fact, if only these two bills are passed, nobody else can come in to compete with them. Maybe they can make out; maybe they can't. We will see. Hopefully they can, after they are allowed in.

Senator WARNER. Maybe I used the wrong word, "revitalized." I mean those of us who love the sea—and I'm sure you are in that category; you have given your life to it—are just excited about this proposition to start once again and fly the American flag. I am just simply asking you: Is there any alternative that you know by which this can be achieved and not weaken the Jones Act?

Mr. SPECTOR. We are told that the *United States* is prepared to go into the trade. We are told that the *Santa Rosa* is prepared to go into the trade. We are told the *Mariposa* and/or *Monterey* are prepared to go into the trade. This is a revitalization. These vessels have not run afoul of section 27 of the act.

Now, do we want, without even passing legislation, to allow them to come in, to carte blanche pass a bill which picks a ship up out of five possible ships and say that ship can come back and nothing else can? It seems to me it's inequitable, runs counter to the Jones Act, and creates a precedent we may live to regret.

Senator WARNER. Those are arguments against. I ask one more time: Do you know of any way our objective can be achieved?

Mr. SPECTOR. Just shutting our eyes to reality, it could be achieved.

Senator WARNER. Thank you.

Senator INOUE. Thank you very much, sir.

Our final witness is Mr. David A. Leff, Executive Director of the Joint Maritime Congress. Welcome.

#### STATEMENT OF DAVID A. LEFF, EXECUTIVE DIRECTOR, JOINT MARITIME CONGRESS

Mr. LEFF. Thank you, Mr. Chairman, Senator Warner.

The Joint Maritime Congress, a group of nearly 100 U.S.-flag vessel operators, working with labor to redevelop an American-flag merchant marine, appreciates this opportunity to present our views on S. 1281 and S. 1365, clarifying that the steamships SS

*United States* and *SS Independence* may operate in domestic and/or foreign commerce of the United States and between foreign ports, and in the coastwise trade, respectively.

With respect to the *SS Independence*, this vessel had been built, manned and documented in the United States. It is a viable and attractive ship for passenger cruising from the United States to the Hawaiian Islands, and it should therefore be permitted to be redocumented as a U.S. vessel.

The following statement is made without prejudice or precedent to any past, current or future positions on the Jones Act, which my organization may take on other issues.

An American passenger liner is a prestigious national symbol that inspires respect for the flag she flies. The Joint Maritime Congress applauds the initial efforts of this committee that we hope has as its goal a sufficient quantity of passenger ships operating under U.S. flag to satisfy the travel desires of American citizens.

The U.S. cruise market is a lucrative one, as witnessed by the fact that so many foreign-flag passenger vessel view the United States as their primary market. It is axiomatic, therefore, that U.S. vessels should at least participate, and hopefully predominate, in this market.

U.S. ships have always had the highest safety, fire and health standards. Indeed, Coast Guard requirements for safety supersede international standards by a large degree. Moreover, the national defense aspect of available passenger ships to carry troops and military personnel and/or dependents is no small factor in considering the revitalization of a passenger fleet. All of these reasons compel passage of S. 1281 and S. 1365.

The loss of our maritime prestige among the nations of the world by the demise of our passenger fleet is regrettable, to say the least. These bills are an important first step to regain that prestige.

In addition, revitalization of a passenger fleet will restore many lost jobs, both shipboard and shoreside, and improve our balance-of-payment account and generate income taxes for the Government.

Millions of dollars spent each year by tourists visiting Hawaii help the economy of that State and of the Nation as well. And their dollars do not create the problem in the Nation's balance of payments as U.S. visitors to foreign countries create. Therefore, all things possible should be done to make visits to Hawaii as attractive as possible for U.S. citizens.

In 1978, 3,670,309 tourists visited Hawaii. Of these, 2,061,059 departed from the U.S. mainland. For the month of March 1978, only a little over 1,000 traveled by ship. For the year 1968, 816,256 tourists traveled from the U.S. mainland to Hawaii. Of this number, 46,119 traveled by ship. And let me remind you that there was only limited passenger vessel service in 1968. Thus, there clearly exists a market for United States-to-Hawaii cruise trade.

However, between the *SS United States* and the *SS Independence*, we believe the latter vessel has a better chance of successful operation in the trade, at least in the short run. While both vessels are large, the *Independence* is smaller and thus closer to the *SS Mariposa* and *SS Monterey* in ease of navigating the Islands.

More important, especially in view of rapidly escalating fuel costs, the *United States*, as testimony in former hearings reveals, could easily utilize 600 tons of fuel a day in cruising the Islands.

Furthermore, the *Independence* has been converted to a one-class ship, a necessity for cruising. The *United States* will require, as the representative of that company described, extensive and costly re-fitting for cruising, including installation of outdoor swimming pools and other amenities that cruise passengers demand.

She will also be required to be fitted with motor launches to carry passengers from the ship to the island that the tourist wishes to visit. The *Independence* has these features already. Finally, maritime experts have concluded that the *United States*, because of its size, is not as practical a candidate for cruising as the *Independence*.

