

request for funds to restart the International Military Education and Training is premature, and would send the wrong message at this critical juncture.

BANKRUPTCY OF AMERICAN CLASSIC VOYAGES AND THE FAILURE OF "PROJECT AMERICA"

Mr. MCCAIN. Mr. President I want to bring to the attention of my colleagues a short article that appeared in Sunday's New York Times that points out just how awry a project based on pork barrel politics can go. The article, title "A Venture in Ships Is a Rare Zell Flop," gives a short chronicle of the rise and fall of American Classic Voyages (AMCV), its largest shareholder, and the government support for American Classic Voyages that has now left the taxpayers holding the proverbial bag for a whopping \$366.9 million in defaults on title XI maritime loan guarantees.

On October 19, 2001, American Classic Voyages (AMCV) voluntarily filed a petition for reorganization under Chapter 11 of the U.S. Bankruptcy Code. The petition lists total assets of \$37.4 million and total liabilities of \$452.8 million. The cruise line's reorganization petition indicated it has more than 1,000 creditors, including the Department of Transportation. The Department of Transportation in this case, means the American taxpayer whose exposure on a total of six title XI maritime loan guarantees made to AMCV totals \$366,897,000. The loans cover five vessels that were in service in Hawaii, the East Coast, and the Northwest Coast and the partially completed "Project America" vessel at Northrup Grumman's Ingalls Shipbuildings in Pascagoula, Mississippi.

In order for my colleagues to fully understand what this article in the business section of the New York Times represents, we really need to look back at the brief history of the American Classic Voyages rise and the political push for AMCV's "Project America." The "Project America" initiative included building two 1,900 passenger cruise ships that were to enter service in Hawaii in 2004 and 2005. These were to be the largest cruise ships ever built in the United States. To help push the program, the U.S. Maritime Administration (MARAD), in the face of strong political support for the project, approved a \$1.1 billion title XI loan guarantee for the construction of these two vessels on April 8, 1999.

The New York Times article reports just how that political pressure was felt at MARAD when it quotes a former top MARAD official who insisted on anonymity saying. "We were supported to be promoting shipbuilding." "The maritime trade unions wanted jobs. So there was a lot of political support."

"Project America" did indeed receive considerable political support over the last several years as noted further in the New York Times article: "In 1996

and 1997, American Classic executives met with members of Congress, labor leaders and shipyard owners in an all our effort to promote the project in Washington." My colleagues may recall that this promotion paid off in the form of political support which translated into language being included in the Fiscal Year 1998 Department of Defense Appropriation Bill granting a legal monopoly for American Classic Voyages to operate as the only U.S.-flagged operator among the Hawaiian islands.

My colleagues may recall that I questioned the merits of the "Project America" at the time the special legislation was considered and went as far as to introduce an amendment to the fiscal year 1998 Department of Defense appropriations bill to remove the monopoly language. Based on the information available at the time, I believed then that the project was more likely to fail than to succeed and I called the monopoly language, and I quote an "egregious example of porkbarrel spending," and asked "How many times has the U.S. Senate so blatantly set up a monopoly set-aside for any individual or business?" I would ask now, how many times will we do this in the future?

There were early warnings signs that something was going seriously wrong with the project. During the first year of construction, "Project America" fell a year to a year-and-one-half behind schedule. Both American Classic Voyages and Ingalls Shipbuilding were crying foul over construction problems and months of non-binding mediation over contract disputes led to no resolution. Accusations of default came from both sides. However, on September 21 of this year a resolution was announced. Yet, here we are three months later and it is still unclear who was at fault as both sides have refused to discuss the dispute. This is important since, the settlement agreement between Ingalls and AMCV, which was reviewed and agreed to by the U.S. Maritime Administration, kept the American taxpayer holding all the risk.

To highlight just how critical the problems with Project America were at the time this agreement was reached, I want to read from a two-page summary on the status of the project at that time that a lobbyist representing American Classic Voyages inadvertently faxed to my office. It highlights the lagging construction schedule, the claims for additional payments by Ingalls, and the problems of dealing with a yard used to doing work under the typically higher-cost DOD procurement standards.

