

[CHAPTER 417]

AN ACT

August 4, 1939
[H. R. 6746]
[Public, No. 259]

To amend certain provisions of the Merchant Marine and Shipping Acts, to further the development of the American merchant marine, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second paragraph of section 23 of the Shipping Act, 1916, as amended, is amended to read as follows:

Shipping.
39 Stat. 736.
46 U. S. C. § 822;
Supp. IV, § 822.

Maritime Commission.
Time limitation on orders removed, except for payment of money.

Hearings on changes in rates, etc.
47 Stat. 1426.
46 U. S. C. § 845;
Supp. IV, § 845.
Burden of proof.

Secretary, directors, etc., appointment, salaries, duties, etc.

49 Stat. 1986.
46 U. S. C., Supp. IV, § 1111 (e).
5 U. S. C. §§ 661-674; Supp. IV, §§ 673, 673c.

Naval architects, experts, etc.

Details of personnel for scientific education and research.

Army, etc., details.
49 Stat. 1986.
46 U. S. C., Supp. IV, § 1111 (f).

Compensation.

52 Stat. 965.
46 U. S. C., Supp. IV, § 1126.
U. S. Maritime Service, establishment as a voluntary organization.

"All orders of the United States Maritime Commission, other than for the payment of money, made under this Act, as amended or supplemented, shall continue in force until its further order, or for a specified period of time, as shall be prescribed in the order, unless the same shall be suspended, or modified, or set aside by the Commission, or be suspended or set aside by a court of competent jurisdiction."

SEC. 2. The second paragraph of section 3 of the Intercoastal Shipping Act, 1933, as amended, is amended by inserting before the last sentence of such paragraph a new sentence to read as follows: "At any hearing under this paragraph the burden of proof to show that the rate, fare, charge, classification, regulation, or practice is just and reasonable shall be upon the carrier or carriers."

SEC. 3. (a) The first sentence of section 201 (e) of the Merchant Marine Act, 1936, as amended, is amended to read as follows: "Without regard to the civil-service laws or the Classification Act of 1923, as amended, the Commission may appoint and prescribe the duties and fix the salaries of a secretary, a director for each of not to exceed five divisions, a general counsel, a clerk to each member of the Commission, and not more than three assistants, a clerk to the general counsel, not more than a total of twenty naval architects or marine engineers, twenty special experts, twenty-two examiners, twelve attorneys, and two inspectors for each vessel at each shipyard at which vessels are being constructed by it or under its supervision."

(b) Such section, as amended, is amended by adding at the end thereof the following: "The Commission, under such rules and regulations as it may prescribe, may detail annually not to exceed five members of the personnel of the Commission for engineering, technical, or other scientific education and training at Government expense at institutions for scientific education and research, to enable such persons to acquire advanced and specialized knowledge or training of particular advantage to the Commission in carrying out its functions under this Act."

SEC. 4. Section 201 (f) of such Act, as amended, is amended by inserting after the first sentence thereof a new sentence to read as follows: "Whenever any officer (not exceeding five in number at any time) of the Army, Navy, Marine Corps, or Coast Guard is detailed to the Commission, he shall receive from the Commission, for the period during which he is so detailed, such compensation as added to his pay and allowances as an officer in such service will make his aggregate compensation equal to the pay and allowances he would receive if he were the incumbent of an office or position in such service (or in the corresponding executive department), which, in the opinion of the Commission, involves the performance of work similar in importance, difficulty, and responsibility to that performed by him while detailed to the Commission."

SEC. 5. Section 216 of such Act, as amended, is amended to read as follows:

"SEC. 216. (a) The Commission is hereby authorized and directed, under such rules and regulations as it may prescribe, to establish and maintain the United States Maritime Service as a voluntary organization for the training of citizens of the United States to serve as

licensed and unlicensed personnel on American merchant vessels. The Commission is authorized to determine the number of persons to be enrolled in the said Service, to fix the rates of pay of such persons, and to prescribe such courses and periods of training as, in its discretion, is necessary to maintain a trained and efficient merchant marine personnel. The ranks, grades, and ratings for the personnel of the said Service shall be the same as are now or shall hereafter be prescribed for the personnel of the Coast Guard. The Commission is further authorized to employ as instructors in said Service, on a contract or fee basis (without regard to the provisions of section 3709 of the Revised Statutes), such qualified persons, including licensed and unlicensed personnel of the merchant marine, as the Commission may deem necessary to effectuate the purposes of this section.