Nevertheless, the Joint Maritime Congress supports both bills and applauds the committee's action in trying to reestablish a U.S.-flag passenger fleet. We firmly believe that management, labor, and government, working together, can make U.S.-flag passenger ship travel a successful reality.

Therefore, we look forward to the reversal of the day when the citizens of this country who desire to travel by sea will not be limited to sailing on foreign-flag ships. We look forward to the prospect of sleek U.S.-flag vessels once again in the active service of this country, adding to its prestige, increasing domestic employment, contributing additional income to its economy and creating a favorable tilt for our balance-of-payment situation. We pledge our support to the full implementation of these objectives and, I might add, both bills.

Senator INOUE. Thank you very much, sir. Yours is a labor-management committee. What labor organizations are represented?

Mr. LEFF. President of the National Marines Beneficial Association.

Senator INOUE. Is that Jessie Calhoun?

Mr. LEFF. Yes, sir.

Senator INOUE. Do you have any other unions?

Mr. LEFF. No, sir.

Senator INOUE. Do you have anything to add to the possibility of a proviso in these bills limiting the operations to passengers?

Mr. LEFF. Well, as I heard you state, the amendment proposed by the Matson line, the chairman of which is a member of our advisory committee also. I personally don't know of any. We haven't had a consensus in our group as to what the feeling might be. We looked at the bills when we decided to testify, that these ships would be strictly passenger vessels.

Senator INOUE. Do you believe you have heard enough about the *Santa Rosa* to make a judgment?

Mr. LEFF. No, sir. I would like to review some further documentation on that subject.

Senator INOUE. Well, I thank you very much, Mr. Leff. You have been very helpful.

Mr. LEFF. Thank you, Senator.

Senator INOUE. Ladies and gentlemen, the committee record will be held open for 3 weeks, during which time if you wish to submit additional material, please feel free to do so.

At this time we will stand in recess, and permit the *United States* to put on a show.

[Whereupon, at 4:04 p.m., the committee was adjourned.]

## ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

PRESTON, THORGRIMSON, ELLIS, HOLMAN & FLETCHER,  
Washington, D.C., April 16, 1979.

Hon. DANIEL K. INOUE,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR INOUE: As you know, our firm is counsel to United States Cruises, Inc. (USCI). Last fall, USCI entered into a contract of sale with the Maritime Administration (MarAd) for the purchase of the S.S. *United States* with plans to refit the vessel for operation primarily in the cruise trade between the Hawaiian Islands and the mainland. The company's decision to purchase the vessel was based on considerable background research, market studies, and other analysis centering on its proposed operation in the domestic Pacific cruise market. As the only remaining American-flag passenger liner, the Jones Act trade is the logical choice for the ship's renewed operation. Since signing the contract of sale, USCI has engaged numerous consultants and undertaken extensive preparations for refitting the ship, which include developing vessel specifications and reconstruction plans, analyzing the market and marketing strategy, pursuing financing, obtaining necessary clearances and in other ways incurring substantial front-end costs in order to develop the project.

My purpose in writing to you at this time concerns a recent appellate court decision which could potentially undermine the company's proposed plan of operation. The specific case to which I refer is the United States Court of Appeals decision in *Alaska Bulk Carriers, Inc., v. Kreps, et al.*, No. 77-2080 (D.C. Cir. February 6, 1979), a decision which raises some question about the ability of a vessel built with construction differential subsidy, as was the S.S. *United States*, to operate permanently in the domestic trades, even after expiration of the vessel's statutory life. Because of the uncertainty created by the Court's decision, USCI has reached the reluctant decision that the only timely course of action which could assure permissible operation of the ship in domestic Pacific cruise service as planned is to seek special legislation clarifying the vessel's status.

The inherent delay involved in resolving this uncertainty has been the basis for the company's request for an extension of the delivery date of the vessel under the contract of sale. That request, addressed to Assistant Secretary of Commerce for Maritime Affairs, Robert J. Blackwell, is enclosed for your reference and sets out in some detail the precise uncertainty created by the language in the Court's majority opinion and the reasons why it is necessary that legislation be enacted.

As noted in that letter, neither NarAd nor USCI contemplated, at the time the contract was signed, that the vessel would be ineligible for operation between United States ports. Moreover, the relevant statute and the legislative history strongly indicate that it was not the intent of Congress that this vessel be permanently barred from operation in the domestic trade. Nevertheless, the Court's decision in *Alaska Bulk Carriers* casts enough doubt on the proposed plan of operation that the only prudent course, in an undertaking of this magnitude, is to seek absolute clarification, through legislation of the vessel's ability to operate in the proposed trades. Draft legislation to accomplish that objective is enclosed.

USCI requests your assistance in obtaining legislation which will accomplish this purpose and which will materially advance its effort to return the American flag to the cruise trade. At this point, we are unaware of any opposition to such legislation and cannot foresee any reason why anyone would object. Time is of the essence in this matter and we would appreciate the opportunity to meet with you or your staff to discuss it at the earliest possible time.

Very truly yours,

EMANUEL ROUVELAS.

STATE OF HAWAII,  
EXECUTIVE CHAMBERS,  
Honolulu, Hawaii, June 8, 1979.

Hon. DANIEL K. INOUE,  
U.S. Senate,  
Washington, D.C.

