

[CHAPTER 858.]

AN ACT

To further the development and maintenance of an adequate and well-balanced American merchant marine, to promote the commerce of the United States, to aid in the national defense, to repeal certain former legislation, and for other purposes.

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

June 29, 1936.
[H. R. 8555.]
[Public, No. 835.]

Merchant Marine Act, 1936.

TITLE I—DECLARATION OF POLICY

Title I—Declaration of Policy.

SECTION 101. It is necessary for the national defense and development of its foreign and domestic commerce that the United States shall have a merchant marine (a) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import foreign commerce of the United States and to provide shipping service on all routes essential for maintaining the flow of such domestic and foreign water-borne commerce at all times, (b) capable of serving as a naval and military auxiliary in time of war or national emergency, (c) owned and operated under the United States flag by citizens of the United States insofar as may be practicable, and (d) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel. It is hereby declared to be the policy of the United States to foster the development and encourage the maintenance of such a merchant marine.

Necessity for developing an American merchant marine declared.

TITLE II—UNITED STATES MARITIME COMMISSION

Title II—United States Maritime Commission.
Creation of; composition, etc.

SEC. 201. (a) An agency is hereby created, to be known as the United States Maritime Commission (hereinafter referred to as the Commission). The Commission shall be composed of five persons, in this title referred to as members, to be appointed by the President by and with the advice and consent of the Senate. The President shall designate the member to act as chairman of the Commission, and the Commission may elect one of its members as vice chairman. The members of the Commission shall be appointed as soon as practicable after the enactment of this Act and shall continue in office as designated by the President at the time of nomination, for terms of two, three, four, five, and six years, respectively, from the date upon which they qualify and take office; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. The members shall be appointed with due regard to their special fitness for the efficient discharge of the duties imposed upon them by this Act. Not more than three of the members shall be appointed from the same political party. A vacancy in the Commission shall be filled in the same manner as an original appointment. Any member may be removed by the President for neglect of duty or malfeasance in office. Vacancies in the Commission, so long as there shall be three members in office, shall not impair the power of the Commission to execute its functions, and three of the members in office shall constitute a quorum for the transaction of the business of the Commission. Each member shall receive a salary at the rate of \$12,000 per annum.

Terms of office.

Qualifications, political affiliations.

Vacancies.

Quorum.

Compensation.

Restriction on appointments.

(b) No person shall hold office as a member of the Commission who, within three years prior to his appointment, shall have been employed by, or have had any pecuniary interest in, any carrier by water or substantial pecuniary interest in any other person who

derives a substantial portion of his revenues from any business associated with ships or shipping. Each member shall devote his full time to the duties of his office. It shall be unlawful for any member, officer, or employee of the Commission to be in the employ of any other person, firm, or corporation, or to have any pecuniary interest in, or hold any official relationship with, any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the Commission may have business relations.

(c) The Commission shall, through its secretary, keep a true record of all its meetings and the yea-and-nay votes taken therein, on every action, order, contract, or financial transaction approved or disapproved by the Commission. It shall have an official seal which shall be judicially noticed, and shall adopt rules and regulations in regard to its procedure and the conduct of its business.

(d) The Commission may make such expenditures as are necessary in the performance of its functions from funds made available to it by this Act or hereafter appropriated, which further appropriations are hereby authorized.

(e) 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, not more than a total of twelve each of naval architects, special experts, attorneys, and examiners and not more than two inspectors at each shipyard at which vessels are being constructed by it or under its supervision. No employee so appointed may receive an annual salary at a rate in excess of that provided under the Classification Act of 1923, as amended. The Commission may, subject to the provisions of the civil-service laws and the Classification Act of 1923, as amended, appoint such other officers, engineers, inspectors, attorneys, examiners, and other employees as are necessary in the execution of its functions: *Provided*, That trained and satisfactory present employees of the United States Shipping Board Bureau or United States Shipping Board Merchant Fleet Corporation shall be eligible for transfer to the Commission, and if after the expiration of a probationary period of six months from the date of employment the Commission shall certify to the United States Civil Service Commission that the services of any employee so transferred are satisfactory, the employee shall thereupon acquire the same status as though certified after examination by the Civil Service Commission.

(f) Each member, any employee of the Commission, and any person detailed to it from any other agency of the Government shall receive necessary traveling and subsistence expenses, or per diem allowance in lieu thereof, within the limitations prescribed by law, while away from his official station upon official business of the Commission. Expenditures by the Commission shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission or a designated employee thereof.

(g) This section shall take effect immediately upon approval of this Act.

SEC. 202. All money, notes, bonds, mortgages, and securities of every kind, contracts and contract rights, lands, vessels, docks, wharves, piers, and property and interests of every kind, owned by the United States, and now controlled by the Department of Commerce as the successor to the powers and functions of the former United States Shipping Board, by virtue of the President's Executive order of June 10, 1933, are hereby transferred to the Commission.

Other employment forbidden.

Record of proceedings, etc., to be kept.

Seal.

Expenditures authorized.

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

Naval architects, experts, attorneys, etc.

Salary rates.
U. S. C., p. 85.

Other personal services.

Proviso.
Eligibility of certain employees for transfer.

Traveling expenses, etc.

Effective date of section.

Property and interests now controlled by Department of Commerce transferred to Commission.

SEC. 203. The United States Shipping Board Merchant Fleet Corporation shall cease to exist and shall stand dissolved. All the records, books, papers, and corporate property of said dissolved corporation shall be taken over by the Commission. All existing contractual obligations of the dissolved corporation shall be assumed by the United States. Any suit against the dissolved corporation pending in any court of the United States shall be defended by the Commission upon behalf of the United States, under the supervision of the Attorney General, and any judgment obtained against the dissolved corporation in any such pending suit shall be reported to Congress in the manner provided in section 226, title 31, United States Code, for reporting judgments against the United States in the Court of Claims.

Shipping Board Merchant Fleet Corporation dissolved. Records, property, etc., transferred to Commission.

Pending suits.

Report of judgments to Congress.

U. S. C., p. 1370.

SEC. 204. (a) All the functions, powers, and duties vested in the former United States Shipping Board by the Shipping Act, 1916, the Merchant Marine Act, 1920, the Merchant Marine Act, 1928, the Intercoastal Shipping Act, 1933, and amendments to those Acts, and now vested in the Department of Commerce pursuant to section 12 of the President's Executive order of June 10, 1933, are hereby transferred to the United States Maritime Commission: *Provided, however,* That after the date of the passage of this Act no further construction loans shall be made under the provisions of section 11 of the Merchant Marine Act, 1920, as amended.

Functions, powers, and duties vested by certain Acts transferred to Commission. Vol. 39, p. 728; Vol. 41, p. 988; Vol. 45, p. 689; Vol. 47, p. 1425.

Proviso. Restriction on further construction loans. Vol. 41, p. 993.

(b) The Commission is hereby authorized to adopt all necessary rules and regulations to carry out the powers, duties, and functions vested in it by this Act. After the expiration of two years from the effective date of this Act, the President is authorized to transfer, by Executive order, to the Interstate Commerce Commission any or all the regulatory powers, regulatory duties, and regulatory functions which, by this title, are vested in the United States Maritime Commission.

Adoption of rules, etc.

Transfer of regulatory powers, etc., to Interstate Commerce Commission, after two years, authorized.

(c) The orders issued by the United States Maritime Commission in the exercise of the powers transferred to it by this title shall be enforced in the same manner as heretofore provided by law for enforcement of the orders issued by the former United States Shipping Board, and violation of such orders shall subject the person or corporation guilty of such violation to the same penalties or punishment as heretofore provided for violation of the orders of said Board.

Enforcement of Commission's orders.

Penalties, etc.

SEC. 205. Without limiting the power and authority otherwise vested in the Commission, it shall be unlawful for any common carrier by water, either directly or indirectly, through the medium of an agreement, conference, association, understanding, or otherwise, to prevent or attempt to prevent any other such carrier from serving any port designed for the accommodation of ocean-going vessels located on any improvement project authorized by the Congress or through it by any other agency of the Federal Government, lying within the continental limits of the United States, at the same rates which it charges at the nearest port already regularly served by it.

Unlawful restraints, discriminations, etc.

SEC. 206. All sums of money now in the construction loan fund created by section 11 of the Merchant Marine Act, 1920, as amended, together with the proceeds of all debts, accounts, choses in action, and the proceeds of all notes, mortgages, and other evidences of indebtedness, hereby transferred to the Commission, and all of the proceeds of sales of ships and surplus property heretofore or hereafter made, including proceeds of notes or other evidences of debt taken therefor and the interest received thereon, shall be deposited in the Treasury of the United States and there maintained as a

Sums transferred to Commission. Vol. 41, p. 993. U. S. C., p. 2064.

Proceeds of property sales.

Deposits.

Construction fund created; use, etc.

Deposits.
Disbursements.
Post, pp. 1993, 1995, 2001, 2008.
Additional funds authorized.

Contracts authorized.

Auditing financial transactions.

Vol. 42, p. 444.
Proviso.
Credit allowed all necessary expenditures.

Report of departures to Congress.

Report of Commission; contents.

Appropriation authorized.

Use of Shipping Board Bureau, etc., funds.

Vol. 44, p. 1082.
Use, without regard to apportionment requirement.

U. S. C., p. 1405.

Certain funds under Postmaster General for foreign mail transportation to be transferred.
Post, p. 1995.
Vol. 45, p. 692.
U. S. C., p. 2069.

revolving fund, herein designated as the construction fund, and shall be controlled and employed by the Commission in carrying out the provisions of this Act. All moneys received by the Commission under the provisions of titles IV, V, VI, and VII, of this Act shall be deposited in its construction fund, and all disbursements made by the Commission under authority of said titles shall be paid out of said fund. Further appropriations by Congress to replenish said fund are hereby authorized.

SEC. 207. The Commission may enter into such contracts, upon behalf of the United States, as may, in its discretion, be necessary to carry on the activities authorized by this Act, in the same manner that a private corporation may contract within the scope of the authority conferred by its charter. All the Commission's financial transactions shall be audited in the General Accounting Office according to approved commercial practice as provided in the Act of March 20, 1922 (42 Stat. 444): *Provided*, That it shall be recognized that, because of the business activities authorized by this Act, the accounting officers shall allow credit for all expenditures shown to be necessary because of the nature of such authorized activities, notwithstanding any existing statutory provision to the contrary. The Comptroller General shall report annually or oftener to Congress any departure by the Commission from the provisions of this Act.

SEC. 208. The Commission shall, at the beginning of each regular session, make a report to Congress, which shall include the results of its investigations, a summary of its transactions, its recommendations for legislation, a statement of all receipts under this Act, and the purposes for which all expenditures were made.

SEC. 209. (a) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

(b) All appropriations and unexpended balances of appropriations available for expenditure by the United States Shipping Board Bureau and United States Shipping Board Merchant Fleet Corporation which would otherwise be applicable to functions transferred to the Commission by this Act, including the fund appropriated to enable the United States Shipping Board Merchant Fleet Corporation to operate ships or lines of ships which have been or may be taken back from purchasers by reason of competition or other methods employed by foreign shipowners or operators as appropriated by the Independent Offices Act, 1928, approved February 11, 1927 (44 Stat. 1082), and reappropriated by the Department of Commerce Appropriation Acts, shall be available for expenditure by or at the direction of the Commission for any and all objects of expenditure authorized by this Act in the discretion of the Commission, without regard to the requirement of apportionment under the Antideficiency Act of February 27, 1906 (U. S. C., title 31, sec. 665).

(c) After the transfer, under section 404 of this Act, to the Commission of the powers and duties of the Postmaster General with respect to existing ocean-mail contracts entered into pursuant to title IV, Merchant Marine Act, 1928 (U. S. C., Supp. VII, title 46, secs. 891e to 891r, inclusive), all appropriations and unexpended balances of appropriations available for expenditure by the Post Office Department for the transportation of foreign mails under contracts authorized by the Merchant Marine Act, 1928, less any amount necessary to be paid out by the Post Office Department, shall be available for any and all objects of expenditure authorized by this Act, by or at the direction of the Commission, without regard to the requirement of apportionment under the Antideficiency Act of February 27, 1906.

(d) Funds made available under the provisions of subsection (b) of this section shall be available for expenditures authorized by the Commission under the provisions of section 201 of this Act as soon as a majority of the members of the Commission shall have taken the oath of office, notwithstanding the provisions of section 907 of this Act.

Designated funds available when majority of Commission members qualify.
Ante, p. 1985.

Post, p. 2017.

SEC. 210. It shall be the duty of the Commission to make a survey of the American merchant marine, as it now exists, to determine what additions and replacements are required to carry forward the national policy declared in section 101 of this Act, and the Commission is directed to study, perfect, and adopt a long-range program for replacements and additions to the American merchant marine so that as soon as practicable the following objectives may be accomplished:

Survey of needed improvements of American merchant marine.

