UNITED STATES MARITIME COMMISSION

No. S–9

LYKES BROS. STEAMSHIP COMPANY, INC.—APPLICATION UNDER SECTION 805(a), MERCHANT MARINE ACT, 1936, AS AMENDED—EMERGENCY INTERCOASTAL OPERATION

Submitted November 24, 1947. Decided November 26, 1947

Application for permission to carry two shipments of coconut oil and tallow from Long Beach, California, to New York, New York, granted.

William Radner for applicant.

M. G. de Quevedo for Intercoastal Steamship Freight Association, intervener.

Paul D. Page, Jr., and *Elmer E. Metz* for the Commission.

REPORT OF THE COMMISSION

BY THE COMMISSION:

Hearing in this proceeding was held on November 24, 1947, pursuant to notice in the Federal Register of November 19, 1947. Briefs by the parties and initial or recommended decision by the examiners were waived by counsel for all parties represented.

The application in question was made by Lykes Bros. Steamship Company, Inc., for permission under section 805(a) of the Merchant Marine Act, 1936, as amended, to operate their vessels SSs *Doctor Lykes* and *Dick Lykes* in the intercoastal transportation of cargo on one voyage by each vessel between Long Beach, California, and New York, N. Y., while returning from the Far East on regular scheduled voyages. The SS *Doctor Lykes* is to load approximately 1600 tons of bulk coconut oil and tallow about December 2, 1947, and the SS *Dick Lykes* is to load a similar cargo about December 12, 1947.

Applicant's witness testified that the basis for the application is Procter and Gamble Manufacturing Company's request of Lykes Bros. to move the two shipments as described from Long Beach to New York because of the urgent and critical need of the oil and tallow for manufacturing purposes prior to January 1, 1948.

All certificated intercoastal carriers were offered this cargo, but none will be able to furnish the necessary deep-tank space prior to January 1, 1948. These lines, together with American-flag companies operating between the North Atlantic and the Far East, have specifically waived any objection to applicant performing the transportation in question.

Applicant testified that it intends to apply to the Interstate Commerce Commission for the requisite permit to engage in this transportation, at the rates and subject to conditions stipulated in the current tariff of the Intercoastal Steamship Freight Association on file with said Commission.

We adopt the recommendations of the examiners, that the granting of the application (1) will not result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service; (2) will not be prejudicial to the objectives and policy of the Merchant Marine Act, 1936, as amended; and (3) will be in the public interest and convenience.

The application is hereby granted.

By the Commission.

[SEAL] (Sgd.) A. J. WILLIAMS,
Secretary.

Washington, D. C., November 25, 1947.

UNITED STATES MARITIME COMMISSION

ORDER

At a Session of the UNITED STATES MARITIME COMMISSION, held at its office in Washington, D. C., on the 18th day of February A. D. 1948.

No. S-10

ARNOLD BERNSTEIN STEAMSHIP CORPORATION ET AL.[1]—APPLICATIONS FOR FINANCIAL AID IN THE OPERATION OF VESSELS ON TRADE ROUTES NOS. 7 AND 8 (U. S. NORTH ATLANTIC PORTS—ANTWERP, HAMBURG RANGE ET AL.) AND TRADE ROUTE NO. 11 (U. S. SOUTH ATLANTIC PORTS—UNITED KINGDOM AND EIRE, CONTINENTAL EUROPE, SCANDINAVIA, AND BALTIC PORTS)

Whereas, pursuant to the direction of the Commission, a hearing in this matter was held before Examiners G. O. Basham and C. H. McDaniel on November 12, 13 and 14, 1946, following which hearing briefs were submitted by the parties of record; and

Whereas, the said examiners issued a proposed report in this matter, which was served on the parties on September 4, 1947; and

Whereas, certain parties, namely, applicant United States Lines Company, applicant Arnold Bernstein Steamship Corporation, applicant South Atlantic Steamship Lines, Inc., and intervener Waterman Steamship Corporation filed exceptions to the said proposed report and briefs in support of said exceptions, and applicant Black Diamond Steamship Company filed a memorandum in support of said proposed report, together with a motion to strike from the record and not to consider in evidence certain portions of said exceptions of United States Lines Company, Waterman Steamship Corporation, and Arnold Bernstein Steamship Corporation, and said three last mentioned parties filed notices of opposition to the said motion of Black Diamond Steamship Corporation; and

Whereas, the Commission on October 22 and 23, 1947, heard oral

[1] Black Diamond Steamship Corporation, United States Lines Company, and South Atlantic Steamship Line, Inc.

argument on the exceptions to the said proposed report, the motion of Black Diamond Steamship Corporaton, and the notices in opposition thereto; and

Whereas, the Commission has duly considered the aforesaid testimony taken at the hearings before said examiners, as supplemented by evidence stipulated in the record by all parties at said oral argument, the briefs of the parties submitted after the hearing, the proposed report of the examiners, the aforementioned exceptions, motion, objections to said motion and all briefs submitted in connection therewith, and said oral argument; and

It appearing That Trade Route 11 should be extended in scope so as to include service from and to ports in the Hampton Roads area, and the Commission so finds and determines; and

It appearing That Trade Routes 7 and 8 should be considered as separate essential foreign trade routes and that applications for operating-differential subsidy contracts be considered on such basis, and the Commission so finds and determines; and