DEAR DAN: I have been informed that you have introduced legislation that would permit the SS *United States* to operate in the domestic trade. I believe that this legislation is necessary to insure that the potential benefits of water travel operation to our State are fully realized.

I have sent a letter to the other members of our congressional delegation requesting their full support for this piece of legislation. Please be assured that our State is in full accord with the measure and please do not hesitate to contact me if we can be of any assistance.

With warm personal regards, I remain,  
Yours very truly,

GEORGE R. ARIYOSHI, Governor.

AMERICAN HAWAIIAN CRUISING LINE INC.,  
New York, N.Y., June 17, 1979.

Hon. DANIEL K. INOUE,  
Chairman of the Merchant Marine and Tourism Subcommittee of the Senate Commerce, Science, and Transportation Committee, Washington, D.C.

DEAR MR. CHAIRMAN: Our American-flag merchant marine has been in a state of decline far too long. Few opportunities have arisen to improve the situation. However, I am pleased to write you in my capacity as Chairman of the Board of American Hawaiian Cruising Line Inc. to ask respectfully for your assistance with legislation which will advance the objectives of our national maritime policy by revitalizing the once-great American-flag passenger service.

The passenger vessel, the SS *Independence*, was constructed in Quincy, Massachusetts, for American Export Lines, Inc., and flew the U.S. flag for many years. Following approval by the Congress, the ship was transferred to the Panamanian flag in 1974. For the past several years, the vessel has been laid-up in Hong Kong. But now this proud vessel stands on the verge of becoming once again an economically viable component of our U.S. shipping fleet.

Last year, my Company contracted to purchase the *Independence* from the Atlantic Far East Lines, Inc., a Liberian corporation, with the intention of extensively renovating the vessel and operating it strictly as a cruise ship among the Hawaiian Islands on voyages to various ports, beginning early next year. On-board services would include lodging, entertainment, and various meal plans. At each port of call, guided motorcoach shore excursions, moped/bicycle rentals, and shuttle beach transportation would be offered.

Because the *Independence* was partially constructed with MARAD subsidy funds, the Administration was requested to approve the transfer of the vessel to U.S. registry and flag. On February 6, 1979, MARAD cleared the transfer of the *Independence*, subject to the further approval of the Coast Guard. Full disclosure was made to MARAD regarding the qualification of American Hawaiian as a U.S. citizen within the meaning of the shipping acts. We are enclosing herewith information regarding American Hawaiian's officers, directors and shareholders that was furnished MARAD.

The legislation in question would allow the *Independence* to be redocumented as a United States vessel with full privileges of engaging in the coastwise trade. This legislation appears to be required because the Department of Transportation has interpreted section 27 of the Merchant Marine Act of 1920 (46 U.S.C. 883) as preventing this ship from entering the coastwise trade after its return to U.S. registry. American Hawaiian has initiated the procedures to obtain a certificate of registration from the Coast Guard. However, the Coast Guard has held that the *Independence* cannot engage in the coastwise trade under the first proviso in section 27 because it was sold foreign, and, therefore, legislation is required to authorize the inter-Hawaiian cruise venture my Company plans. An additional possible impediment to coastwise trade is that in the Coast Guard's view, the installation of a bow thruster in a shipyard in Taiwan might constitute "rebuilding" of the vessel under the second proviso of section 27.

The benefits that would accrue from enactment of this legislation to the State of Hawaii and to the nation in these difficult economic times are manifold:

1. Hundreds of jobs would be created in the American seafaring and related maritime industries and services.

2. Maintenance and repairs to the vessel, after its return to U.S. registry, will be made in U.S. shipyards, thus providing a much-needed boost to our nation's sagging shipyard industry.

3. The cruise trade will require the purchase of goods and services from virtually every other sector of our economy.

4. The ship will keep tourist dollars in the U.S. and stimulate the flow of tourists, particularly from Japan and Europe, thereby boosting our balance of payments. In view of the present state of our economy, we must begin now to encourage utilization of every possible resource in developing new initiatives in foreign trade and tourism.

5. The United States as a leading maritime power is now noticeably deficient in shipping capacity under its own flag, and is virtually completely dependent on the vessels of other nations, including the Russians and other Communist countries, for cruise and passenger ship service. The new inter-Hawaiian Island operation would be a major step to restoring the American presence in this very important area of trade.

6. The restoration of this important ship to active status will also strengthen our nation's military preparedness posture. By law, the *Independence* must be made available to the United States for purchase or charter as a naval auxiliary in time of emergency. These national defense objectives would be clearly enhanced if the ship was restored to active condition and operated in Hawaiian waters.

7. My Company presently has an option to purchase the former S.S. *Constitution*, which is laid-up in Hong Kong. We intend to enter this vessel also in the inter-Hawaiian cruise trade following the passage of the necessary legislation and the successful debut of the *Independence*, thus doubling the benefits discussed above.

The entry of these two great ships—the *Independence* and the *Constitution*—into the domestic Hawaiian Island service would be among the most innovative and constructive developments for the U.S. Merchant Marine in recent years. It is absolutely essential to understand and to take advantage of the fact that the return of these vessels to the American flag and their use in the American trades will be accomplished entirely with private capital. Public or government funds will not be involved in any way whatsoever. On the contrary, the *Independence* and *Constitution* will be a source of increased tax revenue for our federal and state treasuries.