"(b) The Commission is hereby authorized to train American citizens to become licensed officers of the merchant marine of the United States in a status of cadets and cadet officers on Government-owned and subsidized vessels and, in cooperation with other governmental and private agencies, on other vessels and, for instructional purposes only, in shipyards, plants, and industrial and educational organizations, under rules and regulations prescribed by the Commission and upon such terms as the Commission may arrange, and expenditures incident to such training are hereby authorized.

"(c) The Commission is hereby authorized to prescribe, conduct, and supervise such extension and correspondence courses as it may deem necessary to supplement other training facilities, and to make such courses available, under such rules and regulations and upon such terms as it may prescribe, to the licensed and unlicensed personnel of the merchant marine, and to cadets and cadet officers, who shall make application therefor. The Commission is further authorized to print, publish, and purchase suitable textbooks, equipment, and supplies required for such courses, and to employ persons, firms, and corporations on a contract or fee basis (without regard to the provisions of section 3709 of the Revised Statutes), for the performance of special services deemed necessary by the Commission in the preparation and editing of such textbooks and other aids to instruction, and in the supervision and administration of such courses.

"(d) The Commission, with the consent of any executive department, independent establishment, or other agency of the Government, including any field service thereof, may avail itself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of this section, as amended."

SEC. 6. The first sentence of section 502 (b) of such Act, as amended, is amended to read as follows: "The amount of the reduction in selling price which is herein termed 'construction differential subsidy' may equal, but not exceed, the excess of the bid of the shipbuilder constructing the proposed vessel (excluding the cost of any features incorporated in the vessel for national-defense uses, which shall be paid by the Commission in addition to the subsidy), over the fair and reasonable estimate of cost, as determined by the Commission, of the construction of the proposed vessel if it were constructed under similar plans and specifications (excluding national-defense features as above provided) in a foreign shipbuilding center which is deemed by the Commission to furnish a fair and representative example for the determination of the estimated foreign cost of construction of vessels of the type proposed to be constructed."

SEC. 7. Title V of such Act, as amended, is amended by adding at the end thereof a new section to read as follows:

"SEC. 510. (a) When used in this section—

"(1) The term 'obsolete vessel' means a vessel or vessels, each of which (A) is of not less than one thousand three hundred and fifty

Ratings.

Employment of instructors.

R. S. § 3709.
41 U. S. C. § 5.

Scope of training, etc.

Extension courses to supplement other training facilities.

Textbooks and supplies.

R. S. § 3709.
41 U. S. C. § 5.

Use of Government facilities.

Construction differential subsidy. Standard for determination of.
52 Stat. 956.
46 U. S. C., Supp. IV, § 1152 (b).

49 Stat. 1995.
46 U. S. C., Supp. IV, §§ 1151-1159.
Terms defined.

"Obsolete vessel."

gross tons, (B) is not less than seventeen years old and, in the judgment of the Commission, is obsolete or inadequate for successful operation in the domestic or foreign trade of the United States, and (C) is owned by a citizen or citizens of the United States and has been owned by such citizen or citizens for at least three years immediately prior to the date of acquisition hereunder.

"New vessel."

52 Stat. 962.
46 U. S. C., Supp.
IV, § 1204.

Acquisition of obsolete vessels in exchange for allowance of credit.

Application of allowance upon purchase price of new vessel.

Utility value of new vessel.

Determination of allowance.

Basis for gain or loss upon a sale or exchange, etc.

Report to Congress.

"(2) The term 'new vessel' means a vessel or vessels, each of which (A) is constructed under the provisions of this Act, and is acquired within two years from the date of completion of such vessel, or is purchased under section 714, as amended, by the person turning in an obsolete vessel under this section, or (B) is hereafter constructed in a domestic shipyard on private account and not under the provisions of this Act, and documented under the laws of the United States.