One statement in the summary hints at AMCV's recognition that a shipyard accustomed to dealing with the U.S. Navy was ill-prepared for the commercial project, is very telling of how the customer views the shipyard's ability to meet the demands of commercial work. The faxed summary reads, "For

U.S. shipyards to succeed in commercial construction, they must use commercial procedures to maintain costs and ensure timely delivery schedules. Cost increases and schedule delays have significant impact on commercial customers—increased capital costs, higher marketing costs, lost revenue from employment of the vessel, and market uncertainties."

In March 1999, the contract for Project America was signed with great fanfare in the rotunda of this very building and now we have one of the signatories calling into question the shipyard's ability to succeed at commercial ship construction. If a customer of the shipyard is questioning Ingalls Shipbuilding's ability to meet its obligations, shouldn't MARAD also have raised this question before it approved the settlement agreement that allowed for the continuation of the project?

We all know the answer now.

In signing off on the Settlement Agreement between AMCV and Northrop Grumman's Ingalls Shipbuilding, MARAD, on behalf of the taxpayer, agreed to assume the outstanding Title XI debt of \$185 million on the first of the two cruise ships under construction at Ingalls in the event of an AMCV bankruptcy and complete the vessel, after the issue of the remaining Title XI debt of \$350 million. Fortunately, AMCV filed bankruptcy before the remaining debt was issued. Otherwise, MARAD would have been legally obligated to complete the vessel at an additional loss to the taxpayers.

On October 29, MARAD formally announced that it was not legally required to fully fund the construction of the first ship at Ingalls Shipbuilding. However, in a sign of just how deep the political support of AMCV is, and despite the overwhelming evidence that the project was in serious trouble and was unlikely ever to be completed, 14 members of Congress signed a letter urging Secretary Mineta to reconsider and move to complete construction of the Project America vessel. This would involve an additional \$350 million in Title XI loan guarantees and the vessel, upon completion, would be sold by MARAD.

It is important to note, that with more than 80,000 new cruise ship berths coming on line in the next four years, MARAD expects that the vessel would sell for \$150 to \$200 million less than it would cost the American taxpayer to build.

This week, MARAD will pay out \$267.4 million in the first of several payments to be made to American Classic Voyages' creditors. The remaining \$105.7 million will be paid off in the next 30 days as required waiting periods expire. I note for my colleagues this totals \$366.7 million of the American taxpayers' money. And what do we have to show them for these expenditures? A growing U.S.-flagged cruise

ship fleet? NO. A growing and competitive U.S. shipbuilding industry? NO. More U.S. mariner jobs at sea? NO.

As a matter of fact we have just the opposite. We have a smaller U.S.-flagged cruise ship fleet, struggling shipyards, and fewer mariners at sea than ever before. As I have said many times before, we owe it to the taxpayer to do better and make wiser decisions.

AMCV is but one example to Title XI loan guarantee defaults. The Title XI maritime loan guarantee program has experienced many problems and suffered financial difficulties throughout its history. Since the beginning of this year, the program has cost taxpayers more than \$339.1 million due to defaults.

Let me provide some background for the record: Title XI of the Merchant Marine Act of 1936 authorizes the Secretary of Transportation to make loan guarantees to finance the construction, reconstruction, or reconditioning of eligible export vessels and the modernization and improvement of shipyards. Under regulations governing the Title XI loan guarantee process, applicants must meet certain economic soundness criteria before receiving a commitment from MARAD. Even with controls in place, loan defaults during the 1980's reached into the billions of dollars and the program was halted. In 1986, the worst year on record, defaults in pay-outs of \$1.2 billion.

The title XI program was revived in 1993 following the enactment of the Federal Credit Reform Act and the National Shipbuilding and Shipyard Conversion Act. According to figures recently provided by MARAD, the title XI program has cost taxpayers \$400 million in default payments since 1993. Of that cost, MARAD has been able to recover roughly 10 percent or \$40 million through the disposition of assets.