Ante, p. 1985.

Long-range program to accomplish objectives specified.

First, the creation of an adequate and well-balanced merchant fleet, including vessels of all types, to provide shipping service on all routes essential for maintaining the flow of the foreign commerce of the United States, the vessels in such fleet to be so designed as to be readily and quickly convertible into transport and supply vessels in a time of national emergency. In planning the development of such a fleet the Commission is directed to cooperate closely with the Navy Department as to national-defense needs and the possible speedy adaptation of the merchant fleet to national-defense requirements.

Creation of adequate merchant fleet, etc.

Cooperation with Navy Department as to national defense.

Second, the ownership and the operation of such a merchant fleet by citizens of the United States insofar as may be practicable.

Ownership by citizens.

Third, the planning of vessels designed to afford the best and most complete protection for passengers and crew against fire and all marine perils.

Protection against fire and marine perils.

SEC. 211. The Commission is authorized and directed to investigate, determine, and keep current records of—

Investigations, etc., by Commission.

(a) The ocean services, routes, and lines from ports in the United States, or in a Territory, district, or possession thereof, to foreign markets, which are, or may be, determined by the Commission to be essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States, and in reaching its determination the Commission shall consider and give due weight to the cost of maintaining each of such steamship lines, the probability that any such line cannot be maintained except at a heavy loss disproportionate to the benefit accruing to foreign trade, the number of sailings and types of vessels that should be employed in such lines, and any other facts and conditions that a prudent business man would consider when dealing with his own business, with the added consideration, however, of the intangible benefit the maintenance of any such line may afford to the foreign commerce of the United States and to the national defense;

Ocean routes, etc., to foreign markets essential for promotion, etc., of foreign commerce.

(b) The type, size, speed, and other requirements of the vessels, including express-liner or super-liner vessels, which should be employed in such services or on such routes or lines, and the frequency and regularity of the sailings of such vessels, with a view to furnishing adequate, regular, certain, and permanent service;

Vessel requirements, sailings, etc.

(c) The relative cost of construction of comparable vessels in the United States and in foreign countries;

Relative construction cost in United States and abroad.

(d) The relative cost of marine insurance, maintenance, repairs, wages and subsistence of officers and crews, and all other items of expense, in the operation of comparable vessels in particular services, routes, and lines under the laws, rules, and regulations of the United States and under those of the foreign countries whose vessels are substantial competitors of any such American service, route, or line;

Insurance, repairs, wages, and other expenses of operation compared with foreign competitors.

Aid by foreign governments to their merchant marine.

Domestic shipyards.

Application of shipping laws to aircraft.

Recommendations.

Aid to producers in transporting products to foreign ports.

New designs, etc., of vessels.

Studies and investigations.

Cooperation with vessel owners.

Preference to vessels of United States registry.

Express-liner or super-liner construction.

Collaboration in developing plans for economical construction.

Liaison with other boards, etc., for securing preference in shipments.

Discriminations by vessel owners against United States export cargo.

(e) The extent and character of the governmental aid and subsidies granted by foreign governments to their merchant marine;

(f) The number, location, and efficiency of the shipyards existing on the date of the enactment of this Act or thereafter built in the United States;

(g) To investigate and determine what provisions of this Act and other Acts relating to shipping should be made applicable to aircraft engaged in foreign commerce in order to further the policy expressed in this Act, and to recommend appropriate legislation to this end;

(h) The advisability of enactment of suitable legislation authorizing the Commission, in an economic or commercial emergency, to aid the farmers and cotton, coal, lumber, and cement producers in any section of the United States in the transportation and landing of their products in any foreign port, which products can be carried in dry-cargo vessels by reducing rates, by supplying additional tonnage to any American operator, or by operation of vessels directly by the Commission, until such time as the Commission shall deem such special rate reduction and operation unnecessary for the benefit of the American farmers and such producers; and

(i) New designs, new methods of construction, and new types of equipment for vessels; the possibilities of promoting the carrying of American foreign trade in American vessels; and intercoastal and inland water transportation, including their relation to transportation by land and air.

SEC. 212. The Commission is authorized and directed—

(a) To study all maritime problems arising in the carrying out of the policy set forth in title I of this Act;

(b) To study, and to cooperate with vessel owners in devising means by which—

(1) the importers and exporters of the United States can be induced to give preference to vessels under United States registry; and

(2) there may be constructed by or with the aid of the United States express-liner or super-liner vessels comparable with those of other nations, especially with a view to their use in national emergency, and the use in connection with or in lieu of such vessels of transoceanic aircraft service;

(c) To collaborate with vessel owners and shipbuilders in developing plans for the economical construction of vessels and their propelling machinery, of most modern economical types, giving thorough consideration to all well-recognized means of propulsion and taking into account the benefits accruing from standardized production where practicable and desirable;

(d) To establish and maintain liaison with such other boards, commissions, independent establishments, and departments of the United States Government, and with such representative trade organizations throughout the United States as may be concerned, directly or indirectly, with any movement of commodities in the water-borne export and import foreign commerce of the United States, for the purpose of securing preference to vessels of United States registry in the shipment of such commodities; and

(e) To investigate, under the regulatory powers transferred to it by this Act, any and all discriminatory rates, charges, classifications, and practices whereby exporters and shippers of cargo originating in the United States are required by any common carrier by water in the foreign trade of the United States to pay a higher rate from any United States port to a foreign port than the rate charged by such carrier on similar cargo from such foreign port to such United States

port, and recommend to Congress measures by which such discrimination may be corrected.

(f) To make recommendations to Congress, from time to time, for such further legislation as it deems necessary better to effectuate the purpose and policy of this Act.

Recommendations to Congress for further legislation.

SEC. 213. The Commission shall make studies of and make a report to Congress as soon as practicable on—

Studies and report to Congress.

(a) The scrapping or removal from service of old or obsolete merchant tonnage owned by the United States or in use in the merchant marine;

Scrapping, etc., of old tonnage.

(b) Tramp shipping service and the advisability of citizens of the United States participating in such service with vessels under United States registry.

Advisability of participation in tramp shipping service.

(c) The relative cost of construction or reconditioning of comparable ocean vessels in shipyards in the various coastal districts of the United States, together with recommendations as to how such shipyards may compete for work on an equalized basis.

Costs of construction in various coastal districts, etc.

SEC. 214. (a) For the purpose of any investigation which, in the opinion of the Commission, is necessary and proper in carrying out the provisions of this Act, any member of the Commission, or any officer or employee thereof designated by it, is empowered to subpoena witnesses, administer oaths and affirmations, take evidence, and require the production of any books, papers, or other documents which are relevant or material to the matter under investigation. Such attendance of witnesses and the production of such books, papers, or other documents may be required from any place in the United States or any Territory, district, or possession thereof at any designated place of hearing within the Federal judicial district in which the witness resides. Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

Authority to subpoena witnesses, to administer oaths, etc., for investigations.

(b) Upon failure of any person to obey a subpoena issued by the Commission, it may invoke the aid of any District Court of the United States within the jurisdiction in which such person resides or carries on business in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the Commission, or member, officer, or employee designated by the Commission, there to produce books, papers, or any other documents, if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Any process in any such case may be served in the judicial district wherein such person resides or wherever he may be found.

Fees and mileage to witnesses.

Court action on failure to obey subpoena.

(c) No person shall be excused from attending and testifying or from producing books, papers, or other documents before the Commission, or any member or officer or employee thereof, in any investigation instituted by the Commission under this Act, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no person shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Self-incrimination not to excuse attendance, etc.

Immunity from prosecution.

Title III—American Seamen.

TITLE III—AMERICAN SEAMEN

Minimum - manning scales, minimum-wage scales and working conditions.

Post, pp. 2001, 2008.

Printed copy of scales, etc., to be posted by contractor.

Proviso. Increased expense added to operating-differential subsidy.

Contract requirements.

Separation of officers' and crew's quarters.

Complaints and recommendations by officers and crew.

Naval Reserve Corps. Licensed officers, members of, to wear special insignia.

Description of; restriction.

No discrimination against licensed officers.

Meals of officers.

Licensed officers of documented vessels, citizenship requirement.

Subsidy-grant cargo vessels; citizenship requirements of crew.

SEC. 301. (a). The Commission is authorized and directed to investigate the employment and wage conditions in ocean-going shipping and, after making such investigation and after appropriate hearings, to incorporate in the contracts authorized under titles VI and VII of this Act minimum-manning scales and minimum-wage scales and reasonable working conditions for all officers and crews employed on all types of vessels receiving an operating-differential subsidy. After such minimum manning and wage scales and working conditions shall have been adopted by the Commission, no change shall be made therein by the Commission except upon formal complaint, public notice of the hearing to be had on such complaint, and a hearing by the Commission of all interested parties, under such rules as the Commission shall prescribe. Every contractor receiving an operating-differential subsidy shall post and keep posted in a conspicuous place on each such vessel operated by such contractor a printed copy of the minimum manning and wage scales and working conditions prescribed by his contract and applicable to such vessel: *Provided, however,* That any increase in the operating expenses of the subsidized vessel occasioned by any change in the wage, manning scales, and working conditions as provided in this section shall be added to the operating-differential subsidy previously authorized for the vessel.

(b) Every contract executed under authority of titles VI and VII of this Act shall require—

(1) Insofar as is practicable, officers' living quarters shall be kept separate and apart from those furnished for members of the crew;

(2) Licensed officers and unlicensed members of the crew shall be entitled to make complaints or recommendations to the Commission, Coast Guard, or Department of Labor, providing they file such complaint or recommendation with their immediate superior, who shall be required to forward such complaint or recommendation with his remarks to the Commission, Coast Guard, or Department of Labor;

(3) Licensed officers who are members of the Naval Reserve Corps shall wear on their uniforms such special distinguishing insignia as may be approved by the Secretary of the Navy; officers being those men serving under licenses issued by the Bureau of Navigation and Steamboat Inspection;

(4) The uniform stripes, decoration, or other insignia shall be of gold braid or woven gold or silver material, to be worn by officers, and no member of the ship's crew other than licensed officers shall be allowed to wear any uniform with such officer's identifying insignia;

(5) No discrimination shall be practiced against licensed officers, who are otherwise qualified, because of their failure to qualify as members of the Naval Reserve Corps; and

(6) Licensed officers shall take their meals in the main dining salon of the vessel and no other place during regular meal hours, except in cases of emergency.

SEC. 302. (a) All licensed officers of vessels documented under the laws of the United States, as now required by law, shall be citizens of the United States, native-born or completely naturalized; and upon each departure from the United States of a cargo vessel in respect of which a construction or operating subsidy has been granted all of the crew (crew including all employees of the ship) shall be citizens of the United States, native-born or completely naturalized.

(b) For a period of one year after the effective date of this Act, upon each departure from the United States of a passenger vessel in respect of which a construction or operation subsidy has been granted, all licensed officers shall be citizens of the United States as defined above, and no less than 80 per centum of the crew (crew including all employees of the ship other than officers) shall be citizens of the United States, native-born or completely naturalized, and thereafter the percentage of citizens, as above defined, shall be increased 5 per centum per annum until 90 per centum of the entire crew, including all licensed officers of any such vessel, shall be citizens of the United States, native-born or completely naturalized.

Citizenship requirements; passenger vessels.

(c) Any member of the crew, not required by this section to be a citizen of the United States, may be an alien only if he is in possession of a valid declaration of intention to become a citizen of the United States, or other evidence of legal admission to the United States for permanent residence. Such alien, as above defined, may be employed only in the steward's department on passenger vessels.

Alien declarants.

(d) If any such vessel (as above defined) while on a foreign voyage is for any reason deprived of the services of any employee below the grade of master, his place or a vacancy caused by the promotion of another to his place may be supplied by a person other than defined in paragraphs (a) and (b), until the first return of such vessel to a port in the United States.

Employment of, restricted.

Filling vacancies while on a foreign voyage.

(e) The owner, agent, or officer of any such vessel who knowingly employs any person in violation of the provisions of this Act shall, upon conviction thereof, be fined \$50 for each person so employed.

Punishment for violation.

(f) This section shall be enforced by the Secretary of Commerce, for the purpose of carrying out the provisions of this section, and shall take effect ninety days after its enactment, and will then repeal paragraph (c), section 405, Merchant Marine Act, 1928.

Enforcement by Secretary of Commerce. Effective date.

Vol. 45, p. 693.

(g) All of the deck and engineer officers employed on vessels on which an operating-differential subsidy is paid under authority of title VI, or employed on the Commission's vessels, after one year after the passage of this Act, shall, if eligible, be members of the United States Naval Reserve.