"(b) In order to promote the construction of new, safe, and efficient vessels to carry the domestic and foreign water-borne commerce of the United States, the Commission is authorized, subject to the provisions of this section, to acquire any obsolete vessel in exchange for an allowance of credit. The amount of such allowance shall be determined at the time the owner contracts for the construction or purchase of a new vessel. The allowance shall not be paid to the owner of the obsolete vessel but shall be applied upon the purchase price of a new vessel. In the case of a new vessel constructed under the provisions of this Act, such allowance may, under such terms and conditions as the Commission may prescribe, be applied upon the cash payments required under this Act. In case the new vessel is not constructed under the provisions of this Act, the allowance shall, upon transfer of the obsolete vessel to the Commission, be paid, for the account of the owner, to the shipbuilder constructing such new vessel.

"(c) The utility value of the new vessel for operation in the domestic or foreign commerce of the United States shall not be substantially less than that of the obsolete vessel. The gross tonnage of the obsolete vessel may exceed the gross tonnage of the new vessel in a ratio not in excess of three to one, if the Commission finds that the new vessel, although of lesser tonnage, will provide utility value equivalent to or greater than that of the obsolete vessel.

"(d) The allowance for an obsolete vessel shall be the fair and reasonable value of such vessel as determined by the Commission. In making such determination the Commission shall consider: (1) The scrap value of the obsolete vessel both in American and in foreign markets, (2) the depreciated value based on a twenty-year life, and (3) the market value thereof for operation in the world trade or in the foreign or domestic trade of the United States. If the owner of the obsolete vessel uses such vessel during the period of construction of the new vessel, the allowance shall be reduced by an amount representing the fair value of such use.

"(e) No gain shall be recognized to the owner for the purpose of Federal income taxes in the case of a transfer of an obsolete vessel to the Commission under the provisions of this section. The basis for gain or loss upon a sale or exchange and for depreciation under the applicable Federal income-tax laws of a new vessel acquired as contemplated in this section shall be the same as the basis of the obsolete vessel or vessels exchanged for credit upon the acquisition of such new vessel, increased in the amount of the cost of such vessel (other than the cost represented by such obsolete vessel or vessels) and decreased in the amount of loss recognized upon such transfer.

"(f) The Commission shall include in its annual report to Congress a detailed statement of all transactions consummated under the provisions of the preceding subsections during the period covered by such report.

"(g) An obsolete vessel acquired by the Commission under this section which is or becomes twenty years old or more, and vessels presently in the Commission's laid-up fleet which are or become twenty years old or more, shall in no case be used for commercial operation, except that any such obsolete vessel, or any such vessel in the laid-up fleet may be used during any period in which vessels may be requisitioned under section 902 of this Act, as amended, and except as otherwise provided in this Act for the employment of the Commission's vessels in steamship lines on trade routes exclusively serving the foreign trade of the United States."

SEC. 8. The last sentence in the first paragraph of section 603 (c) of such Act, as amended, is amended to read as follows: "Such payments on account shall in no case exceed 75 per centum of the amount estimated to have accrued on account of such subsidy, except that, with respect to that part of the subsidy relating to any particular voyage, an additional 15 per centum may be paid to the contractor after such contractor's audit of the voyage account for such voyage has been completed and the Commission's auditors have verified the correctness of the same. Any such payments shall be made only after there has been furnished to the Commission such security as it deems to be reasonable and necessary to insure refund of any overpayment."

SEC. 9. Section 604 of such Act, as amended, is amended to read as follows:

"SEC. 604. If in the case of any particular foreign-trade route the Commission shall find after consultation with the Secretary of State, that the subsidy provided for in this title is in any respect inadequate to offset the effect of governmental aid paid to foreign competitors, it may grant such additional subsidy as it determines to be necessary for that purpose: *Provided*, That no such additional subsidy shall be granted except upon an affirmative vote of four of the members of the Commission."