Currently, the title XI program has an outstanding loan guarantee portfolio of approximately \$4.7 billion consisting of 86 projects covering more than 100 vessels, several hundred barges, and 7 shipyard modernization projects. What that means is the American taxpayer could, as happened in the 1980's, be burdened with billions of dollars in debt if an industry downturn occurs. With that much at risk, I think we owe it to the American taxpayers to do all we can to ensure that adequate protections are in place.

Our Nation has had a strong and proud maritime history. I fear our maritime future, in the U.S. however, is jeopardized due to a dependence on government programs that do not foster a progressive and competitive attitude in what has clearly become a global market. This is especially true of our larger shipyards.

According to MARAD, the purpose of the title XI program is to promote the growth and modernization of the U.S. merchant marine and U.S. shipyards. Yet, there is little if any evidence that either has occurred. Since 1993, when the title XI program was resurrected

following the heavy loan losses in the 1980s, the program has cost taxpayers \$400 million in default pay-outs and an additional \$296.4 million in appropriated funds as required by the Federal Credit Reform Act.

Over the same period, the number of vessels in our oceangoing fleet shrank considerably. The number of bulk carriers in the U.S. merchant fleet dropped from 81 to 71, the number of container ships dropped from 85 to 75, and the number of tankers dropped from 205 to 154.

If the tale of AMCV's losses is not enough to stop pork barrel spending on pet projects that unfairly put taxpayers' dollars at risk, the figures on the U.S. fleet size should clearly show us that a program that artificially props up a U.S. shipbuilding industry that is struggling to find its way in a tough world market is not working.

I am sure my colleagues know I oppose any program that unnecessarily burdens American taxpayers and subsidizes industry. But, I am not alone in this view. I encourage my colleagues to look at the Administrations' FY 2002 budget request and its "Explanation of Program Changes" for Title XI Loan Guarantee Program. It states, "In an effort to trim corporate subsidies, the President's Budget seeks no new funding for the Maritime Guaranteed Loan Subsidy Program."

I wrote to President Bush in June to express my support for his proposal to zero-out the title XI program. In a response to my letter prepared for the President by Mitchell Daniels, Director of the Office of Management and Budget, Mr. Daniels stated: "The Administration concurs with your view that the Maritime Administration's Maritime Guaranteed Loan Program constitutes an unwarranted corporate subsidy."

The problems with AMCV's loan guarantees raise serious questions that should be answered before we allow additional taxpayer funding to be committed in the form of loan guarantees. I have written to the Department of Transportation Inspector General (IG), Kenneth Mead, twice this year requesting his office look into Title XI loan guarantee defaults, including American Classic Voyages, and MARAD's oversight of the title XI program.

I understand that the Inspector General has directed such investigations to get underway. I hope he will be able to determine if MARAD has acted appropriately to protect the taxpayer in these matters. We need to learn if Ingalls, Northrop Grumman, and American Classic voyages fully and accurately presented the difficulties they faced in building Project America to MARAD while seeking to both secure and restructure the title XI loan guarantee for this project.

I want to close by making one last point on the New York Times article. It quotes AMCV's largest investor saying, "Everyone talks about taxpayers' losses. But they never mention the fact

that others lost significant amounts of money as well." That may be true; however, unlike investors who chose to put their money at risk on American Classic Voyages, the American taxpayer did not have a choice. They depend on us to do the right thing, but instead they have been saddled with an expenditure \$366.7 million. I don't personally know all of AMCV's investors, but I would be willing to bet they won't make this same mistake again. The question then becomes "will we?"

I ask unanimous consent to print the New York Times article in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 16, 2001]

A VENTURE IN SHIPS IS A RARE ZELL FLOP

(By Leslie Wayne)

Sam Zell may have the Midas touch when it comes to investing in real estate. But his efforts on the high seas—with cruise ships—ended in a debacle that has cost him over \$100 million and taxpayers at least three times that.

Mr. Zell is the chairman and largest shareholder of American Classic Voyages, which filed for bankruptcy protection in October. This came after the failure of an ambitious project by Mr. Zell to build two 1,900-passenger cruise ships, the first that were to be constructed in this country in 40 years. It also came despite a boatload of government aid to Mr. Zell, including \$1.08 billion in federal loan guarantees. When it came to playing the Washington game, Mr. Zell walked away a big winner in the mid-1990's. His cruise ship plan—called Project America—wrapped up patriotism and politics and allowed him to construct his two huge ships by putting government money, not his, at risk. He also secured a 30-year monopoly on all cruise-ship traffic within the Hawaiian islands.