Because you have championed the rejuvenation of the American-flag domestic cruise trade, we sincerely hope that you will be amenable to sponsoring the bill to permit the *Independence* to carry passengers among the Hawaiian Islands and that you will hold early hearings on the legislation in your Subcommittee.

We are taking the liberty of enclosing a draft of a bill which might be of assistance to you and the Subcommittee staff. If there is any further information we can provide, please contact me or George Carneal at our Washington attorneys, Hogan & Hartson.

With kind regards,  
Sincerely,

CONRAD H. C. EVERHARD,  
*Chairman of the Board.*

Enclosures.

American Hawaiian Cruising Line Inc., Wall Street Plaza, Suite 1840, New York, New York 10005; incorporated in the State of Delaware December 5, 1978

#### *Citizenship*

##### Officers:

Conrad H. C. Everhard, Chairman of the Board—United States  
Robert Suan, Treasurer—United States  
Daisy Woo, Secretary—United States

##### Directors:

Conrad H. C. Everhard—United States  
Robert Suan—United States  
C. C. Yin—United States  
Alice King—United States  
Mary Liu—United States  
Daisy Woo—United States

##### Shareholders:

Universal Development Corporation, chartered in 1960 under the laws of the State of California; 79 percent of UDS's stock is owned by citizens of the United States—150 shares.

George Tong, a U.S. citizen—10 shares.  
 Conrad H. C. Everhard, a U.S. citizen—10 shares.  
 Alice King, a U.S. citizen—10 shares.  
 Mary Liu, a U.S. citizen—10 shares.  
 Robert Suan, a U.S. citizen—eight shares.  
 Daisy Woo, a U.S. citizen—two shares.

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THE COMMISSIONER OF CUSTOMS SERVICE,  
 Washington, D.C., June 22, 1979.

HON. DANIEL K. INOUE,  
 Chairman, Subcommittee on Merchant Marine and Tourism, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On June 19, 1979, John Hardy, Esq., Merchant Marine and Tourism Counsel for the Committee on Commerce, Science and Transportation, contacted members of my staff to request testimony on any aspect of a bill pending before the Committee which involved a function within the purview of the United States Customs Service. The bill to which Mr. Hardy made reference was S. 1365, to direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel *Independence* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

This will advise you that we have reviewed S. 1365 and find that it does not impact the Customs Service in any way. Therefore, no testimony from a member of the Customs Service would be useful to the Committee and our appearance at the June 28 hearing would, as Mr. Hardy pointed out, be superfluous. The United States Customs Service has no comment on the bill or its merits.

If we can be of assistance in any other manner please advise us.

R. E. CHASEN,  
 Commissioner of Customs.

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THE CHAMBER OF COMMERCE OF HAWAII,  
 June 26, 1979.

HON. DANIEL K. INOUE,  
 Chairman, Subcommittee on Merchant Marine and Tourism, Senate Commerce Committee, U.S. Senate, Washington, D.C.

DEAR DAN: The Chamber of Commerce of Hawaii has followed with interest the plans of United States Cruises, Inc. to put the S.S. *United States* back into service as a cruise ship operating between the mainland and Hawaii. It is our understanding that your subcommittee will be holding hearings on June 28, 1979 with reference to legislation (S. 1281) which you introduced to clarify the ability of the S.S. *United States* to operate in that trade. We are in full support of that legislation.

With the removal last year of the two remaining cruise ships operating between the west coast and Hawaii, our state was left in a unique position as the only state in the nation totally dependent on a single transportation mode. For our visitors and residents who prefer not to fly or are advised not to fly and for those who want their transportation to the islands to be part of their vacation, it is important that passenger ship service to the mainland be resumed.

Not only would renewed service provide a water travel option, but it would significantly benefit our state's economy by strengthening our tourist industry and creating additional jobs within the state related to cruise ship operations.

With revived and growing interest in cruising, we support this legislation which is necessary if our state is to fully realize the potential of the expanding cruise trade.

In closing, we request that this letter be made a part of the record of your current hearing and reiterate our support for early passage of this legislation.

Very truly yours,

ROBERT B. ROBINSON, *President.*

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MATSON NAVIGATION CO.,  
 Washington, D.C., June 27, 1979.

HON. DANIEL K. INOUE,  
 Chairman, Subcommittee on Merchant Marine and Tourism,  
 U.S. Senate, Washington, D.C.

DEAR CHAIRMAN INOUE: We have reviewed S. 1281 as introduced on June 5, 1979, and respectfully suggest that the bill be amended in the following manner:

On line 6 after the quotation marks insert the words "for carriage of passengers and their accompanying baggage" so that the amended amendment to be inserted after the words "American flag" would read "for carriage of passengers and their accompanying baggage in the domestic and/or foreign commerce of the United States and/or between foreign ports."

The amending language that we have proposed will clearly limit the vessel's prospective operations to carriage of passengers and their accompanying baggage; this limitation would not be inconsistent with the apparent purpose of the bill which is to facilitate the resumption of passenger operations by the SS *United States*. The proposed limitation would, however, eliminate any possible precedent in respect to carriage of cargo generally or by cargo vessels having been originally constructed and/or subsequently reconstructed with Federal subsidy and intended for operation in a domestic trade.