It appearing That the application of South Atlantic Steamship Company for operating-differential subsidy contract on Trade Route 11 should be approved, subject to compliance with the applicable provisions of the Merchant Marine Act, 1936, as amended, and to such terms and conditions as may be imposed by the Commission, and the Commission so finds and determines; and

It appearing That the applications of Arnold Bernstein Steamship Corporation, Black Diamond Steamship Corporation, and United States Lines Company for operating-differential subsidy contracts on Trade Routes 7 and 8 should be denied;

It is ordered, (1) That Trade Route No. 11, as described in the Report of the Commission approved May 20, 1946, be amended to read as follows:

> U. S. Atlantic ports (Hampton Roads—Key West inclusive) to United Kingdom and Eire, Continental Europe North of Spanish Border (including Scandinavian and Baltic ports, except as to cargo to and from Hampton Roads).

(2) That Trade Routes Nos. 7 and 8, as described in the Report of the Commission approved May 20, 1946, are hereby separated.

(3) That services under Trade Route 7 shall be constituted as follows:

1. *Passenger and Freight Service:*
   Itinerary: New York to Hamburg or other German North Sea ports.
   Sailing Frequency: 26 fortnightly sailings per year.

2. *Freight Service*

Itinerary: U. S. North Atlantic ports (North of Hatteras to Hamburg and other German North Sea ports.

Sailing Frequency: 52 weekly sailings per year.

(4) That services under Trade Route 8 shall be constituted as follows:

1. *Passenger and Freight Service:*

Itinerary: New York to Rotterdam, Antwerp, returning to New York via Boston as traffic offers.

Sailing Frequency: 52 weekly sailings per year.

2. *Freight Service:*

Itinerary: U. S. North Atlantic ports (North of Hatteras) to Antwerp, Rotterdam and return.

Sailing Frequency: 52 weekly sailings per year.

(5) That application of South Atlantic Steamship Line, Inc., dated October 7, 1946, as amended, for financial aid under Title VI of the Merchant Marine Act, 1936, as amended, in the operation of vessels on Trade Route No. 11, is hereby approved, subject to compliance with the applicable provisions of said Act and to such terms and conditions as may be imposed by the Commission.

(6) That the applications for operating-differential subsidy contracts under the provisions of Title VI of the Merchant Marine Act, 1936, as amended, of Arnold Bernstein Steamship Corporation, Black Diamond Steamship Corporation, and United States Lines Company, for operation on Trade Routes 7 and 8 be, and the same hereby are, denied.

(7) That this proceeding be discontinued.

By the Commission.

[SEAL] (Signed) A. J. WILLIAMS,
Secretary.

UNITED STATES MARITIME COMMISSION

RESOLUTION

At a Session of the UNITED STATES MARITIME COMMISSION, held at its office in Washington, D. C., on the 18th day of May A. D. 1948.

No. S–11

AMERICAN PRESIDENT LINES, LTD.—APPLICATION TO OPERATE, WITHOUT SUBSIDY, SERVICE C-2 OF TRADE ROUTE No. 17

Whereas, AMERICAN PRESIDENT LINES, LTD., a corporation organized and existing under the laws of the State of Delaware (hereinafter called the "Applicant"), entered into an agreement dated as of October 6, 1938 with the UNITED STATES MARITIME COMMISSION (hereinafter called the "Commission") for an operating-differential subsidy, which agreement the Commission has authorized to be extended to and including June 30, 1949, and

Whereas, said operating-differential subsidy agreement provides, among other things, that

> The Operator agrees that, without the express written approval of the Commission, neither the Operator nor any affiliate, subsidiary or holding company will operate or cause or permit any unsubsidized vessels owned or controlled by any of them to be operated in the subsidized service of the Operator or in the foreign commerce of the United States in competition with any other service, route, or line receiving financial aid pursuant to the provisions of the Act.

and

Whereas, pursuant to said provision of said operating-differential subsidy agreement the applicant filed an application with the Commission for authority to operate, without an operating-differential subsidy, vessels in the Atlantic-Straits Freight Service, referred to in the Commission's report approved May 20, 1946 (released May 22, 1946) on essential foreign trade routes and services for United States flag operation as C-2 of Trade Route No. 17 and therein described as follows:

Itinerary: New York (other Atlantic ports as traffic offers) via Panama Canal, Los Angeles, San Francisco to Manila, Hong Kong, Singapore, Belawan, Batavia, Soerabaja, Hong Kong and Philippine Islands (as traffic offers) to San Francisco, Los Angeles and via Panama Canal to New York; privilege of calling at French Indo-China and Siam as traffic offers.

and

Whereas, pursuant to notice dated February 5, 1948, published in the Federal Register of February 10, 1948, a hearing was held on February 24, 25 and 26, 1948, on said application and appearances were entered on behalf of the following (hereinafter called the "Interveners"): Port of Boston Authority, American Mail Line, Ltd., a corporation organized and existing under the laws of the State of Delaware, American Export Lines, Inc., a corporation organized and existing under the laws of the State of New York, Isthmian Steamship Company, a corporation organized and existing under the laws of the State of Delaware, and Waterman Steamship Corporation, a corporation organized and existing under the laws of the State of Alabama, and