SEC. 10. The proviso at the end of section 607 (c) (3) of such Act, as amended, is amended to read as follows: "*Provided*, That such reimbursement to the Commission, if so deferred, shall be payable upon termination of the contract from any amounts then in the special reserve fund and the capital reserve fund: *Provided further*, That if any amounts shall have been transferred to the general funds of the contractor from either of such reserve funds and not repaid thereto, or if prepayments of amounts not due before one year after the date of termination of the contract have been made from the capital reserve fund pursuant to subsection (b) of this section, then the balance of such reimbursement not paid out of said reserve funds shall be payable out of any other assets of the contractor, but the amounts so payable from such assets shall not exceed in the aggregate the sum of the amounts so transferred and not repaid, and the amounts of such prepayments;"

SEC. 11. (a) Section 705 of such Act, as amended, is amended by adding at the end thereof a new sentence to read as follows: "No vessel constructed under the provisions of this Act, as amended, shall be sold by the Commission for operation in the foreign trade for a sum less than the estimated foreign construction cost exclusive of national defense features (determined as of the date the construction contract therefor is executed) less depreciation based on a twenty-year life, nor shall any such vessel be sold by the Commission for operation in the domestic trade for a sum less than the cost of construction in the United States exclusive of national defense features less depreciation based on a twenty-year life."

Disposition of obsolete vessels and those in laid-up fleet.

49 Stat. 2015.
46 U. S. C., Supp.
IV, § 1242.

Subsidies, payments on account; limitation.

49 Stat. 2002.
46 U. S. C., Supp.
IV, § 1173 (c).

Additional allowance on completing audit of voyage account.

Security.

52 Stat. 959.
46 U. S. C., Supp.
IV, § 1174.

Foreign-trade routes.
Additional subsidy; when granted.

Proviso.
Affirmative vote of 4 members of Commission required.

Special reserve fund.
49 Stat. 2006.
46 U. S. C., Supp.
IV, § 1177 (c) (3).

Provisos.
Deferred payments.
Recapture provisions.

Vessels on foreign-trade routes.
49 Stat. 2009.
46 U. S. C., Supp.
IV, § 1195.
Limitation on sale price.

Rejection of bids for charter.
49 Stat. 2009.
46 U. S. C., Supp. IV, § 1196 (b).

52 Stat. 962.
46 U. S. C., Supp. IV, § 1204.

Commission finding inability to develop essential trade routes under private operation.
49 Stat. 1989.
46 U. S. C., Supp. IV, § 1121.

Construction and demise under bare-boat charter.

Option to purchase.

Cash payment.

Charter hire.

Payment of balance.

Mixed foreign and domestic trade.

(b) Section 706 (b) of such Act, as amended, is amended by adding at the end thereof a new sentence to read as follows: "The Commission shall reject any bid for the charter (under sections 701 to 713, both inclusive, of this title, as amended) of any vessel constructed under the provisions of this Act, as amended, if the charter hire offered by the bidder is lower than the minimum charter hire for such vessel would be if chartered under the provisions of section 714, as amended, of this title."

SEC. 12. Section 714 of such Act, as amended, is hereby amended to read as follows:

"SEC. 714. If the Commission shall find that any trade route (determined by the Commission to be an essential trade route as provided in section 211 of this Act) cannot be successfully developed and maintained and the Commission's replacement program cannot be achieved under private operation of such trade route by a citizen of the United States with vessels registered under the laws thereof, without further Government aid in addition to the financial aids authorized under titles V and VI of this Act, the Commission is authorized to have constructed, in private shipyards or in navy yards, the vessel or vessels of the types deemed necessary for such trade route, and to demise such new vessel or vessels on bare-boat charter to the American-flag operator established on such trade route, without advertisement or competition, upon an annual charter hire of not less than 5 per centum of the price (herein referred to as the 'foreign cost') at which such vessel or vessels would be sold if constructed under title V plus $3\frac{1}{2}$ per centum of the depreciated foreign cost computed annually upon the basis of a twenty-year life of the vessel. Such charter may contain an option to the charterer to purchase such vessel or vessels from the Commission within five years after delivery thereof under the charter, upon the same terms and conditions as are provided in title V for the purchase of new vessels from the Commission, except that (a) the purchase price shall be the foreign cost less depreciation to the date of purchase based upon a twenty-year life; (b) the required cash payment payable at the time of such purchase shall be 25 per centum of the purchase price as so determined; (c) the charter may provide that all or any part of the charter hire paid in excess of the minimum charter hire provided for in this section may be credited against the cash payment payable at the time of such purchase; (d) the balance of the purchase price shall be paid within the years remaining of the twenty years after the date of delivery of the vessel under the charter and in approximately equal annual installments, except that the first of said installments, which shall be payable upon the next ensuing anniversary date of such delivery under the charter, shall be a proportionate part of the annual installment, interest to be payable upon the unpaid balances of $3\frac{1}{2}$ per centum per annum from the date of purchase.