Naval Reserve membership requirement, deck and engineer officers.

(h) During a national emergency as proclaimed by the President he may, in his discretion, suspend any or all of the provisions of this section.

Suspension of provisions in emergency.

TITLE IV—OCEAN-MAIL CONTRACTS

Title IV—Ocean-Mail Contracts.

SEC. 401. No contract heretofore made by the Postmaster General, pursuant to the provisions of the Merchant Marine Act of 1928, for the carriage of mail, shall be continued in effect after June 30, 1937, and after that date it shall be unlawful for any officer of the United States to pay from any public funds any compensation to the holder of such contract for services thereunder, except for such voyages as were completed prior to the expiration date herein fixed and for voyages commenced prior to said expiration date and which shall not have been completed prior to said expiration date.

Termination of certain, made by Postmaster General. Vol. 45, p. 692.

SEC. 402. (a) The holder of any mail contract that is to be terminated as provided in section 401 of this title may, within ninety days after the passage of this Act, file an application with the Commission to adjust and settle all the rights of the parties under such contract and to substitute in whole or in part therefor a contract or contracts authorized in titles V and VI of this Act in accordance with the conditions hereinafter prescribed. Such application shall be in such form and filed under such regulations as the Commission may prescribe.

Applications for adjustment; time limitation.

Procedure in adjusting claims.

Speculative future profits not included.

Settlements.

Proviso.
Right of Attorney General to appeal.

Time limitation.

Right to sue; time limitation.

Defenses.

Jurisdiction of court.

Application of payment as credit upon amounts owed.

“(b) As soon as practicable after the filing of any such application, the Commission shall proceed to attempt to adjust all differences with such contractor, including any claims of the contractor against the United States and any claims of the United States against such contractor, arising out of its foreign ocean mail contract. In adjusting such differences and claims, the Commission shall not take into consideration any prospective or speculative future profits, but shall consider any and all payments theretofore made by the United States pursuant to such mail contract, and the profits realized as a result thereof, and the interest paid and the interest due according to law on construction loans, and all other facts deemed pertinent. If the contractor shall be willing to accept such determination and receive payment for the amount determined by the Commission to be a fair adjustment of such differences the Commission is authorized and directed to enter into and execute a settlement agreement with such contractor, wherein such contractor shall release the United States from any and all further claims arising from such contractor's mail contract: *Provided*, That the Attorney General of the United States may, if he is dissatisfied with such finding, appeal the same to the Court of Claims within a period of sixty days from the date such settlement is agreed upon, of record, by the Commission and the contractor. If such appeal is not taken for the United States by the Attorney General within sixty days from the record agreement between the Commission and the contractor, the contractor shall be paid any sum of money due him under such settlement agreement from any funds controlled by the Commission or hereafter appropriated for that purpose; or if such appeal is taken by the Attorney General, then, within sixty days from the rendition of the final judgment by the courts, the contractor shall be paid any sum of money due him under such judgment, from any funds controlled by the Commission or hereafter appropriated for that purpose.

“(c) If the holder of any ocean mail contract terminated by the provisions of section 401 of this title does not enter into and execute a settlement agreement as provided in subsection (b) hereof, such holder may sue the United States in the United States Court of Claims, but such suit shall not be maintained unless brought before January 1, 1938. If suit is filed in the Court of Claims the claimant and the United States shall have the right in such court to set up and have determined and adjusted by the court all legal and equitable claims, differences, offsets, credits, and recoupments to which either may be entitled, to the end that all conflicting claims, assertions, and rights may be fully, fairly, and completely settled and adjudged by the court, including any question as to the legality of the contract as originally made or as modified, altered, or amended. The jurisdiction of said court to award any damages or payments to the ocean mail contractor is hereby expressly limited to an award of just compensation under the provisions heretofore set forth and such just compensation shall not include any allowances for prospective profits or for speculative future profits that might have been realized by the claimant if permitted further to carry out the contract. The remedy herein provided shall be exclusive and no other suit shall be maintained by the applicant or by any other person in any court of the United States arising out of any claims under or connected with said contract.”

SEC. 403. (a) If any sum of money is payable to the contractor under the terms of any settlement agreement made pursuant to section 402 (b) of this title, such sum shall be applied as a credit upon any amount owing by the contractor to the United States on any loan

agreement entered into under section 11 of the Merchant Marine Act, 1920, as amended, or upon unpaid ship-sales mortgage notes.

SEC. 404. All the powers and duties now vested by law in the Postmaster General, with respect to existing ocean-mail contracts, executed pursuant to title IV of the Merchant Marine Act, 1928, are hereby transferred to and vested in the Commission.

SEC. 405. (a) All mails of the United States carried on vessels between ports between which it is lawful under the navigation laws for a vessel not documented under the laws of the United States to carry merchandise shall, insofar as practicable, be carried on vessels of United States registry.

(b) Every steamship company carrying the mails shall carry on any ship it operates and without extra charge therefor the persons in charge of the mails and when on duty and traveling to and from duty, and all duly accredited agents and officers of the Post Office Department and post-office inspectors while traveling on official business, upon the exhibition of their credentials.

TITLE V—CONSTRUCTION-DIFFERENTIAL SUBSIDY

SEC. 501. (a) Any citizen of the United States may make application to the Commission for a construction-differential subsidy to aid in the construction of a new vessel, to be used on a service, route, or line in the foreign commerce of the United States, determined to be essential under section 211 of this Act. No such application shall be approved by the Commission unless it determines that (1) the service, route, or line requires a new vessel of modern and economical design to meet foreign-flag competition and to promote the foreign commerce of the United States; (2) the plans and specifications call for a new vessel which will meet the needs of the service, route, or line, and the requirements of commerce; (3) the applicant possesses the ability, experience, financial resources, and other qualifications necessary to enable it to operate and maintain the proposed new vessel in such service, or on such route or line, and to maintain and continue adequate service on said route or line, including replacement of worn-out or obsolete tonnage with new and modern ships; and (4) the granting of the aid applied for is reasonably calculated to carry out effectively the purposes and policy of this Act.

(b) The Commission shall submit the plans and specifications for the proposed vessel to the Navy Department for examination thereof and suggestions for such changes therein as may be deemed necessary or proper in order that such vessel shall be suitable for economical and speedy conversion into a naval or military auxiliary, or otherwise suitable for the use of the United States Government in time of war or national emergency. If the Secretary of the Navy approves such plans and specifications as submitted, or as modified, in accordance with the provisions of this subsection, he shall certify such approval to the Commission.

(c) Any citizen of the United States may make application to the Commission for a construction-differential subsidy to aid in reconstructing or reconditioning any vessel that is to be exclusively used on a service, route, or line in the foreign commerce of the United States, determined to be essential under section 211 of this Act. If the Commission, in the exercise of its discretion, shall determine that the granting of the financial aid applied for is reasonably calculated to carry out effectively the purposes and policy of this Act, the Commission may approve such application and enter into a contract or contracts with the applicant therefor providing for the payment by the United States of a construction-differential subsidy that is to be

Vol. 41, p. 933.
U. S. C., p. 2064.

Postmaster General's powers, etc., transferred to Commission.
Vol. 45, p. 692.

Transport of United States mail by vessels of United States registry.

Transporting persons in charge of mails.

Title V—Construction-Differential Subsidy.

Application for.

Ante, p. 1989.

Investigation before approval.

Plans and specifications of proposed vessels.
Reference of, to Navy Department.

Reconstructing or reconditioning, application for construction-differential subsidy to aid in.

Contract entered into, if application approved.

Conditions and limitations.

Ante, p. 1986.

Financial aid extended only in exceptional cases.

Bids and contracts.

Contract with applicant for purchase of vessel when completed.

"Construction-differential subsidy."

Proviso.
Limitation.

Ante, p. 1985.

Amount of cash payment required.

Payment of balance.

ascertained, determined, controlled, granted, and paid, subject to all the applicable conditions and limitations of this title and under such further conditions and limitations as may be prescribed in the rules and regulations the Commission has adopted as provided in section 201 (c) of this Act; but the financial aid authorized by this subsection shall be extended to reconstruction or reconditioning only in exceptional cases and after a thorough study and a formal determination by the commission that the proposed reconstruction or reconditioning is consistent with the purposes and policy of this Act.

SEC. 502. (a) If the Secretary of the Navy certifies his approval under section 501 (b) of this Act, and the Commission approves the application, it may secure, on behalf of the applicant, bids for the construction of the proposed vessel according to the approved plans and specifications. If the bid of the shipbuilder who is the lowest responsible bidder is determined by the Commission to be fair and reasonable, the Commission may approve such bid, and if such approved bid is accepted by the applicant, the Commission is authorized to enter into a contract with the successful bidder for the construction, outfitting, and equipment of the proposed vessel, and for the payment by the Commission to the shipbuilder, on terms to be agreed upon in the contract, the cost of the vessel, out of the construction fund hereinbefore referred to, or out of other available funds. Concurrently with entering into such contract with the shipbuilder, the Commission is authorized to enter into a contract with the applicant for the purchase by him of such vessel upon its completion, at a price corresponding to the estimated cost, as determined by the Commission pursuant to the provisions of this Act, of building such vessel in a foreign shipyard.

(b) The amount of the reduction in selling price which is herein termed the "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 like plans and specifications (excluding national-defense features as above provided) in a principal foreign shipbuilding center which is availed of by the principal foreign competitors in the service in which the vessel is to be operated, and which is deemed by the Commission to furnish a fair and representative example for the determination of the estimated cost of construction in foreign countries of vessels of the type proposed to be constructed: *Provided*, That the construction differential approved by the Commission shall not exceed 33 $\frac{1}{3}$ per centum of the construction cost of the vessel paid by the Commission (excluding the cost of national-defense features as above provided), except in cases where the Commission possesses conclusive evidence that the actual differential is greater than that percentage, in which cases the Commission may approve an allowance not to exceed 50 per centum of such cost, upon the affirmative vote of four members, except as otherwise provided in subsection 201 (a).

(c) In such contract between the applicant and the Commission, the applicant shall be required to pay the Commission a sum equal to 25 per centum of the construction cost of the vessel paid by the Commission (excluding cost of national-defense features as above provided) such cash payment to be made at the time and in the same proportion as provided for the payment of the construction cost in the contract between the shipbuilder and the Commission; and the balance of such purchase price shall be paid by the applicant, within

twenty years after delivery of the vessel and in not to exceed twenty equal annual installments, the first of which shall be payable one year after the delivery of the vessel by the Commission to the applicant. Interest at the rate of 3½ per centum per annum shall be paid on all installments of purchase price remaining unpaid.

(d) In case a construction subsidy is applied for under this title by an applicant who has as his principal place of business a place on the Pacific coast of the United States (but not including one who, having been in business on or before August 1, 1935, has changed his principal place of business to a place on the Pacific coast of the United States after such date) to aid in the construction or reconditioning of a vessel to be operated in foreign trade in a service, route, or line from ports on the Pacific coast of the United States, and the amount of the bid of the shipbuilder on the Pacific coast who is the lowest responsible bidder on such coast for such construction or reconditioning does not exceed the amount of the bid of the shipbuilder on the Atlantic coast of the United States who is the lowest responsible bidder therefor by more than 6 per centum of the amount of the bid of such Atlantic coast shipbuilder, the Commission shall, except as provided in subsection (e), approve such Pacific coast bid, and in such case no payment shall be made to aid in such construction or reconditioning unless the applicant accepts the bid of such Pacific coast shipbuilder and agrees to designate and continue as the home port of the vessel to be constructed or reconditioned a port on the Pacific coast.

(e) If no bids are received for the construction, outfitting, or equipping of such vessel, or if it appears to the Commission that the bids received from privately owned shipyards of the United States are collusive, excessive, or unreasonable, and if the applicant agrees to purchase said vessel as provided in this section, then, to provide employment for citizens of the United States, the Commission may have such vessel constructed, outfitted, or equipped at not in excess of the actual cost thereof in a navy yard of the United States under such regulations as may be promulgated by the Secretary of the Navy and the Commission. In such event the Commission is authorized to pay for any such vessel so constructed from its construction fund. The Commission is authorized to sell any vessel so constructed, outfitted, or equipped in a navy yard to an applicant for the fair and reasonable value thereof, but at not less than the cost thereof less the equivalent to the construction differential subsidy determined as provided by subsection (b), such sale to be in accordance with all the provisions of this title.