Whereas, the report of the examiner issued in said hearing was duly served on the Applicant and the Interveners on March 19, 1948, and exceptions to said report were filed by Applicant and all of the Interveners except American Export Lines, Inc., and

Whereas, the Commission has duly considered said application, report of the hearing examiner, exceptions to said report and other facts relating to said application, Now, therefore, be it *RESOLVED:*

FIRST, That Applicant be and hereby is authorized to operate on above described C–2 Service of Trade Route No. 17, without operating-differential subsidy, not more than thirteen (13) voyages per annum, subject, however, to the following conditions:

1. Applicant shall (a) use on the C–2 Service of Trade Route No. 17 only such number and type of vessels as may be approved by the Commission; (b) coordinate all its non-subsidized sailings, so far as possible and to the extent required by the Commission, with services of other operators carrying cargo to or from ports included in the itinerary of said C–2 Service of Trade Route No. 17; and (c) enter into an agreement with the Commission, in form satisfactory to the Commission, providing for the protection of Applicant's subsidized operations from the diversion of cargo and revenues by the non-subsidized operations from the vessels operated in its subsidized operations.

2. No non-subsidized voyage in said C–2 Service of Trade Route No. 17 shall be commenced after June 30, 1949.

3. The "capital employed" by the Applicant in the non-subsi-

dized operations in said C–2 Service of Trade Route No. 17 and the earnings derived therefrom shall not be taken into account in applying the reserve and recapture provisions of Applicant's operating-differential subsidy agreement with the Commission; however, the Applicant's net profits, if any, as determined by the Commission in accordance with sound accounting practice as determined by the Commission, resulting from Applicant's non-subsidized operation of said C–2 Service of Trade Route No. 17 shall be deposited in Applicant's capital reserve fund maintained pursuant to said operating-differential subsidy agreement as a voluntary deposit and treated accordingly, and such deposits, if any, shall be in addition to any and all statutory requirements of Applicant under said opertaing-differential subsidy agreement. In no event, however, shall the non-subsidized operations be permitted to reduce the amount of earnings from Applicant's subsidized services subject to recapture by the Commission.

4. Applicant shall file in triplicate with the Commission, at such times and in such form as may be prescribed by the Commission, semiannual profit and loss statements covering its non-subsidized operations in C–2 Service of Trade Route No. 17 and such other data as may be required by the Commission.

5. The Commission shall have the right in its sole discretion to cancel and terminate this authorization upon the expiration of written or telegraphic notice given at least fifteen (15) days prior to the completion of any such non-subsidized voyage.

SECOND, That the Secretary of the Commission be and hereby is authorized and directed to mail a certified copy of this Resolution to the Applicant and to each of the Interveners within fifteen (15) days from the date of its adoption.

By the Commission.

[SEAL] (Sgd.) A. J. WILLIAMS,
Secretary.

3 U.S.M.C.

UNITED STATES MARITIME COMMISSION

No. S–12

PACIFIC ARGENTINE BRAZIL LINE, INC.—APPLICATION FOR OPERATING-DIFFERENTIAL SUBSIDY (TRADE ROUTE 24)

Submitted October 12, 1948. Decided November 5, 1948

REPORT AND ORDER OF THE COMMISSION

BY THE COMMISSION:

By application dated April 1, 1948, and supplement thereto dated May 14, 1948, Pacific Argentine Brazil Line, Inc., applied under Title VI of the Merchant Marine Act, 1936, for financial aid in the operation of vessels in essential service in the foreign commerce of the United States (Trade Route 24) between the West coast of the United States and the East coast of South America. By notice dated May 11, 1948, the Commission directed that a public hearing be held in San Francisco, California, and Washington, D. C., to receive evidence relevant to determinations which the Commission is required, after hearing, to make pursuant to section 605(c) of the Merchant Marine Act, 1936, as amended.

Such hearings were duly held, and at the conclusion thereof briefs and requested findings and conclusions were submitted by the applicant and by Moore-McCormack Lines, Inc., the presently subsidized United States-flag operator on Trade Route 24. The hearing examiner submitted a recommended decision, served September 24, 1948, which was confined to the issues referred to him for statutory hearing under section 605(c), and thereafter, pursuant to a stipulation and the Commission's informal request, submitted a supplemental report setting forth findings and conclusions of fact.

Moore-McCormack Lines, Inc., filed exceptions to the examiner's recommended decision and supplemental report, and oral argument thereon was heard by the Commission on October 12, 1948.

The Commission has considered the application and supplement thereto, the record of the hearings, the briefs of counsel, including re-

quested findings and conclusions, the examiner's recommended decision and supplemental report setting forth his findings and conclusions of fact, the exceptions of Moore-McCormack Lines, Inc., and oral argument thereon. Its findings and conclusions are hereinafter set forth and embrace the issues required by section 605(c) to be determined after hearing, together with other matters not required to be determined after hearing, but as to which the record compiled at the hearing was found by the Commission to be informative.

We find that:

1. Applicant's predecessor held a pre-war operating-subsidy contract on the route here involved, which contract it permitted to expire February 10, 1940. The Commission thereupon issued invitations to bid for the chartering of vessels to be operated upon the route with the obligation upon the successful bidder to acquire four new C–1 type vessels and to maintain with such vessels a minimum of twelve and maximum of twenty-four sailings annually. The applicant's predecessor and Moore-McCormack made bids of 63 cents per d.w.t. and $1.16 d.w.t. per month, respectively, the award going to Moore-McCormack.