Yours very truly,

JOHN KUYKENDALL,  
Vice President.

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SHIPBUILDERS COUNCIL OF AMERICA,  
June 28, 1979.

HON. DANIEL K. INOUE,  
Chairman, Subcommittee on Merchant Marine and Tourism, Committee on Commerce, Science, and Transportation, U.S. Senate, Capitol Hill, D.C.

Concerning today's hearings to permit operation of USS *United States* and USS *Independence* in U.S. domestic and/or foreign commerce and between foreign ports, we hope your distinguished subcommittee will make clear that reactivation or upgrading of these vessels must be accomplished in U.S. shipyards to preclude any cloud as to eligibility for U.S. domestic operations. Without such explicit clarification, many months of controversy, and perhaps litigation, could inhibit early return to active duty of these magnificent vessels.

Best regards.

EDWIN M. HOOD, President.

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BATEMAN, DOWNING, REDDING & CONWAY, P.C.,  
Newport News, Va., July 3, 1979.

Senator DANIEL K. INOUE,  
Chairman, Subcommittee on Merchant Marine and Tourism,  
Washington, D.C.

DEAR MR. CHAIRMAN: First of all I would like to sincerely thank you and the other members of your committee and staff for the courteous treatment which you afforded me at the hearing last Thursday afternoon on bills concerning the SS *United States* and the SS *Independence*. I sincerely regret that we were unable to take the SS *Santa Rosa* under active consideration, but I appreciate your willingness to bring this matter up when the Senate reconvenes on July 9th.

I am enclosing herewith a statement which I was prepared to deliver had the SS *Santa Rosa* been considered. I am also enclosing two proposed amendments which I would appreciate your having your counsel or Mr. John Hardy examine.

Amendment No. 1 amends § 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156) which, of course, is that provision of the Act which provides CBS constructed ships to engage exclusively in foreign trade. This proposal basically provides that all passenger ships now in inactive or lay-up status which have never been transferred to foreign registry would be allowed to operate in the domestic and foreign trades of the United States. It does not mention any specific ship. This runs contra to yesterday's testimony by the MARAD Official who expressed a preference to consider each ship on an individual basis.

Amendment No. 2 amends the same Act, but specifically mentions the SS *Santa Rosa*.

I really prefer the simplicity of the amendment considered yesterday concerning the SS *United States*. I do not have a copy of that amendment, but perhaps Mr. Hardy could find a way to substitute the SS *Santa Rosa* where the name of the SS *United States* appears.

I would personally appreciate anything that you might be able to expedite consideration of this measure. It was good seeing you yesterday.

With every good wish, I am

Sincerely,

THOMAS N. DOWNING.

Enclosures.

A BILL To amend the Merchant Marine Act, 1936, to provide that certain inactive American Flag passenger vessels may operate in both the domestic and/or foreign commerce of the United States and between foreign ports

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That § 506 of the Merchant Marine Act, 1936 (46 U.S.C. 1156) is amended by adding at the end thereof the following new paragraph: "Notwithstanding any other provision of law or of prior contract with the United States, any vessel heretofore operated as a passenger vessel, as defined in § 613(a) of the Merchant Marine Act, 1936, and now in inactive or lay-up status, and never having been transferred to foreign ownership, registry or flag may, subject to the approval of the Secretary of Commerce, be allowed to remain under the American flag and operate in both the domestic and foreign trade of the United States and/or between foreign ports."*

A BILL To amend the Merchant Marine Act, 1936, to provide that the SS *Santa Rosa*, an inactive American Flag passenger vessel, may operate in both the domestic and/or foreign commerce of the United States and between foreign ports.

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That § 506 of the Merchant Marine Act, 1936 (46 USC 1156) is amended by adding at the end thereof the following new paragraph: "Notwithstanding any other provision of law or of prior contract with the United States, the SS *Santa Rosa* previously operated as a passenger vessel, as defined in § 613(a) of the Merchant Marine Act, 1936, and now in inactive or lay-up status, and never having been transferred to foreign ownership, registry or flag may, subject to the approval of the Secretary of Commerce, be allowed to remain under the American flag and operate in both the domestic and foreign trade of the United States and/or between ports."*

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TIBURON, CALIF., July 10, 1979.

Senator DANIEL K. INOUE,  
Chairman, Subcommittee on Merchant Marine and Tourism,  
Washington, D.C.

DEAR SENATOR INOUE: I am writing in reply to your request for comments on the proposal to permit the SS *Santa Rosa* to engage in domestic and/or foreign commerce of the United States for the carriage of passengers and their accompanying baggage.

As a consultant to the maritime and labor industry, I highly support the approval of legislation that will allow the *Santa Rosa* to be documented as a vessel of the United States and entitled to engage in this trade.

With the proposal to operate the vessel in the Hawaii cruise service, much needed employment opportunities in this labor intensive operation will be opened up, benefiting both the maritime industry and the State of Hawaii tourist business.

Very truly yours,

JOHN COX.

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FRANK BRAYNARD,  
OPERATION SAIL,  
New York N.Y., July 11, 1979.