SEC. 503. Upon completion of the construction of any vessel in respect to which a construction subsidy is to be allowed under this title and its delivery by the shipbuilder to the Commission, the vessel shall be documented under the laws of the United States, and concurrently therewith, or as soon thereafter as practicable, the vessel shall be delivered with a bill of sale to the applicant with warranty against liens, pursuant to the contract of purchase between the applicant and the Commission hereinbefore provided for. The vessel shall remain documented under the laws of the United States for not less than twenty years, and so long as there remains due the United States any principal or interest on account of the purchase price, whichever shall be the longer period. At the time of delivery of the vessel the applicant shall execute and deliver a first preferred mortgage to the United States to secure payment of any sums due from the applicant in respect to said vessel. The purchaser shall also comply with all the provisions of section 9 of the Merchant Marine Act, 1920.

Interest rate.

Applicants on Pacific coast.

Differential allowance.

Government construction if no bids received, or if collusive, etc.

Payment from Commission's construction fund.

Authority to sell to applicant.

Documentation of vessels.

Delivery of vessel with bill of sale with warranty against liens.

Minimum period for documentation under United States laws.

Mortgage to secure payment of sums due.

Insurance on vessels sold on deferred payments.

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Applicant desiring to finance construction; submission of bids to Commission.

Approval by Commission.

Ante, p. 1996.

Proviso.
Protection of Government interests.

Documentation of vessel.

Construction in domestic shipyards.

Use of articles of United States manufacture, etc.

Vol. 46, p. 708.

Shipbuilders; qualifications necessary.

Detailed estimates to be submitted; subcontractors' bids, etc.

Terms of agreement with shipbuilder.
Report.

Payment of excess profits.

Provisos.
Net loss in any year a credit in succeeding year.

Action if not voluntarily paid.

SEC. 504. Where an eligible applicant under the terms of this title desires to finance the construction of a proposed vessel according to approved plans and specifications rather than purchase the same vessel from the Commission as hereinabove authorized, the Commission may permit the applicant to obtain and submit to it competitive bids from American shipyards for such work. If the Commission considers the bid of the shipyard in which the applicant desires to have the vessel built fair and reasonable and if it is the lowest bid, it may approve such bid and become a party to the contract or contracts or other arrangements for the construction of such proposed vessel and may agree to pay to the shipbuilder a construction subsidy in an amount determined by the Commission in accordance with section 502 of this title: *Provided, however*, That no subsidy as provided in this section shall be paid unless the said contract or contracts or other arrangements contain such provisions as are provided in this title to protect the interests of the United States as the Commission deems necessary. Such vessel shall be documented under the laws of the United States as provided in section 503 of this title and operated as approved by the Commission under the requirements applicable to vessels constructed under this Act.

SEC. 505 (a) All construction in respect of which a subsidy is allowed under this title shall be performed in a shipyard within the continental limits of the United States as the result of competitive bidding, after due advertisement, with the right reserved in the applicant to reject, and in the Commission to disapprove, any or all bids. In all such construction the shipbuilder, subcontractors, materialmen, or suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, or manufacture of the United States as defined in paragraph K of section 401 of the Tariff Act of 1930. No shipbuilder shall be deemed a responsible bidder unless he possesses the ability, experience, financial resources, equipment, and other qualifications necessary properly to perform the proposed contract. Each bid submitted to the Commission shall be accompanied by all detailed estimates upon which it is based. The Commission may require that the bids of any subcontractors, or other pertinent data, accompany such bid. All such bids and data relating thereto shall be kept permanently on file.

(b) No contract shall be made for the construction of any vessel under this Act unless the shipbuilder shall agree (1) to make a report under oath to the Commission upon completion of the contract, setting forth in the form prescribed by the Commission the total contract price, the total cost of performing the contract, the amount of the shipbuilder's overhead charged to such cost, the net profits and the percentage such net profit bears to the contract price, and such other information as the Commission shall prescribe; (2) to pay to the Commission profit, as hereinafter provided shall be determined by the Commission, in excess of 10 per centum of the total contract prices of such contracts within the scope of this section as are completed by the particular contracting party within the income taxable year, such amount to become the property of the United States, but the surety under such contracts shall not be liable for the payment of such excess profit: *Provided*, That if there is a net loss on all such contracts or subcontracts completed by the particular contractor or subcontractor within any income taxable year, such net loss shall be allowed as a credit in determining the excess profit, if any, for the next succeeding income taxable year: *Provided*, That, if such amount is not voluntarily paid, the Commission shall

determine the amount of such excess profit and collect it in the same manner that other debts due the United States may be collected; (3) to make no subdivisions of any contract or subcontract for the same article or articles for the purpose of evading the provisions of this Act, and any subdivision of any contract or subcontract involving an amount in excess of \$10,000 shall be subject to the conditions herein prescribed; (4) that the books, files, and all other records of the shipbuilder, or any holding, subsidiary, affiliated, or associated company, shall at all times be subject to inspection and audit by any person designated by the Commission, and the premises, including ships under construction, of the shipbuilder, shall at all reasonable times be subject to inspection by the agents of the Commission; and (5) to make no subcontract unless the subcontractor agrees to the foregoing conditions: *Provided*, That this section shall not apply to contracts or subcontracts for scientific equipment used for communication and navigation as may be so designated by the Commission, and the Commission shall report annually to the Congress the names of such contractors and subcontractors affected by this provision, together with the applicable contracts and the amounts thereof.

(c) The method of determining the shipbuilder's profit shall be prescribed by the Commission: *Provided*, That in computing such profits no salary of more than \$25,000 per year to any individual shall be considered as a part of the cost of building such ship, and the Commission shall scrutinize construction costs and overhead expenses to determine that they are fair, just, and not in excess of a reasonable market price for commodities or goods or services purchased or charged.

(d) The Commission may, with the consent of the Secretary of the Treasury, utilize the services of Treasury Department employees engaged in similar functions in the determination or collection of shipbuilder profits in naval construction.

(e) If the shipbuilder whose bid has been approved by the Commission and accepted by the applicant, as provided in section 502 of this title, shall refuse to agree to any of the requirements of this section, the Commission is authorized to rescind its approval of such bid and to advertise for new bids, or, in its discretion, the Commission may have the vessel or vessels in question constructed in a United States navy yard.

Sec. 506. It shall be unlawful to operate any vessel, for the construction of which any subsidy has been paid pursuant to this title, other than exclusively in foreign trade, or on a round-the-world voyage or a round voyage from the west coast of the United States to a European port or ports or a round voyage from the Atlantic coast 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, unless the owner of such vessel shall receive the written consent of the Commission so to operate and prior to such operation shall agree to pay to the Commission, upon such terms and conditions as the Commission may prescribe, an amount which bears the same proportion to the construction subsidy theretofore paid or agreed to be paid (excluding cost of national-defense features as hereinbefore provided), as the remaining economic life of the vessel bears to its entire economic life. If an emergency arises which, in the opinion of the Commission, warrants the temporary transfer of a vessel, for the construction of which any subsidy has been paid pursuant to this title, to service other than exclusive operation in foreign trade, the Commission may

Subdivisions of contracts or subcontracts.

Inspection of books, etc.

Agreement by subcontractors.

Contracts for scientific equipment.

Method of determining shipbuilder's profit. *Provide*. Salaries, construction costs, etc.

Services of Treasury Department.

Rescission of approval if shipbuilder refuses to agree to requirements.

Operating subsidized vessel other than in foreign trade unlawful.

Exception.

Emergency transfer.

Proviso.
No operating-differential subsidy during emergency period.
Engaging in domestic trade en route.

permit such transfer: *Provided*, That no operating differential subsidy shall be paid during the duration of such temporary or emergency period, and such period shall not exceed three months. Every contractor receiving a contract for a construction-differential subsidy under the provisions of this title shall agree that if the subsidized vessel engages in domestic trade on a round-the-world voyage or a round voyage from the west coast of the United States to a European port or ports or loads or discharges cargo or passengers at an island possession or island territory as permitted by this section, that the contractor will repay annually to the Commission that proportion of one-twentieth of such construction subsidy as the gross revenue of such protected trade bears to the gross revenue derived from the entire voyages completed during the preceding year.

New vessel replacing obsolete, etc., vessel engaged in foreign trade.

SEC. 507. If a contract is made by the Commission under authority of this title for the construction and sale of a new vessel to replace a vessel exclusively operated in foreign trade, which in the judgment of the Commission should be replaced because it is obsolete or inadequate for successful operation in such trade, the Commission is authorized, in its discretion, to buy such replaced vessel from the owner at a fair and reasonable valuation, which valuation shall not exceed the cost to the owner or any former owner plus the actual cost previously expended thereon for reconditioning, and less a reasonable and proper depreciation, based upon not more than a twenty-year life of the vessel and less a proper deduction for obsolescence, and apply the purchase price agreed upon to that portion of the construction cost of such new vessel which is to be borne by the purchaser thereof: *Provided*, That the owner of such replaced vessel shall execute a bond, with one or more approved sureties, conditioned upon indemnifying the United States from all loss resulting from any existing lien against such vessel: *And provided further*, That such vessel has been documented under the laws of the United States for a period of at least ten years prior to the date of its purchase by the United States.

Purchase of replaced vessel authorized.

Credit of purchase price to construction cost of new vessel.

Provisos.
Surety bond.

Documentation requirement.

Disposition of vessels of insufficient commercial, etc., value, transferred to, or acquired by Commission.
Ante, p. 1986.

SEC. 508. If the Commission shall determine that any vessel transferred to it by section 202 of this Act, or hereafter acquired, is of insufficient value for commercial or military operation to warrant its further preservation, the Commission is authorized (1) to scrap said vessel, or (2) to sell such vessel for cash, after appraisalment and due advertisement, and upon competitive sealed bids, either to citizens of the United States or to aliens: *Provided*, That the purchaser thereof shall enter into an undertaking with sureties approved by the Commission that such vessel shall not be operated in the foreign commerce of the United States at any time within the period of ten years after the date of the sale, in competition with any other vessel owned by a citizen or citizens of the United States and registered under the laws thereof.

Proviso.
Future operation of vessels.

New vessels for domestic trade.
Application by American citizens for aid in construction of.

SEC. 509. Any citizen of the United States may make application to the Commission for aid in the construction of a new vessel to be operated in the domestic trade (excepting vessels engaged solely in the transportation of property on inland rivers and canals exclusively). If such application is approved by the Commission, the vessel may be constructed and sold to such applicant under the same terms and conditions as are provided in this Act for the construction and sale of vessels to be operated in foreign trade, but no construction subsidy shall be allowed (except for the cost of national-defense features which shall be paid by the Commission), and the applicant shall be required to pay the Commission not less than 25 per centum of the cost of such vessel (excluding cost of national-defense fea-

Construction and sale.

No construction subsidy; exception.

Amount of first payment.

tures); and the balance of such purchase price shall be paid by the applicant within twenty years in not to exceed twenty equal annual installments, with interest at 3½ per centum per annum, secured by a preferred mortgage on the vessel sold and otherwise secured as the Commission may determine: *Provided*, That in case a vessel is to be constructed under this section for an applicant who has as his principal place of business a place on the Pacific coast of the United States (but not including one who having been in business on or before August 1, 1935, has changed his principal place of business to a place on the Pacific coast of the United States after such date), to be operated in a coastwise, intercoastal, or other domestic service, route, or line from or on the Pacific coast of the United States, and the amount of the lowest responsible bid of shipyards on such coast for the construction of such vessel does not exceed the amount of the lowest responsible bid therefor of shipyards on the Atlantic coast of the United States by more than 6 per centum of the amount of the bid of such Atlantic coast shipyard, such vessel shall be constructed for the applicant by the Commission only if the applicant accepts such lowest responsible bid of the Pacific coast shipyard, and agrees to designate and continue as the home port of the vessel to be constructed a port on the Pacific coast of the United States. The minimum rate of interest on deferred payments shall be three-fourths of 1 per centum lower than the minimum rate which would otherwise be applicable, with respect to the periods of construction of such vessel and its operation exclusively in coastwise, intercoastal, and other domestic trade. Such lower interest rate shall not apply with respect to any period in which the applicant

Balance within 20 years.

Interest rate.

Proviso.
Applicants on Pacific coast.

Differential allowance.

Lower rate of interest.

Exceptions.

- (1) Does not continue as its home port a port on the Pacific coast of the United States;
- (2) Operates the vessel in coastwise or other domestic trade other than on the Pacific coast;
- (3) Operates the vessel in intercoastal or foreign trade except to and from ports on the Pacific coast; or
- (4) Having been in business before August 1, 1935, and having changed his principal place of business to a place on the Pacific coast after such date, maintains his principal place of business at any place on the Pacific coast.

TITLE VI—OPERATING-DIFFERENTIAL SUBSIDY

Title VI—Operating-Differential Subsidy.