2. Subsequently Moore-McCormack agreed to and did acquire three new C–3 vessels in lieu of the four C–1s and later allocated to the route five C–3 vessels although the Trade Routes Committee recommended only four C–3s. The five C–3 vessels so allocated have an estimated annual capacity of 188,162 d.w.t. and 11,063,568 cubic feet on this route as against 104,000 tons and 4,856,956 cubic feet annual capacity of the vessels originally advertised. The number of vessels (five) presently allocated to the route was determined after obtaining the recommendations of the Commission (four vessels) and then acquiring and allocating to this and other fleets operated by Moore-McCormack, additional vessels.

3. From March 1947, the applicant made sailings on this route approximately monthly. Had the applicant not done so, Moore-McCormack would probably have tried to sail one or two extra vessels monthly.

4. The present operating-differential subsidy contract between the Commission and Moore-McCormack Lines, Inc., provides for a minimum of twelve and maximum of twenty-four sailings a year by Moore-McCormack Lines, Inc., on Trade Route 24. From the commencement of its service in 1940 through 1947, Moore-McCormack made southbound sailings as follows on the route:

1940, July to December, 6 sailings.

1941, full year, 16 sailings.

1942–43–44, no sailings on acount of war.
1945, commencing in October, 3 sailings.
1946, 13 sailings on account of strike conditions from September until after the first of the year.
1947, 22 sailings.

5. Some Moore-McCormack vessels have recently sailed on Trade Route 24 approximately half full. The principal reason for this condition is that during 1948 certain South American governments, for political and economic reasons, issued decrees and regulations which sharply curtailed the movement of cargoes on Trade Route 24 in United States-flag vessels. At least some of the conditions which prompted the issuance of such decrees and regulations are believed by the Commission to be of a temporary nature and it appears that there should in the future be a relaxation of such restrictive measures.

6. Applicant is a wholly owned subsidiary of Pope & Talbot, Inc., organized on December 31, 1940, under the laws of California as successor to a company (now dissolved) known as Pacific Argentine Brazil Line, Inc., which predecessor company was also a wholly owned subsidiary of Pope & Talbot, Inc.

7. Pope & Talbot, Inc., has been long established on the West coast of the United States and has diverse and extensive interests in that region. Its principal owners are residents of the West coast. The present application is strongly supported by shippers and others engaged in business in California, Oregon, and Washington. The applicant clearly has "the support, financial and otherwise, of the domestic communities primarily interested," within the meaning of section 809, Merchant Marine Act, 1936.

8. Applicant's predecessor pioneered Trade Route 24, operating between 1926 and 1940. The present applicant resumed service on the route in February 1947, and has maintained regular service since that date.

9. In 1946 and early 1947, Moore-McCormack's service was physically unable to handle the cargo offerings on Trade Route 24. A large amount of business which otherwise would have flowed through the Pacific coast either did not move or was booked and moved through the Atlantic or Gulf coasts. Many shippers who preferred to use United States-flag vessels had no alternative but to use foreign-flag ships.

10. During 1946 and 1947 frequency and regularity of Moore-McCormack service on Trade Route 24 failed to satisfy the needs of many shippers.

11. Moore-McCormack's services have been characterized by

delay in sailing schedules, having serious consequences to shippers, such as accumulation of demurrage, warehouse, and production problems, and letter of credit complications.

12. Moore-McCormack has provided no service to San Francisco East Bay area and certain Pacific northwest ports, and its service to South American outports has been unsatisfactory to some shippers.

13. Deficiencies in Moore-McCormack service during 1946 and 1947 resulted in part from labor disturbances, in part from the difficulties of resuming service after war-time interruption, in part from congestion in South American ports, and in part from the absence of competition on the Trade Route from vessels of United States registry.

14. South America is experiencing immense industrial development and increase in population, and the effect is to substantially increase the demand for American goods flowing over both the East coast and West coast routes served by Moore-McCormack.

15. The Pacific coast, because of its tremendous industrialization during and since the war, is now, and to an increasing extent will continue in position to compete with the Atlantic coast in supplying types of merchandise required by South America for which it was unable to compete before World War II, and because of its population growth, represents an expanded and expanding market for consumer and related commodities.

We conclude that:

1. The vessels to be operated by the applicant on Trade Route 24 in the service described by its application for operating differential subsidy will not be in addition to the existing service, the applicant being an existing operator.

2. The granting of the application and the execution of a contract thereunder would not 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, on Trade Route 24.

3. The application of Pacific Argentine Brazil Line, Inc., for an operating differential subsidy on Trade Route 24 should be approved, subject to verificaiton by the Commission with respect to applicant's eligibility under section 601 of the Merchant Marine Act, 1936, to receive an operating-differential subsidy contract, and subject to terms and conditions to be prescribed by the Commission.