Helping him get this sweet deal were Senator Trent Lott, the Republican minority leader, who wanted to land a big project for the Ingalls shipyard in his home state of Mississippi, and Senator Daniel K. Inouye, the Hawaii Democrat, who engineered the exclusivity pact. Mr. Zell's ships, American-made and with American crews, would be the only ones allowed to sail port-to-port within Hawaii; others must stop at foreign ports first, eating up time.

"Obviously, I lost a lot of money," Mr. Zell said. "Everyone talks about the taxpayer losses. But they never mention the fact that others lost significant amounts of money as well. Shareholders lost a lot of money, and that's very unfortunate."

Last year, with American Classic shares trading at \$36, Mr. Zell's 3.8 million shares were worth \$137 million. This fall, the shares were delisted from Nasdaq when they were trading at 45 cents, chopping Mr. Zell's stake to \$1.7 million. The government, meanwhile, is looking at losses of \$367 million from American Classic, which also operates four paddlewheel steamboats through its Delta Queen Steamboat subsidiary.

The failure has incurred the wrath of Senator John McCain, Republican of Arizona, who called for an investigation, which the inspector general of the Transportation Department has undertaken.

Rob Freeman, a staff member of the Senate Commerce Committee, where Mr. McCain is the ranking Republican, said: "It was a bad idea. The taxpayer took all the risk."

Mr. Zell got such government largess by being the right person in the right place

when the United States Maritime Administration wanted to revive the domestic shipbuilding industry, which had been beaten down by lower-cost foreign competitors. Without aid, American Classic executives say, their project would never have gotten off the ground.

"We were supposed to be promoting shipbuilding," said a former top Maritime Administration official, who insisted on anonymity. "Inouye and the whole state wanted to grow the cruise business. The maritime trade unions wanted jobs. So there was a lot of political support."

Mr. Zell never lobbied the administration directly; his top executives did. In 1996 and 1997, American Classic executives met with members of Congress, labor leaders and shipyard owners in an all-out effort to promote the project in Washington. That effort was backed by campaign contributions from Mr. Zell and American Classic to Mr. Lott, Mr. Inouye and other crucial members of Congress.

It paid off. The \$1.08 billion loan guarantee was the largest the Maritime Administration had ever approved, and it allowed American Classic to enter debt markets that would otherwise be closed to it—and at rates comparable to government debt. American Classic was also allowed to buy an old foreign-made ship and use it for Hawaii cruises while the two new ship were under construction, giving the company an exemption from a law prohibiting foreign carriers from that route.

But the souring economic picture of 2001 halted these ambitions. By last summer, the company had cash-flow problems, and the downturn in tourism after the terrorist attacks pushed it over the edge. "Sept. 11 just put it away," Mr. Zell said. <http://www.nytimes.com>

THE JUSTICE DEPARTMENT'S DETENTION OF OVER 1,100 INDIVIDUALS IN CONNECTION WITH THE SEPTEMBER 11 INVESTIGATION

Mr. FEINGOLD. Mr. President, I was pleased to hear the Attorney General's announcement of the first indictment of a co-conspirator to the terrorist attacks on our Nation on September 11. Zacarias Moussaoui, who was detained by the FBI for carrying a false passport before September 11 and has been in custody since that time, has been indicted by a federal grand jury in Virginia. I commend the Justice Department, the FBI, and our intelligence services, for their tireless work in seeking to bring Moussaoui and other terrorists to justice.

We have known about Mr. Moussaoui since a few short days after September 11, but we still do not know the identities of hundreds of other individuals still held in detention, the vast majority of whom have no link to September 11 or al-Qaida.

And so I rise today to speak about the Justice Department's detention of these individuals in connection with its investigation of the September 11 attacks and the administration's continued refusal to provide a full accounting of who these people are and why they have been detained.