Comments on the proposal to permit the SS *Santa Rosa* to engage in the domestic and/or foreign commerce of the United States.

The discussion draft proposal to permit the *Santa Rosa* to engage in either coastal or foreign passenger service is good. I believe that every effort possible should be made to encourage the return of the American flag to the passenger routes of the world by sea. The *Santa Rosa* is a relatively modern vessel that should have many years of service left. She should be free to enter coastal liner runs not only because

of the new jobs this would give the maritime unions but because travel by ship is a form of mass transit, a very happy form, that needs to be encouraged.

FRANK O. BRAYNARD,  
*Executive Director,  
Harbor Festival.*

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INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS,  
*New York, N.Y., July 13, 1979.*

Senator DANIEL K. INOUE,  
*Chairman, Subcommittee on Merchant Marine & Tourism,  
Dirksen Senate Office Building,  
Washington, D.C.*

DEAR SENATOR INOUE: The International Organization of Masters, Mates and Pilots, International Marine Division of the International Longshoremens Association, AFL-CIO, are proud of your efforts to advance the image and posture of the United States Merchant Marine. The "National Merchant Marine Policy Act" outlined in the *Journal of Commerce*, July 12th, along with the seven associated maritime bills initiated by you demonstrates a sensitivity and awareness to the needs of an industry vital to the prosperity, trade, economy and defense of Hawaii and her sister states.

Consonant to this philosophy, we the International Organization of Masters, Mates and Pilots wholeheartedly support the legislation to permit the SS *Santa Rosa* redocumentation and entitlement to engage in domestic and/or foreign commerce of the United States once more.

It will be a proud day when Americans can once again see their flag flying from the stern of a passenger ship crewed and built by Americans and engaged in the trade for which it was designated. The new service proposed for the *Santa Rosa* will create many jobs in the industry and also directly benefit the tourist related enterprise in the State of Hawaii.

Thank you once more, Senator, for your concern in the welfare of the U.S. Merchant Marine. Please be assured that you can always call on the Masters, Mates and Pilots for support in your endeavors in this regard.

Sincerely,

ROBERT J. LOWEN,  
*International President.*

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AMERICAN HAWAIIAN CRUISING LINE, INC.,  
*New York, N.Y., June 18, 1979.*

Hon. DANIEL K. INOUE,  
*Chairman of the Merchant Marine and Tourism Subcommittee of the Senate Commerce, Science, and Transportation Committee, Washington, D.C.*

DEAR MR. CHAIRMAN: On behalf of American Hawaiian Cruising Line Inc., I would like to express my appreciation for the opportunity to testify before your Subcommittee on S. 1365. We are heartened by the overwhelming support for the bill which was evidenced by the witnesses representing the Administration and numerous segments of the maritime industry.

We are tremendously grateful for your invaluable assistance as we move closer to our common goal of a revitalized United States flag passenger fleet. I am pleased to inform you that my Company is pursuing a schedule which calls for the inauguration of its cruise enterprise among the Hawaiian Islands no later than January 21, 1980, assuming timely passage of S. 1365.

As a consequence of recent developments, it has become apparent that three technical revisions should be considered to the legislation, as it was introduced. First, we have been notified that a company based in Connecticut that operates a small excursion vessel called the "Independence" objects to our use of that name in our Hawaiian venture. We assume that this other "Independence" was registered during the time that the original *Independence* was under foreign flag. We do not agree that the use of the name "Independence" in our Hawaiian cruises would create unnecessary confusion among travel agents and customers. Nevertheless, to avoid any possible legal complications which might delay the commencement of our service, we have determined to register our ship as the "*Oceanic Independence*"—the name of the vessel under Panamanian flag—instead of simply the *Independence* as the bill would indicate.

Secondly, my Company and the Coast Guard are actively engaged in accomplishing the steps which must precede the return of the vessel to U.S. flag. For example, in the interest of expedition, arrangements are being made for the necessary survey

and inspection by Coast Guard personnel before alterations and refurbishment of the vessel are completed in Taiwan.

We are hopeful that provisional documents for the vessel will be granted by the U.S. authorities no later than the end of this month. Title to the *Oceanic Independence* will be transferred to American Hawaiian Cruising Line Inc., when such registration is effected. It is always possible, however, that such certification will not occur before S. 1365 is acted upon by the Committee. Therefore, you might deem it more appropriate that the present bill should reflect that the vessel is still owned by Atlantic Far East Lines, Inc., and then should be amended, if required, when title passes to my Company. In no event, of course, could the bill become legally operative as long as the ship is owned by Atlantic or any other foreign entity.

The final revision to S. 1365 we would like to suggest for your consideration is occasioned by the testimony of the Coast Guard witness during the hearings on the bill. You will recall that Admiral Bell cautioned that if any work were completed on the ship following passage of S. 1365 which constituted a "rebuilding" within the scope of the second proviso in section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), the coastwise privileges intended to be restored by the bill would thereby be forfeited.