On the basis of the foregoing findings and conclusions, it is hereby *Ordered*, 1. That application of Pacific Argentine Brazil Line, Inc.,

for an operating differential subsidy on Trade Route 24 be, and the same hereby is, approved, subject to verification by the Commission with respect to applicant's eligibility under section 601 of the Merchant Marine Act, 1936, to receive an operating-differential subsidy contract and subject to terms and conditions to be prescribed by the Commission;

2. That the requests of the applicant and Moore-McCormack Lines, Inc., for findings and conclusions, and the exceptions of Moore-McCormack Lines, Inc., except as herein granted or allowed by the findings and conclusions hereinabove set forth be, and they hereby are, denied.

Commissioners Smith, Carson, and Coddaire.

Commissioner McKeough dissents.

Commissioner Mellen absent and not participating in the foregoing decision and order.

By the Commission.

[SEAL] (Sgd.) A. J. WILLIAMS,
Secretary.

WASHINGTON, D. C., *November 5, 1948.*

UNITED STATES MARITIME COMMISSION

No. S–13

ARNOLD BERNSTEIN LINE, INC.—APPLICATION FOR OPERATING-DIFFERENTIAL SUBSIDY FOR OPERATION OF A PASSENGER AND CARGO SERVICE ON TRADE ROUTE NO. 8.

Submitted December 1, 1948. Decided March 21, 1949

REPORT OF THE COMMISSION

BY THE COMMISSION:

This is a proceeding in which the Commission is asked to make findings required under section 605(c) of the Merchant Marine Act, 1936, as amended, in connection with the application of Arnold Bernstein Line, Inc., for financial aid in the operation of vessels in the foreign commerce of the United States. The applicant proposes to operate two P–2 type vessels as a combination passenger and freight service making 31 sailings per annum on Service No. 1 of Trade Route 8, New York to Rotterdam, Antwerp, returning to New York via Boston as traffic offers.

Pursuant to the Commission's notice of hearing, leave to intervene was granted to United States Lines Company, Waterman Steamship Company, and Black Diamond Steamship Corporation. The Department of Commerce was permitted to intervene at oral argument. Hearing was duly held in Washington commencing August 30, 1948, and continuing for two days. The examiner's recommended decision was served October 12, 1948. Exceptions to his report, supported by briefs, were then filed, and oral argument was heard by the full Commission on December 1, 1948. By stipulation time was granted to the parties to file additional memoranda analyzing certain statistical information offered by Commission counsel at the argument. Our findings are based on the full record, including briefs and argument.

Section 605(c) inhibits the Commission from granting a subsidy contract under Title VI "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." The second clause of section 605(c) is inapplicable to the present case. As the exceptions filed by the interveners largely stress points involving this second clause, it is appropriate to state expressly that that clause applies only where the applicant is an existing line furnishing services on the trade route with respect to which it asks Government aid. Compare our decisions in the cases involving the applications under Title VI of Pacific Argentine Brazil Line, Inc., decided November 5, 1948, and Shepard Steamship Company, decided this day (Docket Nos. S–12 and S–14).

The present case is one in which a new service is proposed by a line not yet in operation, and which would therefore be in addition to the existing service within the meaning of the first clause of section 605(c). Existing service is provided between New York and Rotterdam and Antwerp with cargo vessels of United States registry owned by interveners United States Lines Company, Waterman Steamship Corporation, and Black Diamond Steamship Corporation, and by various other companies, all of which qualify as citizens of the United States within the meaning of the Act.

The first determination required to be made relates to the adequacy of the existing service thus provided. The problem has two aspects, one relating to cargo and the other to passenger service, of which we consider the passenger aspect as of controlling importance in this case.

With respect to the passenger service, the facts are not in dispute. So far as appears from the record, only the Holland-America Line, a Netherlands corporation, provides any regular service to Rotterdam, and the only service to Antwerp since the war has been provided by freight vessels carrying not in excess of twelve passengers each. While it is contended that in some circumstances a well organized and competitive freight service with accommodations for a small number of passengers may be considered as affording a passenger service, in the present case we do not deem such service to be adequate. The record does not induce us to modify our view that the passenger traffic to Antwerp and Rotterdam is worth pursuing. We believe that the level of such traffic will be sufficiently high to support a regular service of the type we have envisaged, without taking into account the probable effect on the development of western European ports of the weakening of German national pressure which seems to have sustained the rather arti-

furnished in excess of 100,000 passengers to conference lines in 1938 alone, of which almost 40% were carried by the two crack liners the *Bremen* and *Europa*. These vessels, and indeed most German vessels, have been lost or have otherwise passed from German control and there is at present no official prospect of revival of German-flag passenger operations.

Some of the interveners contend that a passenger service to Antwerp and Rotterdam will be competitive with existing United States-flag passenger service to the channel ports. So far as this contention bears on the issue of adequacy, we do not find on the present record that the existing passenger service on Trade Route 5 provides adequate service on Trade Route 8.

We find that existing passenger service, whether considered in terms of Trade Route 8 alone or in conjunction with Trade Route 5, is inadequate. This meets the statutory requirements as to a determination of inadequacy in this case, making unnecessary a discussion of its cargo aspects.

The second determination required by the applicable clause of section 605(c) is whether in the accomplishment of the purposes and policy of the Merchant Marine Act, 1936, as amended, additional vessels should be operated on Trade Route 8.