"Such charter shall provide for operation of the vessel exclusively in foreign trade, or on a round-the-world voyage, or on a round voyage from the west coast of the United States to a European port or ports which includes intercoastal ports of the United States, or a round voyage from the Atlantic coast of the United States to the Orient which includes intercoastal ports of the United States, or on a voyage in foreign trade on which the vessel may stop at an island possession or island Territory of the United States, and if the vessel is operated in the domestic trade on any of the above-enumerated services the charterer will pay annually to the Commission that proportion of one-twentieth of the difference between the domestic and

foreign cost of such vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year."

SEC. 13. Section 806 of such Act, as amended, is amended by adding at the end thereof a new subsection to read as follows:

"(d) Whoever knowingly and willfully violates any order, rule, or regulation of the United States Maritime Commission made or issued in the exercise of the powers, duties, or functions transferred to it or vested in it by this Act, as amended, for which no penalty is otherwise expressly provided, shall upon conviction thereof be subject to a fine of not more than \$500. If such violation is a continuing one, each day of such violation shall constitute a separate offense."

SEC. 14. Paragraph (8) of section 1104 (a) of such Act, as amended, is amended by striking out the word "or" before the designation "(c)", and by inserting before the period at the end of the paragraph a semicolon and the following: "or (d) in the fishing trade or industry".

Approved, August 4, 1939.

49 Stat. 2014.
46 U. S. C., Supp.
IV, §§ 1224, 1228.
Penalty provisions.
Violation of rules,
etc., of Commission.

Ship mortgage insurance.
Eligibility provisions.
Vessels in fishing trade or industry.
52 Stat. 970.
46 U. S. C., Supp.
IV, § 1274.

[CHAPTER 418]

AN ACT

To provide a feasible and comprehensive plan for the variable payment of construction charges on United States reclamation projects, to protect the investment of the United States in such projects, and for other purposes.

August 4, 1939
[H. R. 6984]
[Public, No. 260]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of providing for United States reclamation projects a feasible and comprehensive plan for an economical and equitable treatment of repayment problems and for variable payments of construction charges which can be met regularly and fully from year to year during periods of decline in agricultural income and unsatisfactory conditions of agriculture as well as during periods of prosperity and good prices for agricultural products, and which will protect adequately the financial interest of the United States in said projects, obligations to pay construction charges may be revised or undertaken pursuant to the provisions of this Act.

SEC. 2. As used in this Act—

(a) The term "Federal reclamation laws" shall mean the Act of June 17, 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

(b) The term "Secretary" shall mean the Secretary of the Interior.

(c) The term "project" shall mean any reclamation or irrigation project, including incidental features thereof, authorized by the Federal reclamation laws, or constructed by the United States pursuant to said laws, or in connection with which there is a repayment contract executed by the United States, pursuant to said laws, or any project constructed or operated and maintained by the Secretary through the Bureau of Reclamation for the reclamation of arid lands or other purposes.

(d) The term "construction charges" shall mean the amounts of principal obligations payable to the United States under water-right applications, repayment contracts, orders of the Secretary, or other forms of obligation entered into pursuant to the Federal reclamation laws, excepting amounts payable for water rental or power charges, operation and maintenance and other yearly service charges, and excepting also any other operation and maintenance, interest, or

Reclamation Project Act of 1939.
Purposes of Act.

Definitions.
"Federal reclamation laws."
32 Stat. 388.
43 U. S. C. ch. 12;
Supp. IV, ch. 12.
"Secretary."
"Project."

"Construction charges."