SEC. 601. (a) The Commission is authorized and directed to consider the application of any citizen of the United States for financial aid in the operation of a vessel or vessels, which are to be used in an essential service in the foreign commerce of the United States. No such application shall be approved by the Commission unless it determines that (1) the operation of such vessel or vessels in such service, route, or line is required to meet foreign-flag competition and to promote the foreign commerce of the United States, and that such vessel or vessels were built in the United States, or have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date; (2) the applicant owns, or can and will build or purchase, a vessel or vessels of the size, type, speed, and number, and with the proper equipment required to enable him to operate and maintain the service, route, or line, in such manner as may be necessary to meet competitive conditions, and to promote foreign commerce; (3) the applicant possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the

Financial aid in operating vessels engaged in essential service in foreign commerce.

Conditions for granting.
Meeting foreign competition.

Vessel documented before February 1928, etc.

Applicant possesses necessary resources, etc.

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| Aid needed to meet foreign competition. | vessel or vessels as to meet competitive conditions and promote foreign commerce; (4) the granting of the aid applied for is necessary to place the proposed operations of the vessel or vessels on a parity with those of foreign competitors, and is reasonably calculated to carry out effectively the purposes and policy of this Act. |
| Disclosure in application of names of persons having pecuniary interests. | (b) Every application for an operating-differential subsidy under the provisions of this title shall be accompanied by statements disclosing the names of all persons having any pecuniary interest, direct or indirect, in such application, or in the ownership or use of the vessel or vessels, routes, or lines covered thereby, and the nature and extent of any such interest, together with such financial and other statements as may be required by the Commission. All such statements shall be under oath or affirmation and in such form as the Commission shall prescribe. Any person who, in an application for financial aid under this title or in any statement required to be filed therewith, willfully makes any untrue statement of a material fact, shall be guilty of a misdemeanor. |
| Penalty for false statement. | SEC. 602. No contract for an operating-differential subsidy shall be made by the Commission for the operation of a vessel or vessels to meet foreign competition, except direct foreign-flag competition, until and unless the Commission, after a full and complete investigation and hearing, shall determine that an operating subsidy is necessary to meet competition of foreign-flag ships. |
| Investigation before granting. | SEC. 603. (a) If the Commission approves the application, it may enter into a contract with the applicant for the payment of an operating-differential subsidy determined in accordance with the provisions of subsection (b) of this section, for the operation of such vessel or vessels in such service, route, or line for a period not exceeding twenty years, and subject to such reasonable terms and conditions, consistent with this Act, as the Commission shall require to effectuate the purposes and policy of this Act, including a performance bond with approved sureties, if such bond is required by the Commission. |
| Contracts for payment of subsidy. | (b) Such contract shall provide that the amount of the operating-differential subsidy shall not exceed the excess of the fair and reasonable cost of insurance, maintenance, repairs not compensated by insurance, wages and subsistence of officers and crews, and any other items of expense in which the Commission shall find and determine that the applicant is at a substantial disadvantage in competition with vessels of the foreign country hereinafter referred to, in the operation under United States registry of the vessel or vessels covered by the contract, over the estimated fair and reasonable cost of the same items of expense (after deducting therefrom any estimated increase in such items necessitated by features incorporated pursuant to the provisions of section 501 (b)) if such vessel or vessels were operated under the registry of a foreign country whose vessels are substantial competitors of the vessel or vessels covered by the contract. |
| Amount of subsidy; computation. | (c) The amount of such subsidy shall be determined and payable on the basis of a final accounting made as soon as practicable after the end of each year or other period fixed in the contract. The Commission may provide for in the contract, or otherwise approve, the payment from time to time during any such period of such amounts on account as it deems proper. Such payments on account shall in no case exceed 75 per centum of the amount estimated to have accrued on account of such subsidy, and shall be made only after there has been furnished to the Commission such security as it determines to be reasonable and necessary to insure the refund of any overpayment. |
| Payments at end of accounting period. | |
| During period. | |
| Limitation on amount; security. | |

No such operating-differential subsidy shall be paid until the contractor shall have furnished evidence satisfactory to the Commission that the wages prescribed in accordance with subsection 301 (a) of this Act have been paid to the ship's personnel.

Payment of wages to ship's personnel.

SEC. 604. If in the case of any particular foreign-trade route the Commission finds the subsidy provided for in this part of this title 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, and no part thereof paid, except upon an affirmative vote of all the members of the Commission.

Foreign trade routes, additional subsidy.

Proviso.
Unanimous approval in granting.

SEC. 605. (a) No operating-differential subsidy shall be paid for the operation of any vessel on a voyage on which it engages in coastwise or intercoastal trade: *Provided, however*, That such subsidy may be paid on a round-the-world voyage or a round voyage from the west coast of the United States to a European port or ports or a round voyage from the Atlantic coast to the Orient which includes intercoastal ports of the United States or 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 subsidized vessel earns any gross revenue on the carriage of mail, passengers, or cargo by reason of such coastal or intercoastal trade the subsidy payment for the entire voyage shall be reduced by an amount which bears the same ratio to the subsidy otherwise payable as such gross revenue bears to the gross revenue derived from the entire voyage. No vessel operating on the Great Lakes or on the inland waterways of the United States shall be considered for the purposes of this Act to be operating in foreign trade.

Coastwise or intercoastal trade, restriction on subsidy payment to vessels engaged in.

Proviso.
Joint domestic and foreign trade.

Great Lakes, etc., service not foreign.

(b) No operating-differential subsidy shall be paid for the operation of a vessel that is more than twenty years of age unless the Commission finds that it is in the public interest to grant such financial aid for the operation of such vessel and enters a formal order thereon, and the Commission shall include in each annual report a full report covering each case in which such exception is made, with the reasons therefor.

Vessels more than 20 years of age, denial of subsidy for operation of.
Exception.

Report.

(c) No contract shall be made under this title with respect to a vessel to be operated on a service, route, or line served by citizens of the United States which would be in addition to the existing service, or services, unless the Commission shall determine after proper hearing of all parties that the service already provided by vessels of United States registry in such service, route, or line is inadequate, and that in the accomplishment of the purposes and policy of this Act additional vessels should be operated thereon; and no contract shall be made with respect to a vessel operated or to be operated in a service, route, or line served by two or more citizens of the United States with vessels of United States registry, if the Commission shall determine the effect of such a contract would be to give undue advantage or be unduly prejudicial, as between citizens of the United States, in the operation of vessels in competitive services, routes, or lines, unless following public hearing, due notice of which shall be given to each line serving the route, the Commission shall find that it is necessary to enter into such contract in order to provide adequate service by vessels of United States registry. The Commission, in determining for the purposes of this section whether services are competitive, shall take into consideration the type, size, and speed of the vessels employed, whether passenger or cargo, or combination passenger and cargo, vessels, the ports or ranges between which they run, the character of cargo carried, and such other facts as it may deem proper.

Routes, etc., served by U. S. citizens; restriction on contracts for additional service.
Exception.

Undue advantage, etc.

Exception.

Determining whether services are competitive.

Review and readjustment of contracts.
Future payments to contractor.

SEC. 606. Every contract for an operating-differential subsidy under this title shall provide (1) that the amount of the future payments to the contractor shall be subject to review and readjustment from time to time, but not more frequently than once a year, at the instance of the Commission or of the contractor. If any such readjustment cannot be reached by mutual agreement, the Commission, on its own motion or on the application of the contractor, shall, after a proper hearing, determine the facts and make such readjustment in the amount of such future payments as it may determine to be fair and reasonable and in the public interest. The testimony in every such proceeding shall be reduced to writing and filed in the office of the Commission. Its decision shall be based upon and governed by the changes which may have occurred since the date of the said contract, with respect to the items theretofore considered and on which such contract was based, and other conditions affecting shipping, and shall be promulgated in a formal order, which shall be accompanied by a report in writing in which the Commission shall state its findings of fact; (2) that the compensation to be paid under it shall be reduced, under such terms and in such amounts as the Commission shall determine, for any periods in which the vessel or vessels are laid up; (3) that if the Commission shall determine that a change in the service, route, or line, which is receiving an operating-differential subsidy under this title, is necessary in the accomplishment of the purposes of this Act, it may make such change upon such readjustment of payments to the contractor as shall be arrived at by the method prescribed in clause (1) of these conditions; (4) that if at any time the contractor receiving an operating-differential subsidy claims that he cannot maintain and operate his vessels on such service, route, or line, with a reasonable profit upon his investment, and applies to the Commission for a modification or rescission of his contract to maintain such service, route, or line, and the Commission determines that such claim is proved, the Commission shall modify or rescind such contract and permit the contractor to withdraw such vessels from such service, route, or line, upon a date fixed by the Commission, and upon the date of such withdrawal the further payment of the operating-differential subsidy shall cease and the contractor be discharged from any further obligation under such contract; (5) that when at the end of any five-year period during which an operating-differential subsidy has been paid, and when prior to the end of any such five-year period the contract shall be terminated, if the net profit of the contractor on his subsidized vessels and services incident thereto during such period or time, after deduction of depreciation charges based upon a twenty-year life expectancy of the subsidized vessels, has exceeded 10 per centum per annum upon the contractor's capital investment necessarily employed in the operation of the subsidized vessels, services, routes, and lines, the contractor shall pay to the United States an amount equal to one-half of such profits in excess of 10 per centum per annum as partial or complete reimbursement for operating-differential-subsidy payments received by the contractor for such five-year period, but the amount of excessive profit so recaptured shall not in any case exceed the amount of the operating-differential-subsidy payments theretofore made to the contractor for such period under such contract and the repayment of such reimbursement to the Commission shall be subject to the provisions of section 607; (6) that the contractor shall conduct his operations with respect to the vessel's services, routes, and lines covered by his contract in the most economical and efficient manner, but with due regard to the wage and manning scales and working conditions

Compensation for period vessel laid up.

Necessary change in service, route, etc.

Contractor unable to operate at profit; modification, etc., of contract.

If net profit exceeds 10 per cent.

Recapture provision.

Economical and efficient operation required.

prescribed by the Commission as provided in title III; and (7) that whenever practicable, the operator shall use only articles, materials, and supplies of the growth, production, and manufacture of the United States, as defined in section 505a herein, except when it is necessary to purchase supplies and equipment outside the United States to enable such vessel to continue and complete her voyage, and the operator shall perform repairs to subsidized vessels within the continental limits of the United States, except in an emergency.

Ante, p. 1902.
Use of articles of American manufacture, etc.

Ante, p. 1908.
Exception.

SEC. 607. (a) Every contract for an operating-differential subsidy made under authority of this title shall provide that the contractor shall be entitled to annually withdraw from net earnings of subsidized vessels and services incident thereto as profit, if the contractor is a natural person or a partnership, or may pay to its shareholders or stockholders, as dividends, if the contractor is an association or corporation, a sum not in excess of 10 per centum per annum on the contractor's capital necessarily employed in his business, except subject to the further provisions of this section which likewise shall be incorporated in such contract.

Annual withdrawal of profits.

(b) To insure the prompt payment of the contractor's obligations to the United States and the replacement of the contractor's subsidized vessels as may be required, the contractor shall create and maintain, out of gross earnings, during the life of such contract, a "capital reserve fund", in such depository or depositories as may be approved by the Commission. In this fund the contractor shall deposit, annually or oftener, as the Commission may require, an amount equal to the annual depreciation charges on the contractor's vessels on which the operating differential is being paid, such depreciation charges to be computed on a twenty-year life expectancy of the subsidized vessels: *Provided, however*, That if, during any accounting year, the annual depreciation charges on the contractor's line of subsidized vessels has not been earned, in whole or in part, over and above the annual expense of operation of such vessels (exclusive of said annual depreciation thereon), the contractor shall not be required to deposit in his capital reserve fund for such accounting year a sum in excess of the amount of annual depreciation actually earned during that year but shall make up any and all deficiencies in his capital reserve fund as soon as the earnings of his subsidized vessels in excess of annual expenses of operation shall permit. The proceeds of all insurance indemnities received by the contractor on account of the total loss of any subsidized vessel shall also be deposited in the capital reserve fund.

Maintenance of "capital reserve fund" by contractor.

Deposits.

Proviso.
If annual depreciation charges not earned.

Insurance indemnities; deposit of proceeds in fund.

The contractor shall also deposit in the capital reserve fund, from time to time, such percentage of the annual net profits of the contractor's business covered by the contract as the Commission shall determine is necessary to further build up a fund for replacement of the contractor's subsidized ships; but the Commission shall not require the contractor to make such deposit of the contractor's net profits in the capital reserve fund unless the cumulative net profits of the contractor, at the time such deposit is to be made, shall be in excess of 10 per centum per annum from the date the contract was executed. From the capital reserve fund so created, the contractor may pay the principal, when due, on all notes secured by mortgage on the subsidized vessels and may make disbursements for the purchase of replacement vessels or reconstruction of vessels or additional vessels to be employed by the contractor on an essential foreign-trade line, route, or service approved by the Commission, but payments from the capital reserve fund shall not be made for any other purpose.