We have previously determined (Docket No. S–10, *Application of Arnold Bernstein Steamship Corporation et al.*, decided February 18, 1948) that the service to Antwerp and Rotterdam should be maintained as an essential part of American merchant-marine operations. We have prescribed combination vessels for Service 1; there are no such vessels presently in operation, a prima facie showing that additional vessels are required. Nothing in the record convinces us that this conclusion is unsound. The existing service is inadequate with respect to passenger service. This defect cannot be remedied unless suitable vessels are introduced into the trade. Whether the particular vessels applicant proposes are suitable to meet the passenger requirements of Trade Route 8 is not a question relevant under section 605(c).

We determine that in the accomplishment of the purposes and policy of the Merchant Marine Act, 1936, as amended, additional vessels should be operated on Trade Route 8.

It follows that section 605(c) interposes no bar to the further consideration of the application.

The interveners contend that the Commission should have extended the scope of hearing to cover other aspects of the application, particularly those to be considered under section 601(a). We are of opinion that the issues presented by section 605(c) are separate and distinct from those involved in section 601(a), which contains no requirement

for hearing prior to the Commission's administrative determinations thereunder.

The other exceptions to the examiner's recommended decision have been considered and are overruled.

The proceeding under section 605(c) is accordingly discontinued, and other questions presented by the application will be separately considered and decided in regular course.

By order of the Commission.

[SEAL] (Sgd.) A. J. WILLIAMS,
Secretary.

WASHINGTON, D. C., *April 28, 1949.*

UNITED STATES MARITIME COMMISSION

No. S–14

SHEPARD STEAMSHIP CO.—APPLICATION FOR OPERATING-DIFFERENTIA SUBSIDY (TRADE ROUTE No. 1)

Submitted December 17, 1948. Decided March 21, 1949

Applicant found to be operating an existing service on Service B of Trade Rout No. 1 and therefore not required under section 605(c) of the Merchant Marin Act, 1936, to establish the inadequacy of other existing service on the sam route.

The granting of the application under consideration would not give undue ac vantage, or be unjustly prejudicial, as between citizens of the United Stat under section 605 (c).

Harold S. Deming, Charles S. Haight, Thomas K. Roche, and *R. L Price* for Shepard Steamship Co., applicant.

Ira L. Ewers, M. France, and *Albert F. Chrystal* for Moore-McCor mack Lines, Inc., *Henry E. Foley* for New England Export Club, Inc and Maritime Association of the Boston Chamber of Commerce, Inc *Walter W. McCoubrey* for Port of Boston Authority, *Herbert S. Evar* for Foreign Commerce Club of Boston, Inc., *Richard M. Cantor* fc Sailors Union of the Pacific, *George S. Franklin* for Marine Firemen Union, *Daniel J. Donovan* for International Longshoremen's Assoc ation, and *Timothy J. Moriarty* for Marine Warehouse Union, inte veners.

Paul D. Page, Jr., and *George F. Galland* for the Commission.

REPORT OF THE COMMISSION

BY THE COMMISSION:

By notice dated May 7, 1948, and published in the Federal Regist of May 29, 1948, we directed that a hearing be held on the applicatio of Shephard Steamship Co. (hereinafter referred to as "Shepard"), ur der Title VI of the Merchant Marine Act, 1936, for an operating-di ferential subsidy on Service B of Trade Route No. 1 (between Unite States Atlantic coast ports and East coast ports of South America Hearings were held before a hearing examiner in Boston, Massachu

setts, and New York, New York. Moore-McCormack Lines, Inc. (hereinafter referred to as "Mormac"), the only subsidized operator on Route 1, intervened and opposed the application. Other interveners were New England Export Club, Inc., Maritime Association of the Boston Chamber of Commerce, Inc., Port of Boston Authority, Foreign Commerce Club of Boston, Inc., Sailors Union of the Pacific, Marine Firemen's Union, International Longshoremen's Association, and Marine Warehouse Union.

The hearing examiner filed a recommended decision to which Mormac filed exceptions, which were orally argued before us on December 17, 1948. Our decision is in general accord with the examiner's recommendations, which were limited to issues arising under section 605(c) of the Merchant Marine Act, 1936, which provides:

(1) 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 (2) 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 to 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 * * *. (Numbers in parentheses and underscoring supplied)

Shepard contends that the determination of the application is dependent upon section 601 and not section 605(c) of the 1936 Act. In other words, it believes that since it is an existing operator on the route it does not have to prove the inadequacy of Mormac's service in order to be eligible for a subsidy. Mormac urges that not only section 601 but also section 211 for the Act are involved. Mormac and Shepard are clearly correct in asserting that the application presents questions under sections other than 605(c); but such other questions are beyond the scope of the issues assigned for hearing. We shall, of course, pass upon such other issues before disposing of the application on the merits, but we do not do so herein. The purpose of the hearing was to determine whether section 605(c) stood in Shepard's way in securing government aid. In setting a hearing on that question we did all that the law requires of us if, indeed, we did not do more.

If Shepard be found to be an existing operator under the first part of section 605(c), it need not prove that Moremac's service is inade-

quate in order to be eligible for a subsidy. See our report and order of November 5, 1948, *In the Matter of Pacific Argentine Brazil Line, Inc. —Application for Operating Differential Subsidy (Trade Route 24) Under Title VI, Merchant Marine Act, 1936.* The second part of the section, however, requires a determination as to whether the award of a subsidy to Shepard would give undue advantage or be unduly prejudicial as between citizens, and if so, whether it is necessary to enter into a subsidy contract in order to provide adequate service by vessels of United States registry.