In discussions with my staff, the Coast Guard has taken the unequivocal position that it considers that two relatively minor items of work the vessel will undergo abroad constitute a "rebuilding" within the meaning of the statute. The first item relates to the installation of a bow thruster to facilitate maneuvering and docking the *Oceanic Independence* during its cruise service in Hawaiian waters. In the Coast Guard's view, a rebuilding will also occur when the vessel is equipped with sewage holding tanks to comply with IMCO standards.

The work described above will not be totally completed until the latter part of this year—subsequent to the time that we anticipate S. 1365 will have been enacted under your leadership. Accordingly, to ensure that the legislation's salutary purposes are not inadvertently frustrated, we recommend that the bill be amended to clarify that the rebuilding of the vessel prior to its entry into U.S. flag passenger service will not result in a loss of coastwise privileges.

Please let me know if you have any questions or if we can provide any further information.

Thank you again for your continuing interest and support.

With best regards,

Sincerely,

CONRAD H. C. EVERHARD,  
*Chairman of the Board.*

Enclosure.

[S. 1365, 96th Cong., 1st sess]

A BILL To direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel *Oceanic Independence* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding the provisions of section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), and any other provision of law, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel *Oceanic Independence* (official Coast Guard number 261147), an American-built vessel presently owned by *Atlantic Far East Lines, Inc.*, to be documented as a vessel of the United States with the privileges of engaging in coastwise trade, upon compliance with the usual requirements, so long as the vessel is owned by a citizen or citizens of the United States, as defined in the applicable laws prescribing the qualifications for vessels to engage in coastwise trade; *provided, further, that the vessel shall not be deemed to have lost its coastwise privileges if it is rebuilt outside the United States, its Territories (not including trust territories) or its possessions before the vessel engages in the coastwise trade following enactment of this Act.*

THE SEAFARERS INTERNATIONAL UNION  
OF NORTH AMERICA,  
Washington, D.C., July 18, 1979.

HON. DANIEL INOUE,  
*Chairman, Subcommittee on Merchant Marine and Tourism, Senate Committee on  
Commerce, Science, and Transportation, Washington, D.C.*

DEAR MR. CHAIRMAN: The Seafarers International Union of North America, AFL-CIO, appreciates the opportunity to express its views on the possible return of the S.S. *Santa Rosa* to our U.S. merchant fleet.

The Seafarers International Union supports such efforts directed at revitalizing the U.S.-flag passenger fleet. We feel very strongly that we should rebuild U.S. passenger trade.

As we stated before your Subcommittee in testimony on S. 1281 and S. 1365, we have been in the forefront of efforts to break with tradition in whatever ways are necessary to rebuild our merchant marine. We will gladly contribute to the return of these vessels, as well as the S.S. *Santa Rosa*, in any way possible.

Vessels such as the *Santa Rosa* present this nation with the unique opportunity to breathe life into a dormant segment of our maritime industry, without the need for expenditures from the U.S. Treasury. The *Santa Rosa*, like the *Independence* and the *United States*, may be reactivated and operated entirely with private capital. It is clear that a lucrative market exists for their services.

The return of American passenger vessels will provide thousands of jobs for seagoing and shore-related maritime personnel. Reconstruction and repair work done in U.S. shipyards will create additional employment opportunities. Moreover, benefits would accrue to our balance of payments, state and local tax revenues and many other sectors of our economy.

In sum, this country has everything to gain by the reactivation to commercial service of the vessels *Independence*, *United States* and *Santa Rosa*. We commend you on your efforts to enable these proud vessels to return to service.

Sincerely,

CHARLES C. MOLLARD,  
*Vice President.*

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WASHINGTON, D.C., July 19, 1979.

HON. DANIEL K. INOUE,  
*Chairman of the Merchant Marine and Tourism Subcommittee of the Senate Com-  
merce, Science, and Transportation Committee, Washington, D.C.*

DEAR MR. CHAIRMAN: District 2 MEBA-AMO has no objections to the changes in wording proposed in S. 1365: Renaming the *Independence* the *Oceanic Independence*, and providing "that the vessel shall not be deemed to have lost its coastwise privileges if it is rebuilt outside" the United States prior to entry in the coastwise trade.

Although we would prefer that the needed installation of a bow septic tank be done in an American shipyard, the current location of the vessel in question and the need to revitalize the U.S.-flag passenger trade have convinced us to side with the owner on this issue.

Sincerely,

ED KELLY,  
*District 2 MEBA-AMO.*

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THE SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO,  
Washington D.C. July 20, 1979.

HON. DANIEL INOUE,  
*Chairman, Subcommittee on Merchant Marine & Tourism, Senate Committee on  
Commerce, Science, and Transportation, Washington, D.C.*

DEAR MR. CHAIRMAN: On behalf of the Seafarers International Union of North America, AFL-CIO, I would like to thank the Subcommittee for the opportunity to express our support for S. 1365 and S. 1281, legislation with the common objective of revitalizing the U.S.-flag passenger vessel fleet.

As we stated in our testimony, we hope that this legislation will be expedited in order that the substantial benefits resulting from the return of these vessels can begin to accrue to American citizens at the earliest possible moment. However, it

has come to our attention that an impediment may exist to the successful redocumentation of the *S.S. Independence* as envisioned by S. 1365.