Percentage of annual net profits to be deposited.

Capital reserve fund; requirement waived under certain conditions.

Disbursements from capital reserve fund.

"Special reserve fund", maintenance of.

(c) To attain the public objects for which the financial aid provided for in such contract is extended and to insure the continued maintenance and successful operation of the subsidized vessels, the contractor shall create and maintain, during the life of such contract, a "special reserve fund" in such depository or depositories as the Commission shall approve.

Deposits.

In this reserve fund, the contractor shall deposit annually the profits earned by the business of the subsidized vessels and services incident thereto in excess of 10 per centum per annum and in excess of the percentage of profits deposited in the capital reserve fund, as provided in subsection (b) of this section. From the special reserve fund the contractor may make the following disbursements and no others:

Disbursements specified.

Reimbursement to general funds for operating losses.

(1) Reimbursement to the contractor's general funds for any losses on the operation of the subsidized vessels and services incident thereto sustained subsequent to the execution of the operating-differential-subsidy contract;

Reimbursement to general funds for current operating losses.

(2) Reimbursement to the contractor's general funds for current operating losses on completed voyages of subsidized vessels whenever the Commission shall determine it is improbable that such current losses will not be made up by profits on other voyages during the current year;

Reimbursement to Commission.
Ante, p. 2004.

(3) Payment of amounts due from the contractor to the Commission for reimbursement as provided in clause 5 of section 606, but such reimbursement shall be deferred until the amount on deposit in the special reserve fund shall be sufficiently in excess of 5 per centum of the capital necessarily employed in the business so that payment of such reimbursement to the Commission will not reduce the special reserve fund below a sum equal to such 5 per centum of capital necessarily employed in the business: *Provided, however*, That such reimbursement to the Commission, if so deferred, shall be payable from the special reserve fund or other funds upon termination of the contract and the United States shall then have a preferred lien on the special reserve fund for such deferred reimbursement;

Proviso.
If deferred; payment.

Disposition of excess reserve after reimbursements made.

(4) After reimbursement to the contractor's general funds of all operating losses has been made, as provided in clause 1, and after reimbursement to the Commission of all amounts due from the contractor, as determined under clause 5 of section 606, if the amount accumulated in the special reserve fund shall then be in excess of 5 per centum of the capital necessarily employed in the business, the contractor may, if the Commission approves, withdraw some or all of such excess reserve and pay the sum so withdrawn into the contractor's general funds or distribute the sum so withdrawn as a special dividend to the contractor's shareholders or stockholders or as a bonus to officers or employees, as the contractor may determine.

Administrative rules. "Net earnings" and "capital necessarily employed in the business" to be defined.

(d) The Commission shall adopt and prescribe rules and regulations for the administration of the reserve funds contemplated by this section and shall include therein a definition of the term "net earnings" and the term "capital necessarily employed in the business", as such terms are employed in this section: *Provided, however*, That the term "net earnings" shall take into account as a proper accounting charge to operation of vessels expense, an annual depreciation charge on the vessels, computed on the economic life of the vessel being twenty years and the term "capital necessarily employed in the business" shall not include borrowed capital.

Proviso.
Accounting charges.

Investments of capital and special reserve funds.

Upon application of the contractor, the Commission, in its discretion, may permit the investment by the operator of some or all of the contractor's capital and special reserve fund in approved interest-

bearing securities, approved by the Commission, upon condition that the interest on such securities shall be deposited in the capital reserve fund.

(e) If, during any accounting year, the contractor's general funds have become seriously depleted due to operating losses on the subsidized vessels and the special reserve fund has been exhausted, the Commission may, in its discretion, permit the contractor temporarily to withdraw from his capital reserve fund such excess therein on deposit over and above the amount necessary to pay the principal amount currently due or about to become due on the contractor's mortgage obligation on the subsidized vessels: *Provided, however,* That the sum so withdrawn shall be repaid to the capital reserve fund as soon as the contractor's financial condition shall permit.

(f) The earnings of any contractor receiving an operating-differential subsidy under authority of this Act, which are deposited in the contractor's reserve funds as provided in this section, except earnings withdrawn from the "special reserve funds" and paid into the contractor's general funds or distributed as dividends or bonuses as provided in paragraph 4 of subsection (c) of this section, shall be exempt from all Federal taxes.

SEC. 608. No contract executed under this title or any interest therein shall be sold, assigned, or transferred, either directly or indirectly, or through any reorganization, merger, or consolidation, nor shall any agreement or arrangement be made by the holder whereby the maintenance, management, or operation of the service, route, line, vessel, or vessels is to be performed by any other person, without the written consent of the Commission. If it consents to such agreement or arrangement, the agreement or arrangement shall make provision whereby the person undertaking such maintenance, management, or operation agrees to be bound by all of the provisions of the contract and of this Act applicable thereto, and the rules and regulations prescribed pursuant to this Act. If the holder of any such contract shall voluntarily sell such contract or any interest therein, or make such assignment, transfer, agreement, or arrangement whereby the maintenance, management, or operation of the service, route, line, vessel, or vessels is to be performed by any other person, without the consent of the Commission, or if the operation of the service, route, line, or vessel, shall pass out of the direct control of the holder of such contract by reason of any voluntary or involuntary receivership or bankruptcy proceedings, the Commission shall have the right to modify or rescind such contract, without further liability thereon by the United States, and is hereby vested with exclusive jurisdiction to determine the purposes for which any payments made by it under such contract shall be expended.

SEC. 609. (a) The Commission shall withhold the payment of operating-differential subsidy while any contractor therefor is in default in any payments due on account of construction-loan, ship-sales mortgage notes, or any other obligation due the United States, and shall apply the amount so withheld to the satisfaction of such debt.

(b) If the holder of any contract under this title has filed a petition under any provision of the Bankruptcy Act or has applied for the appointment of a receiver or is in default under any provisions of a ship mortgage given to the United States, the Commission may cancel or modify the contract as it finds advisable, and is hereby granted exclusive power to determine the purpose for which any payments made by it under such contract shall be expended.

SEC. 610. An operating-differential subsidy shall not be paid under authority of this title on account of the operation of any vessel

Withdrawals by contractor from capital reserve fund.

Proviso.
Repayment.

Tax exemptions.

Restriction on transfer, etc., of operating subsidy contract without consent.

New party to be bound by all contract provisions, etc.

If transfer made without Commission's consent.

If operation passes out of direct control of contractor, etc.

Modification or rescission of contract.

Withholding of payments.

Cancellation or modification of contract if contractor bankrupt, in default, etc.

Vessel requirements for operating-differential subsidy.

which does not meet the following requirements: (1) The vessel shall be of steel or other acceptable metal, shall be propelled by steam or motor, shall be as nearly fireproof as practicable, shall be built in a domestic yard or shall have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date, and shall be documented under the laws of the United States, during the entire life of the subsidy contract; and (2) if the vessel shall be constructed after the passage of this Act it shall be either a vessel constructed according to plans and specifications approved by the Commission and the Secretary of the Navy, with particular reference to economical conversion into an auxiliary naval vessel, or a vessel approved by the Commission and the Navy Department as otherwise useful to the United States in time of national emergency.

Title VII—Private Charter Operation.

TITLE VII—PRIVATE CHARTER OPERATION

Completion of long-range program upon finding of inability to meet specified objectives.

Ante, pp. 1985, 1989.

SEC. 701. Whenever the Commission shall find and determine, and such finding and determination shall be approved by the President of the United States, that the national policy declared in section 101 of this Act, and the objectives set forth in section 210 of this Act, cannot be fully realized within a reasonable time, in whole or in part, under the provisions of titles V and VI, the Commission is hereby authorized and directed to complete its long-range program previously adopted as hereinafter provided in this title.

Construction of new vessels in domestic yards on Atlantic, Gulf, and Pacific coasts.

Reconditioning of old vessels.

Proviso.

Construction in navy yards, if private bids unsatisfactory.

SEC. 702. The Commission is authorized to have constructed in domestic yards, on the Atlantic and Gulf and Pacific coasts, such new vessels as it shall determine may be required to carry out the objects of this Act, and to have old vessels reconditioned or remodeled in such yards: *Provided*, That if satisfactory contracts for such new construction or reconstruction, in accordance with the provisions of this Act, cannot be obtained from private shipbuilders, the Commission is authorized to have such vessels constructed, reconditioned, or remodeled in United States navy yards.

Advertising and competitive bidding.

SEC. 703. (a) No contract for the building of a new vessel, or for the reconditioning or reconstruction of any other vessel, shall be made by the Commission with any private shipbuilder, except after due advertisement and upon sealed competitive bids.

Contract provisions and requirements.

(b) All contracts for the construction, reconditioning, or reconstruction of a vessel or vessels by a private shipbuilder under authority of this title shall be subject to all the provisions and requirements prescribed in title V of this Act with respect to contracts with a private shipbuilder for the construction of vessels under authority of that title.

Ante, p. 1995.

Opening, etc., bids.

(c) All bids required by the Commission for the construction, reconstruction, or reconditioning of vessels, and for the chartering of the Commission's vessels hereinafter provided for, shall be opened at the time, hour, and place stated in the advertisement for bids, and all interested persons, including representatives of the press, shall be permitted to attend, and the results of such bidding shall be publicly announced.

Charter or sale of vessels acquired by Commission.

Operation in foreign commerce, by private operators.

SEC. 704. All vessels transferred to or otherwise acquired by the Commission in any manner may be chartered or sold by the Commission pursuant to the further provisions of this Act. All vessels transferred to the Commission by this Act and now being operated by private operators on lines in foreign commerce of the United States may be temporarily operated by the Commission for its account by private operators until such time and upon such operat-

ing agreements as the Commission may deem advantageous, but the Commission shall arrange as soon as practicable to offer all such lines of vessels for charter as hereinafter provided and all operation of the Commission's vessels by private operators under such operating agreements shall be discontinued within one year after the passage of this Act.

SEC. 705. As soon as practicable after the passage of this Act, and continuing thereafter, the Commission shall arrange for the employment of its vessels in steamship lines on such trade routes, exclusively serving the foreign trade of the United States, as the Commission shall determine are necessary and essential for the development and maintenance of the commerce of the United States and the national defense: *Provided*, That such needs are not being adequately served by existing steamship lines privately owned and operated by citizens of the United States and documented under the laws of the United States. It shall be the policy of the Commission to encourage private operation of each essential steamship line now owned by the United States by selling such lines to citizens of the United States in the manner provided in section 7 of the Merchant Marine Act, 1920, and in strict accordance with the provisions of section 5 of said Act, or by demising its vessels on bare-boat charter to citizens of the United States who shall agree to maintain such line or lines in the manner hereinafter provided.

SEC. 706. (a) The Commission shall not charter its vessels to private operators except upon competitive sealed bids submitted in strict compliance with all the terms and conditions of a public advertisement soliciting such bids. Each and every advertisement for bids to charter the Commission's vessels shall state the number, type, and tonnage of the vessels the Commission is offering for bare-boat charter for operation as a steamship line on a designated trade route, the minimum number of sailings that will be required, the length of time for which the charter will be given, and all other information the Commission shall deem necessary for the information of prospective bidders.

(b) The Commission shall have authority to, and shall announce in its advertisements for bids that the Commission reserves the right to, reject any and all bids submitted.

SEC. 707. (a) The Commission shall award the charter to the bidder proposing to pay the highest monthly charter hire unless the Commission shall reject such bid for the reasons set forth in subsection (b) of this section.

(b) The Commission may reject the highest or most advantageous or any other bid, if, in the Commission's discretion, the charter hire offered is deemed too low, or the Commission determines that the bidder lacks sufficient capital, credit, or experience to operate successfully the line; but the reason or reasons for rejection of any bid, upon request of the bidder, shall be stated to such bidder in writing.

(c) If the highest bid is rejected, the Commission may award the charter to the next highest bidder, or may reject all bids and readvertise the line: *Provided, however*, That the Commission may operate the line until conditions appear to be more favorable for a reoffering of the line for private charter.

SEC. 708. The Commission may, if in its discretion financial aid is deemed necessary, enter into a contract with any charterer of its vessels for payment to such charterer of an operating-differential subsidy upon the same terms and conditions and subject to the same limitations and restrictions as are elsewhere provided in this Act with respect to payments of such subsidies to operators of privately owned vessels.

Trade routes, essential to foreign trade. Use of Commission's vessels on.

Proviso. Needs not adequately served.

Sale of lines to citizens.

Vol. 41, pp. 991, 990.

Demising of vessels on bare-boat charters.

Chartering to private operators; competitive bids.

Advertisements; specifications.

Rejection of bids.

Awards.

Right to reject reserved.