Existing service.—Shepard commenced operation on Route 1 on May 1, 1947, and has rendered continuous and regular service since that time, employing four C–3 vessels which it purchased from the Commission, hereinafter more fully referred to, and two Victory-type vessels under charter from the Commission. Between June and December 1947 it made 12 sailings southbound and handled approximately 67,000 tons of cargo; northbound, there were six sailings and approximately 22,000 tons. For the first six months of 1948, there were 10 sailings southbound with approximately 54,000 tons, and nine sailings northbound with approximately 35,000 tons. Thus, during its first year of operation, Shepard made 22 sailings southbound and 15 northbound, with a total of approximately 178,000 tons carried. It was testified that Shepard has no present intention to withdraw from the trade even though its application for a subsidy be denied. The hearing examiner recommended a finding that Shepard is an existing operator on Route 1 within the meaning of the first part of section 605 (c) of the Act, and therefore does not have to prove the inadequacy of Mormac's service in order to be eligible for a subsidy. His recommendation on this point is fully supported by the record and Mormac's exception thereto is overruled.

Undue advantage or prejudice.—In our report of May 22, 1946, on essential foreign trade routes, we split Trade Route No. 1 into four services. The first one, not here involved, is a passenger and freight service. The second, known as Freight Service A, provides for the following itinerary:

> New York (regular calls also to be provided at Philadelphia, Baltimore, Hampton Roads and at South Atlantic ports within the Wilmington, North Carolina-Jacksonville range) to Rio de Janeiro, Santos, Montevideo, Buenos Aires, with calls to be arranged at other South American ports within the Pernambuco-River Plate range as traffic offers, loading at River Plate (including up-river ports if conditions warrant) and returning via Brazilian ports to U. S. Atlantic ports; with privilege of calling at Canadian ports to load or discharge cargo but not exceeding 12 calls per year.

To accommodate this schedule it was recommended that 10 C–3 type freight vessels be utilized, making 52 weekly sailings per year.

The third, known as Freight Service B, provides the following itinerary:

> U. S. Atlantic ports to East Coast South American ports within the Pernambuco-River Plate range, including up-river ports in the River Plate area, with privilege of calling at Canadian ports to load or discharge cargo but not exceeding 12 calls per year.

Four C–2 type freight vessels were recommended, making 18 to 24 sailings per year.

The fourth, known as Freight Service C, is limited to North Brazil ports and is not involved herein.

Services A and B are much alike, geographically. Mormac's vice president considers the two routes parallel, although it may be significant that nine days after the commencement of Shepard's service, Mormac filed an amendment to its application for resumption of subsidized service, which, for the first time, referred to the B service. The principal difference between Service A and Service B is that Service B, to a greater extent than Service A, contemplates regularity of service to small ports, including up-river ports in the River Plate area.

As early as the beginning of this century Shepard interests owned and operated sailing vessels in many trades, including that to the River Plate. All such vessels were lost during the first world war and shortly thereafter, resulting in a discontinuance of business until 1929, when steam vessels were purchased from the United States Shipping Board and the present company was incorporated. Intercoastal operations via the Panama Canal were thereafter instituted, with a total of seven vessels owned or chartered. In February 1940 the intercoastal service was discontinued and the vessels were placed in the foreign service because of the international situation. All the vessels were eventually lost by enemy action in World War II. Between 1942 and 1944 Shepard was a general agent for War Shipping Administration in the operation of a large number of vessels.

Toward the close of the war the company commenced an intensive study looking toward a suitable foreign trade route after the termination of hostilities. It was testified by Shepard's vice president that encouragement in that respect was received from various members of the Commission's staff, who stated that the Commission was disappointed at the failure of International Freighting Corporation to accept a subsidy on what is now Route 1. The president of that company confirmed to Shepard that the route was a most excellent trade area but that foreign-flag competition would be so heavy that only a subsidized service could survive. For intra-company reasons, International

Freighting Corporation did not want to apply for a subsidy. Shepard having originally applied to the Commission for the purchase of five vessels for use on Route 8, amended its application to cover Service B of Route 1, instead of Route 8. The application was granted in November 1946 although only four vessels of the C–3 type were awarded. As the result of many delays, delivery of the vessels was not made for some time, and actual operation, as heretofore noted, did not commence until May 1, 1947.

The importance of Route 1 can be gauged by the fact that in 1946 it ranked fifth of all routes in volume (4,496,000 tons) and fourth for the first quarter of 1948 (1,336,000 tons). In liner traffic it was third for all routes in the first half of 1947 (1,656,000 tons). In recent years the South American trade has had a dollar deficit averaging more than one billion dollars per year, which has resulted in many exchange controls, import quotas, embargoes, and other restrictions. Recent governmental decrees, especially in Argentina, have brought about a decided slump in trade. In addition to the foregoing factors, large quantities of European competitive cargo are now being unloaded in South America, principally from the United Kingdom and Belgium. The seriousness of the decline may be gathered from the fact that during June and July 1948 Mormac's vessels sailed southbound with available unused cubic ranging (with one exception) from 107,000 to 400,000, and available unused deadweight ranging (with one exception) from 1680 to 6467. Shepard is similarly affected, having about 35 percent unused space southbound and 55 percent northbound. It was testified that during its first 12 months of operation Shepard made a profit but is not breaking even since the slump started. A subsidy, Shepard believes, would eliminate the deficit.