Testimony during the hearings indicated that if any "rebuilding" outside the United States was performed following the enactment of S. 1365, the *S.S. Independence* would lose the coastwise privileges restored by the bill. It now appears that certain alterations presently being made to the *Independence* will not be completed prior to the anticipated passage of S. 1365. Hence, the *Independence* stands to lose her newly regained privileges before she even engages in the U.S. coastwise trades. This is certainly not the intent of the legislation.

The Seafarers International Union therefore suggests that in order to ensure the return of the *S.S. Independence* and the consequent rebirth of the U.S.-flag passenger vessel fleet, clarifying language be added to S. 1365. Such language would make it clear that the "rebuilding" of the vessel outside the United States, subsequent to enactment of S. 1365, yet prior to her entry into the coastwise trade, will not result in the loss of such privilege. This will insure that the objective of the legislation is met.

As always, we greatly appreciate your continued support for a strong U.S. merchant marine. If we may be of any assistance, please do not hesitate to contact us.

Sincerely,

CHARLES C. MOLLARD,  
Vice President.

TRANSPORTATION INSTITUTE,  
Washington, D.C., July 20, 1979.

HON. DANIEL K. INOUE,  
Chairman, Subcommittee on Merchant Marine and Tourism, Senate Committee on Commerce, Science, and Transportation, Washington, D.C.

DEAR MR. CHAIRMAN: As I stated in my testimony on S. 1365, the Transportation Institute is extremely pleased that you and the members of your Subcommittee are pursuing legislation to revitalize the American-flag passenger fleet. The reactivation of the *Independence* as well as the *United States* and the *Santa Rosa*, would strengthen the U.S. merchant fleet and provide numerous benefits to our nation's economy.

We are however, concerned that the intent of S. 1365 may be frustrated. Based on the testimony presented to your Subcommittee by the United States Coast Guard, it appears that the *Independence* would lose its coastwise privileges if the work necessary to put the vessel into operation was completed abroad after the enactment of this legislation. The installation of a bow thruster as well as sewage holding tanks in a foreign shipyard would constitute a "rebuilding" according to the Coast Guard and would thereby wipe out the privileges granted to the *Independence* by S. 1365.

We would urge therefore that the Subcommittee amend S. 1365. Specifically, we believe the legislation should provide that rebuilding outside the United States undertaken after the enactment of S. 1365 but prior to the vessel's operation in the United States coastwise trade would not result in a loss of coastwise privileges. In so doing, the Subcommittee would be assisting a shipping company desirous of returning an American-built vessel to active service under the American flag.

Your efforts in behalf of this legislative and in support of America's merchant marine is greatly appreciated.

Sincerely,

HERBERT BRAND, President.

#### STATEMENT OF ROBERT T. BARBOUR

Mr. Chairman and members of the committee, I am a former ocean shipmaster. Although I have practiced law during most of the years since World War II, including service as State's Attorney for Charles County, Maryland, I still make an occasional voyage as a deck officer in our Merchant Marine, and keep my Master's License in good standing.

I support the proposed legislation to clarify the right of the *SS Santa Rosa* to engage in the domestic passenger trade. I never cease to be concerned about our country's domestic and foreign affairs, and the fortunes, both good and bad, of our Merchant Marine.

Although there was good reason to restrict subsidized vessels to foreign trade, I cannot believe that it was ever intended to apply to a vessel in the *Santa Rosa's*

situation wherein the owners seek to pursue an unsubsidized operation in the domestic passenger trade.

Following World War II, our government shared in the construction and operation of the safest and best constructed passenger ships in the world. In 1971 when it appeared that all of these ships would be sold foreign, I filed a statement with the House Merchant Marine Committee giving my reasons for the continuance in operation of at least one or two of these ships under the American Flag, a substantial part of which service would have been domestic. The reasons may be even more in point today.

At any rate, it appears that the SS *Santa Rosa* and the SS *United States* are all that are left of the many fine ships that once were the show case of our Merchant Marine. Whether they will operate under our flag may well depend upon whether they must sail on a sea of uncertainty.

A substantial part of our critical balance of payments position can be attributed to flight of our abundant tourist dollars. For those of us who like to take cruises, there is little alternative to patronizing foreign flag ships. For those of us who just like to travel, we pay exorbitant prices on foreign soil, for want of an exciting trip in our own country.

The owners of the *Santa Rosa* presently plan an imaginative and much needed cruise service in the State of Hawaii where no passenger service by water exists. With these short cruises and the increased passenger capacity now planned for the vessel, at least 25,000 passengers a year could enjoy the amenities of a ship constructed for passenger comfort, and at the same time visit the islands of our newest state, which under other circumstances they may never see.

In our dwindling Merchant Marine, such an operation would furnish several hundred positions in direct ship operation alone, not to mention management, tourism, industry, and shipyard services.

The owners of the *Santa Rosa* have courageously expended money on a very worthy and needed objective. The by-products of advantage to our country are numerous. Our Maryland shipyards have already been benefitted by the yet uncompleted reactivation of the *Santa Rosa*.

The proposed legislation will do much to alleviate the uncertainty which would otherwise be a matter of continuing concern and delay. I earnestly believe that right now our country needs all the American Flag Merchant Marine activity that it can get, and the proposed bill will certainly aid that cause.