If highest bid rejected.

Proviso. Provisional operation.

Contracts with charterers for payment of operating-differential subsidy.

Terms, conditions, limitations, etc.

Disposition of accumulated profits exceeding 10 per centum per annum on charterer's capital.

Proviso.
Not to be included subsequently.

Definitions.
"Net voyage profit."
"Fair and reasonable overhead expenses."
"Capital necessarily employed."

Deposit of undertaking, with approved sureties, by charterer.

Demise of vessel by Commission to charterer subject to usual conditions; terms.

Proviso.
Terms of charters after January 1, 1940.

Charter provisions.
Insurance.

Proviso.
Underwriting by Commission.

Care, etc., of vessel.

Inspection.

Termination of charter in emergency.

Awarding charters; conditions to be considered.

SEC. 709. (a) Every charter made by the Commission pursuant to the provisions of this title shall provide that whenever, at the end of any calendar year subsequent to the execution of such charter, the cumulative net voyage profits (after payment of the charter hire reserved in the charter and payment of the charterer's fair and reasonable overhead expenses applicable to operation of the chartered vessels) shall exceed 10 per centum per annum on the charterer's capital necessarily employed in the business of such chartered vessels, the charterer shall pay over to the Commission, as additional charter hire, one-half of such cumulative net voyage profit in excess of 10 per centum per annum: *Provided*, That the cumulative net profit so accounted for shall not be included in any calculation of cumulative net profit in subsequent years.

(b) Every charter shall contain a definition of the terms "net voyage profit" and "fair and reasonable overhead expenses", and "capital necessarily employed", as said terms are used in subsection (a) of this section, setting forth the formula for determining such profit and overhead expense and capital necessarily employed, which definitions shall have been previously approved by the Commission and published in the advertisement for bids for such charter.

SEC. 710. Every charterer of the Commission's vessels shall be required to deposit with the Commission an undertaking with approved sureties as security for the faithful performance of all of the conditions of the charter, including indemnity against liens on the chartered vessels, in such amount as the Commission shall require.

SEC. 711. The charters to be made by the Commission pursuant to the provisions of this title shall demise the vessels to the charterer subject to all usual conditions contained in bare-boat charters, and until January 1, 1940, shall be for terms of three years or less as the Commission may decide: *Provided*, That after January 1, 1940, charters may be executed by the Commission for such terms as the experience gained by the Commission shall indicate are to the best interests of the United States and the merchant marine.

SEC. 712. Every charter shall provide—

(a) That the charterer shall carry on the chartered vessels, at his own expense, policies of insurance covering all marine and port risks, protection and indemnity risks, and all other hazards and liabilities, in such amounts, in such form, and in such insurance companies as the Commission shall require and approve, adequate to cover all damages claimed against and losses sustained by the chartered vessels arising during the life of the charter: *Provided*, That in accordance with existing law, some or all of such insurance risks may be underwritten by the Commission itself as, in its discretion, it may determine.

(b) That the charterer shall at its own expense keep the chartered vessel in good state of repair and in efficient operating condition and shall at its own expense make any and all repairs as may be required by the Commission.

(c) That the Commission shall have the right to inspect the vessel at any and all times to ascertain its condition.

(d) That in any national emergency as proclaimed by the President of the United States, the Commission may terminate the charter without cost to the United States, upon such notice to the charterers as the President of the United States shall determine.

SEC. 713. In the awarding of charters, the Commission shall take in consideration the charterer's financial resources and credit standing, practical experience in the operation of vessels, and any other factors that would be considered by a prudent businessman in entering into a transaction involving a large investment of his capital;

and the Commission is directed to refrain from chartering its vessels to any person appearing to lack sufficient capital, credit, and experience to operate successfully the vessel over the period covered by the charter.

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 title 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 construction cost of such new vessel or vessels. Such charter may contain an option to the charterer to purchase such vessel or vessels from the Commission, within five years after the execution of the charter, upon the same terms and conditions as are provided in title V for the purchase of new vessels from the Commission with credit on the purchase price for all charter-hire theretofore paid by the purchaser on account of such charter.

TITLE VIII—CONTRACT PROVISIONS

SEC. 801. Every contract executed by the Commission under the provision of titles VI or VII of this Act shall contain provisions requiring (1) that the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the contractor, to keep its books, records, and accounts, relating to the maintenance, operation, and servicing of the vessels, services, routes, and lines covered by the contract, in such form and under such regulations as may be prescribed by the Commission: *Provided*, That the provisions of this paragraph shall not require the duplication of books, records, and accounts required to be kept in some other form by the Interstate Commerce Commission; (2) that the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the contractor, to file, upon notice from the Commission, balance sheets, profit and loss statements, and such other statements of financial operations, special report, memoranda of any facts and transactions, which in the opinion of the Commission affect the financial results in, the performance of, or transactions or operations under, such contract; (3) that the Commission shall be authorized to examine and audit the books, records, and accounts of all persons referred to in this section whenever it may deem it necessary or desirable; and (4) that upon the willful failure or refusal of any person described in this section to comply with the contract provisions required by this section, the Commission shall have the right to rescind the contract, and upon such rescission the United States shall be relieved of all further liability on such contract.

SEC. 802. Every contract executed by the Commission under authority of title V of this Act shall provide that:

In the event the United States shall, through purchase or requisition, acquire ownership of the vessel or vessels on which a construction-differential subsidy was paid, the owner shall be paid therefor

Finding by Commission of inability to develop trade routes and replacement program incapable of achievement under private operation.

Ante, pp. 1995, 2001. Construction of suitable vessels and demise to citizen operators.

Annual charter hire.

Optional purchase of vessel.

Title VIII—Contract Provisions.

Books, records, and accounts by contractors; regulations by Commission.

Proviso. Records, etc., required by Interstate Commerce Commission.

Filing of balance sheets, etc.

Examination and audit of books, etc.

Willful failure or refusal to comply; rescission of contract.

Construction contracts, provisions required.

Ante, p. 1995. Acquisition of vessels on which construction subsidy paid; payment to owner.

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| <p>Depreciation, computation of.</p> | <p>the fair actual value thereof, but in no event shall such payment exceed the actual depreciated construction cost thereof (together with the actual depreciated cost of capital improvements thereon, but excluding the cost of national-defense features) less the depreciated amount of construction subsidy theretofore paid incident to the construction or reconditioning of such vessel or vessels. In computing the value of such vessel, depreciation shall be computed on each vessel on the schedule adopted by the Bureau of Internal Revenue for income-tax purposes.</p> |
| <p>Title provision.</p> | <p>The foregoing provision respecting the requisition or the acquisition of ownership by the United States shall run with the title to such vessel or vessels and be binding on all owners thereof.</p> |
| <p>Restriction on employment of concern, etc., in which contractor financially interested.</p> | <p>SEC. 803. It shall be unlawful for any contractor receiving an operating-differential subsidy under title VI or for any charterer under title VII of this Act to employ any person or concern performing or supplying stevedoring, ship-repair, ship-chandler, tow-boat, or kindred services to supply such services to the operator's subsidized or chartered vessels if such contractor, or any subsidiary company, holding company, affiliate company, or associate company of such contractor, or any officer, director, or employee of such contractor, or any member of the immediate family of any such contractor, officer, director, or employee, or any member of the immediate family of any officer, director, or employee, of such subsidiary company, holding company, affiliate company, or associate company of such contractor, owns any pecuniary interest directly or indirectly in the person or concern supplying such services to the contractor's subsidized or chartered vessels or receives any payment or other thing of value directly or indirectly as a result of such employment or services: <i>Provided</i>, That, with the express written approval of the Commission, such contractor or a subsidiary company wholly owned by such contractor may perform such services to its own vessels if the profits, if any, of such subsidiary company or companies with respect to such services shall become a part of the earnings of such contractor and shall be accounted for as provided in clause 5 of section 606: <i>Provided further</i>, That the contractor may, in the discretion of the Commission, contract with a holding company, affiliate company, or associate company of such contractor for the use of terminal facilities by such contractor, if the contract is approved by the Commission.</p> |
| <p>Profits. Service by subsidiary wholly owned by contractor.</p> | <p>SEC. 804. It shall be unlawful for any contractor receiving an operating-differential subsidy under title VI or for any charterer of vessels under title VII of this Act, or any holding company, subsidiary, affiliate, or associate of such contractor or such charterer, or any officer, director, agent, or executive thereof, directly or indirectly, to own, charter, act as agent or broker for, or operate any foreign-flag vessel which competes with any American-flag service determined by the Commission to be essential as provided in section 211 of this Act: <i>Provided, however</i>, That under special circumstances and for good cause shown, the Commission may, in its discretion, waive the provisions of this section as to any contractor, by affirmative vote of four of its members, except as otherwise provided in subsection 201 (a).</p> |
| <p>Holding, etc., companies, use of terminal facilities.</p> | <p>SEC. 805. (a) It shall be unlawful to award or pay any subsidy to any contractor under authority of title VI of this Act, or to charter any vessel to any person under title VII of this Act, if said contractor or charterer, or any holding company, subsidiary, affiliate, or associate of such contractor or charterer, or any officer, director, agent, or executive thereof, directly or indirectly, shall own, operate, or charter any vessel or vessels engaged in the domestic intercoastal</p> |
| <p>Contractor connected with foreign competition, restriction on subsidy to.</p> | |
| <p><i>Ante</i>, p. 1989. <i>Proviso</i>. Waiver permitted.</p> | |
| <p><i>Ante</i>, p. 1985.</p> | |
| <p>Contractor or charterer owning or operating vessel in domestic intercoastal or coast-wise service.</p> | |

or coastwise service, or own any pecuniary interest, directly or indirectly, in any person or concern that owns, charters, or operates any vessel or vessels in the domestic intercoastal or coastwise service, without the written permission of the Commission. Every person, firm, or corporation having any interest in such application shall be permitted to intervene and the Commission shall give a hearing to the applicant and the intervenors. The Commission shall not grant any such application if the Commission finds it will result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service or that it would be prejudicial to the objects and policy of this Act: *Provided*, That if such contractor or other person above-described or a predecessor in interest was in bona-fide operation as a common carrier by water in the domestic, intercoastal, or coastwise trade in 1935 over the route or routes or in the trade or trades for which application is made and has so operated since that time or if engaged in furnishing seasonal service only, was in bona-fide operation in 1935 during the season ordinarily covered by its operation, except in either event, as to interruptions of service over which the applicant or its predecessor in interest had no control, the Commission shall grant such permission without requiring further proof that public interest and convenience will be served by such operation, and without further proceedings as to the competition in such route or trade.

If such application be allowed, it shall be unlawful for any of the persons mentioned in this section to divert, directly or indirectly, any moneys, property, or other thing of value, used in foreign-trade operations, for which a subsidy is paid by the United States, into any such coastwise or intercoastal operations; and whosoever shall violate this provision shall be guilty of a misdemeanor.

(b) Whenever any contractor under title VI or title VII receiving an operating-differential subsidy is in default with respect to any mortgage, note, purchase contract, or other obligation to the Commission, or has not maintained, in a manner satisfactory to the Commission, all of the reserves provided for in this Act, the Commission shall have the right to supervise the number and compensation of all officers and employees of the contractor (c) no director, officer, or employee (which terms shall be construed in the broadest sense to include, but not to be limited to, managing trustee or other administrative agent) shall receive from any contractor, holding a contract authorized by title VI or title VII of this act and its affiliate, subsidiary, associate, directly or indirectly, wages, salary, allowances of compensation in any form for personal services which will result in such person's receiving a total compensation for his personal services from such sources exceeding in amount or value \$25,000 per annum, and no such person or concern shall be qualified to receive or thereafter to hold any contract under this part, if such person or concern, its subsidiary, affiliate, or associate pays or causes to be paid, directly or indirectly, wages, salary, allowances, or compensation in any form for personal services which result in such person's receiving a total compensation for his personal services from such sources exceeding in amount or value \$25,000 per annum.

(d) It shall be unlawful, without express written consent of the Commission, for any contractor holding a contract authorized under title VI or VII of this Act to employ any other person or concern as the managing or operating agent of such operator, or to charter any vessel, on which an operating-differential subsidy is to be paid, for operation by another person or concern, and if such charter is made, the person or concern operating the chartered vessel or vessels shall be subject to all the terms and provisions of this Act, including

Permission by Commission.

Denial of application if resulting in unfair competition, etc.

Proviso.
Contractor, etc., in operation in 1935, operating seasonal service.

Diverting foreign trade operations for which subsidy paid into coastwise, etc., operations.

Penalty.

Contractor receiving operating subsidy in default as to note, etc.

Commission authorized to supervise number and pay of personnel.

Ante, pp. 2001, 2008.

Salary limitation.

Penalty for violation.