On October 31, along with Senator LEAHY, Senator KENNEDY, Representative CONYERS, Representative NADLER, Representative SCOTT, and Representa-

tive JACKSON-LEE, I sent a letter to Attorney General Ashcroft requesting basic information about the detention of over 1,100 individuals in connection with the investigation of the September 11 attacks. We wanted to know who is being detained and why; the basis for continuing to hold individuals who have been cleared of any connection to terrorism; and the identity and contact information for lawyers representing detainees. We also wanted information regarding the government's efforts to seal or close proceedings and its legal justification for doing so.

I thank and commend Senator LEAHY, the distinguished Chairman of the Judiciary Committee, for his efforts and leadership. Chairman LEAHY held four oversight hearings on the Justice Department's actions, including one hearing that I chaired focusing on the Department's detention of individuals. Those hearings culminated with the testimony of the Attorney General himself before the Committee.

I come to the floor today because I remain dissatisfied with the Administration's response to our request for information about the detainees. Seven weeks after our letter, the Department of Justice has given flimsy and contradictory excuses but no convincing legal justification for keeping secret the identities of the over 550 people it now holds in custody for minor immigration violations.

In addition, the Department has not yet provided any information on perhaps hundreds of additional people who have been detained. These people might still be being held on state or local charges, or without charges, or they might have been released. Nor has the Department given definite information on the number of individuals held as material witnesses.

After our hearings last week, I am more convinced than ever that Congress and the American people are entitled to this information to assess the Justice Department's assertions that everyone in custody has access to legal counsel and is being treated fairly.

In the days and weeks after the attacks, the Department made announcements about the status of the investigation, including tallies of the number of individuals detained. In fact, on October 25, the Attorney General announced that "[t]o date, our anti-terrorism offensive has arrested or detained nearly 1,000 individuals as part of the September 11 investigation."

In early November, however, the Department reversed course and decided it would no longer publicly release comprehensive tallies of the number of individuals detained in connection with the September 11 investigation and that it would limit its counts to those held on federal criminal or immigration violations. Thus, it would no longer keep track of those held on state or local charges, nor would it indicate how many people have been released after being detained or have been held without charges being filed.

According to some recent news reports relying on sources in the Justice Department, other than Zacarias Moussaoui, none of the over 1,100 individuals who have been detained are believed to be involved with the September 11 attacks. It now appears that the Department believes that at least Mr. Moussaoui is connected to September 11. And only 10-15 of the detainees are believed to have any links to the al-Qaida organization. Furthermore, according to senior Justice Department officials quoted in the press, apart from Moussaoui, not a single one of the over 550 people detained on immigration charges is linked to al-Qaida. This leads us to a simple, critical question: Who are the remaining hundreds of people and why have they been detained?

The Attorney General undoubtedly faces an enormous challenge: He must work to find the perpetrators of the September 11 attacks and bring them to justice, while, at the same time, protect Americans from future attacks. I fully support our law enforcement officials in their tireless efforts to leave no stone unturned as they investigate the September 11 attacks and strive to protect our nation from future attacks.

But, as the Attorney General moves forward in our fight against terrorism, he has a responsibility to ensure that the constitutional foundations of our nation are not eroded. The torch of Lady Liberty must continue to shine on our Nation.

This is not just an abstract or theoretical concern. Our Constitution protects the people of this country from the arbitrary or unfair deployment of the awesome power of the Federal Government. The Federal Government has the power to ruin the lives of innocent people. The checks and balances of our Constitution are crucial in protecting the governed from an unfair government.

While the Justice Department recently began releasing some information about the people who have been detained on federal criminal charges or immigration violations, we still do not have a full picture of who is being detained and why. And there are reports that detainees have been denied their fundamental right to due process of law, including access to counsel, and have suffered serious bodily injury. We simply cannot tell if those cases are aberrations or an indication of systemic problems, if the Justice Department will not release further information about those being held in custody.

The Attorney General has repeatedly and emphatically asserted that he is acting with constitutional restraint. He even went so far as to suggest last week that those who question his actions are giving aid and comfort to the terrorists. I reject that charge in the strongest terms. And I further believe that the Department of Justice has a responsibility to release sufficient information about the investigation and the detainees to allow Congress and the