Unauthorized employment of managing or operating agent of operator.

Charter of vessel on which subsidy paid for operation by another.

Chartered vessels, receipt of subsidy by contractor only in emergency.

Member of Congress acting as attorney, etc.

Violation to breach contract or charter.

Combinations, etc., to prevent bona-fide bids, etc.

Proviso. Financing of construction by applicant. Ante, p. 1998.

Penal provisions. Natural persons.

Corporations.

Ineligibility to receive benefits, additional penalty.

Ante, pp. 1995, 2001, 2008.

Lobbying activities.

limitations of profits and salaries. No contractor shall receive an operating-differential subsidy for the operation of any chartered vessel save and except during a period of actual emergency determined by the Commission.

(e) It shall be unlawful for any contractor or charterer who holds any contract made under authority of any provision in this Act to employ any Member of Congress, either with or without compensation, as an attorney, agent, officer, or director of such person.

(f) Any willful violation of any provision of this section shall constitute a breach of the contract or charter in force under this Act, and upon determining that such a violation has occurred the Commission may forthwith declare such contract or charter rescinded and any person willfully violating the provisions of this section shall be guilty of a misdemeanor.

SEC. 806. (a) Whoever shall consult with, or enter into an agreement with, or inform any other bidder, or officer, director, executive, agent, or employee of any such other bidder, as to the amount, the terms, or the conditions of any bid submitted to the Commission prior to the public opening of such bids, or enter into any combination, understanding, agreement, or arrangement whatsoever, to prevent the making of any bona-fide bid for any contract or charter under this Act, to induce any other person not to bid for any such contract or charter, or to deprive the United States in any way of the benefit of full, free, and secret competition in the awarding of any such contract or charter shall be guilty of a misdemeanor: *Provided*, That this section shall also apply to bidding for contracts under the provisions of section 504 of this Act.

(b) Whenever any natural person is found guilty in any district court of the United States of any act or acts declared in this Act to constitute a misdemeanor, he shall be punished by a fine of not more than \$10,000, or by imprisonment for not less than one year or more than five years, or by both fine and imprisonment. Whenever any corporation is found guilty of any act or acts declared in this Act to be unlawful, such corporation shall be punished by a fine of not more than \$25,000.

(c) In addition to the punishment prescribed in subsection (a) of this section, any person or corporation convicted of a misdemeanor under the provisions of this Act shall be ineligible, at the discretion of the Commission, to receive any benefits under titles V and VI of this Act, or to receive a charter under title VII of this Act, for a period of five years after conviction.

SEC. 807. It shall be unlawful for any person employed or retained by any shipbuilder or ship operator holding or applying for a contract under the provisions of this Act, or employed or retained by any subsidiary, affiliate, associate, or holding company of such shipbuilder or ship operator, to present, advocate, or oppose any matter affecting any such shipbuilder or ship operator or any subsidiary, affiliate, associate, or holding company thereof, before the Congress or any Member or committee thereof, or before the Commission, or any other governmental agency or any member, officer, or employee thereof, unless such shipbuilder or ship operator shall have previously filed with the Commission in such form and detail as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest, a statement of the subject matter in respect of which such person is retained or employed, the nature and character of such retainer or employment, and the amount of compensation received or to be received by such person, directly or indirectly, in connection therewith. It shall be the duty of every such person so employed or retained to file

with the Commission within ten days after the close of each calendar month during such retainer or employment, in such form and detail as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest, a statement of the expenses incurred and the compensation received by such person during such month in connection with such retainer or employment. Whoever shall violate this provision shall be guilty of a misdemeanor.

Statement of expenses incurred, salary received, etc., to be filed with Commission.

Penalty for violation.

SEC. 808. It shall be unlawful for any contractor receiving an operating-differential subsidy under title VI or for any charterer under title VII of this Act unjustly to discriminate in any manner so as to give preference directly or indirectly in respect to cargo in which such contractor or charterer has a direct or indirect ownership, or purchase or vending interest; and whoever shall violate this provision shall be guilty of a misdemeanor.

Contractor, etc., unjustly discriminating or giving preference where he has interest. *Ante*, pp. 2001, 2008.

Penalty for violation.

SEC. 809. Contracts under this Act shall be entered into so as to equitably serve, insofar as possible, the foreign-trade requirements of the Atlantic, Gulf, and Pacific ports of the United States. In awarding contracts under this Act, preference shall be given to persons who are citizens of the United States and who have the support, financial and otherwise, of the domestic communities primarily interested.

Contract requirements. Preference to qualified citizens.

SEC. 810. It shall be unlawful for any contractor receiving an operating-differential subsidy under title VI or for any charterer of vessels under title VII of this Act, to continue as a party to or to conform to any agreement with another carrier or carriers by water, or to engage in any practice in concert with another carrier or carriers by water, which is unjustly discriminatory or unfair to any other citizen of the United States who operates a common carrier by water exclusively employing vessels registered under the laws of the United States on any established trade route from and to a United States port or ports.

Contractor, etc., party to any designated unfair practice.

No payment or subsidy of any kind shall be paid directly or indirectly out of funds of the United States or any agency of the United States to any contractor or charterer who shall violate this section. Any person who shall be injured in his business or property by reason of anything forbidden by this section may sue therefor in any district court of the United States in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

Payment denied for violation.

Suits for injuries caused by violations of section.

Recovery.

TITLE IX—MISCELLANEOUS PROVISIONS

Title IX—Miscellaneous Provisions.

SEC. 901. Any officer or employee of the United States traveling on official business overseas or to or from any of the possessions of the United States shall travel and transport his personal effects on ships registered under the laws of the United States where such ships are available unless the necessity of his mission requires the use of a ship under a foreign flag: *Provided*, That the Comptroller General of the United States shall not credit any allowance for travel or shipping expenses incurred on a foreign ship in the absence of satisfactory proof of the necessity therefor.

United States officers or employees. Use of American ships when traveling overseas.

Proviso. Proof of necessity required for travel on foreign ship.

SEC. 902. (a) It shall be lawful for the Commission to requisition any vessel documented under the laws of the United States, during any national emergency declared by proclamation of the President, and when so taken or used, the owner shall be paid the fair actual value of the vessel at the time of taking, or paid the just compensation for the vessel's use based upon such fair actual value (excluding

Requisitioning during national emergency.

Payment.

Vessel taken but not purchased.

Fair value to be ascertained and certified to Congress; exception.

Ante, p. 2011.

Suit allowed if finding unsatisfactory.

U. S. C., pp. 1230, 1261.

Acts, etc., repealed.

Vol. 39, pp. 729-730, 731, 738; Vol. 40, p. 903.

U. S. C., p. 2054.

Vol. 41, pp. 989, 993, 1007.

U. S. C., p. 2062.

Vol. 45, pp. 690-697.

U. S. C., p. 2068.

Proviso.
Contracts previously entered into.

Vol. 47, p. 1426.

U. S. C., p. 2061.

Application of terms. "United States Shipping Board"; "the Board."

Definitions.

"Foreign trade."

"Person."

"Citizen of the United States."

U. S. C., p. 2055.

"Construction."

Saving clause.

any national defense features previously paid for by the United States), less a deduction from such fair actual value of any construction differential subsidy allowed under this Act, and in no case shall such fair actual value be enhanced by the causes necessitating the taking. In the case of a vessel taken and used, but not purchased, the vessel shall be restored to the owner in a condition at least as good as when taken, less reasonable wear and tear, or the owner shall be paid an amount for reconditioning sufficient to place the vessel in such condition. The owner shall not be paid for any consequential damages arising from such taking or use.

(b) Except in cases of vessels where a construction differential subsidy has been allowed and paid, in which case the value of the vessel for the purposes of this section shall be established as provided in section 802, the Commission shall ascertain the fair compensation for such taking or use and shall certify to Congress the amount so found by it to be due for appropriation and payment to the person entitled thereto. If the amount found by the Commission to be due is unsatisfactory to the person entitled thereto, such person shall be entitled to sue the United States for the amount of such just compensation and such suit shall be brought in the manner prescribed by paragraph 20 of section 24, or by section 145 of the Judicial Code, as amended (U. S. C., title 28, secs. 41, 250).

SEC. 903. The following Acts and parts of Acts shall stand repealed:

(a) All of the provisions of sections 3 to 8, inclusive, section 10, section 11, section 35, and section 43 of the Shipping Act, 1916, as amended.

(b) All of the provisions of subsection (b) (4) of section 2, section 3, section 11, section 14, and section 35 of the Merchant Marine Act, 1920, as amended.

(c) All of the provisions of sections 201, 301, 302, 401 to 413, inclusive, 601, and 702 of the Merchant Marine Act, 1928, as amended: *Provided*, That any contract lawfully entered into under authority of sections 401 to 413, inclusive, of such Act shall remain in full force and effect as though these sections were not repealed, subject, however, to the further provisions of this Act.

(d) The last sentence in section 3 of the Intercoastal Shipping Act, 1933.

SEC. 904. Whenever the words "United States Shipping Board" or the words "the Board" are used in any prior Act, such Acts are hereby amended so that such words shall be applicable to the United States Maritime Commission.

SEC. 905. When used in this Act—

(a) The words "foreign trade" mean trade between the United States, its Territories or possessions, or the District of Columbia, and a foreign country.

(b) The term "person" includes corporations, partnerships, and associations existing under or authorized by the laws of the United States, or any State, Territory, District, or possession thereof, or of any foreign country.

(c) The words "citizen of the United States" include a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended (U. S. C., title 46, sec. 802).

(d) The word "construction" includes outfitting and equipping.

SEC. 906. If any provisions of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provisions to other persons or cir-

cumstances, shall not be affected thereby. This Act may be cited as the Merchant Marine Act, 1936.

SEC. 907. Except as otherwise provided herein this Act shall take effect thirty days after a majority of the members of the Commission have taken the oath of office.

Approved, June 29, 1936.

[CHAPTER 859.]

AN ACT

For the retirement of employees of the Alaska Railroad, Territory of Alaska, who are citizens of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all employees of the Alaska Railroad, Territory of Alaska, except the clerical employees, who are citizens of the United States and whose tenure of employment is not intermittent nor of uncertain duration, shall come within the provisions of this Act: *Provided, however,* That employees of the Alaska Railroad who in the past have been, or in the future may be, employed thereon for the period of at least three months per year for at least two years shall come within the provisions of this Act: *Provided further,* That the provisions of the Act entitled "An Act for the retirement of employees in the classified civil service, and for other purposes", approved March 22, 1920, as amended, are hereby extended to apply to all clerical employees of the Alaska Railroad who are citizens of the United States.

SEC. 2. All employees to whom this Act applies shall, after reaching the age of sixty-two years and having rendered at least fifteen years of service in the Territory of Alaska, be automatically separated from the service and retired on the annuity provided for herein; and all salary, pay, or compensation shall cease from that date: *Provided,* That if the Secretary of the Interior certifies to the Civil Service Commission that, by reason of his efficiency and willingness to remain in the service, the continuance of such employee therein would be advantageous to the service, such employee may be retained for a term not exceeding two years, upon the approval and certification by the Civil Service Commission, and, at the end of the two-year term, by similar approval and certification, be continued for an additional term not exceeding two years: *Provided, however,* That no employee shall be continued in the service beyond the age of retirement for more than four years, except that where the Secretary of the Interior certifies, and the Civil Service Commission agrees, that by reason of expert knowledge and special qualifications the continuance of the employee would be advantageous to the service, further extensions of two years may be granted.

All employees to whom this Act applies who would be eligible for retirement from the service upon attaining the age of sixty-two years shall, after attaining the age of sixty years and having rendered at least thirty years' service, computed as provided in section 7 of this Act, be eligible for retirement on an annuity as provided in section 6 of this Act. Retirement under the provisions of this paragraph shall be at the option of the employee, but if such option is not exercised prior to the date upon which the employee would otherwise be eligible for retirement from the service the provisions of this Act with respect to automatic separation from the service shall apply.

SEC. 3. Any employee to whom this Act applies who shall have attained the age of fifty-five and rendered at least twenty-five years of service, of which not less than fifteen years shall have been ren-

Citation of Act.

Effective date.

June 29, 1936.
[S. 2293.]
[Public, No. 836.]

Alaska Railroad.
Retirement of certain employees.

Provisos.
Service requirement.

Provisions of Civil Service Retirement Act made applicable to clerical employees.
Vol. 41, p. 614; U. S. C., p. 92.

Automatic separation and retirement at 62, with 15 years' service.

Salary, etc., to cease.

Provisos.
Temporary retention.

Maximum extension.

Exception.

Retirement on annuity at 60 after 30 years' service.

Post, pp. 2020, 2021.

Option allowed employees.

Voluntary retirement.
Age and service requirements.