Competition on Route 1 is greater than on any other route. For 1947 U. S.-flag participation in the trade area was 52.1 percent as compared with a national average of 58.4 percent, whereas in the first quarter of 1948 the percentages were 40.3 and 56.0. In only one other trade area was there a comparable decline. American dry-cargo vessels carried only 27 percent of the entire traffic on Route 1 in 1938 as compared with 46 percent in the fiscal year 1948. The 1948 figures represent an increase of almost 400 percent over 1938 traffic but reveal a drop from 1946 and 1947. In the second quarter of 1946 three American lines operated U. S.-flag vessels on the route as compared with 11 foreign lines; in the fourth quarter of 1947 three American lines operated U. S.-flag vessels as compared with 13 foreign lines and 2 American lines operating foreign-flag vessels (one of the latter also operated U. S.-flag vessels); and for the second quarter of 1948 three American lines operated U. S.-flag vessels as compared with 13 foreign lines and

one American line operating, foreign-flag vessels.[1] It is of interest that in the second quarter of 1948 over 40 percent of the sailings were by vessels of nations whose shores were not touched by the route. Sailings of U. S.-flag vessels between January 1947 and June 1948 dropped from 43 percent to 35 percent of the total on the route. Traffic carried in such vessels during the same period dropped from 51 percent to 41 percent of the total. The Argentine and Brazil national lines are steadily expanding and competition from that source may be expected to become intensified. Furthermore, limitations upon foreign-flag carryings of Europe-bound cargo moving under the Foreign Assistance Act may cause a diversion of additional foreign-flag vessels to Route 1.

Efforts are being made by the port of Boston to increase the use of its facilities, but shippers and port officials testified that this can never be done unless shippers are guaranteed frequent and dependable service. It is contended that, since Boston and New York take the same rate from Central Freight Association territory, more frequent service out of Boston would help that port compete with New York for common-origin cargo. Furthermore, the increased service at Boston would eliminate for New England shippers overland and other charges incident to shipment via New York. For example, one exporter saves between $60.00 and $100.00 on every car routed through Boston. Mormac's southbound vessels, after leaving Boston, call at Baltimore, Philadelphia, and New York in the order named. Inasmuch as only 3,000 tons of cargo moved from Boston on Route 1 in 1947, Mormac urges that it cannot justify penalizing large-cargo ports in order to give more direct service to Boston. In other words, a vessel sailing with Baltimore and Philadelphia cargo via Boston in order to obtain the latter's higher paying cargo, not only cannot participate in similar high paying cargo out of Baltimore and Philadelphia but will be unable to obtain even a fair share of the lower paying cargo available at those ports in a competitive market. Shepard's vessels call at only one port —New York—after leaving Boston, which permits New England shippers to deliver cargo in their own conveyances to Shepard vessels on the day of sailing, thus saving time and money. This enables the shipper to know exactly what shipping deadline must be met in order to fulfill his contract of sale. Less damage to cargo is said to occur when it is handled in the shipper's own trucks. When movement is overland from New England points to New York it is difficult to trace articles lost prior to loading on shipboard; losses of this kind are minimized when Boston is used.

[1] The Uruguay Line made one sailing shortly before the hearing, and subsequent to the hearing two Dutch lines (Holland America Line and Nievelt Goudriaan & Co.) entered the trade with a joint service known as Holland Inter-america Line, Agreements 7684 and 7684-A.

Boston is the largest wool market in the world, and about 85 percent of the woolen industry in the United States is located in New England. Ninety percent of the country's purchases of wool from the East coast of South America are imported into Boston. In the 18 months preceding the hearing 51 vessels—30 American and 21 foreign—brought in wool from Argentina. Wool must be imported at frequent and regular intervals, in lots of 50 to 100 tons, as the business is highly competitive. New England has no adequate storage facilities for large amounts, and the industry does not wish to have capital tied up or to take a chance on frequent price changes.

Because of its affiliation with lumber interests, Shepard has been able to increase the movement of lumber into Boston from South America. It has also brought in cotton from the same area, which has not been done by any other line. Shippers appeared to be pleased with the service rendered by Shepard, and were of the unanimous belief that business would be accelerated when South American restrictions are eased. As another hopeful sign for the port of Boston, it was pointed out that the New York, New Haven & Hartford Railroad Co. has recently returned to the control of New England interests. The witness for the Port of Boston Authority agrees that Mormac's unwillingness to penalize larger ports at Boston's expense is good managerial discretion, but believes that that is another reason why Boston must have the Shepard service else the efforts to secure New England traffic now moving via New York would be of no avail. In the opinion of the Greater Boston Development Committee, Shepard's withdrawal would be more far-reaching than the mere loss of Route 1 because shippers would think it was just another case of carriers not being prepared to offer frequent and regularly scheduled service in and out of Boston.

Shepard's Baltimore cargo is mostly steel, which must go in the bottom of the vessel. Boston cargo is mostly machinery, which takes a higher freight rate and must be handled fast; this accounts for the fact that Boston is the next to last port of call for Shepard southbound. Although Shepard's volume out of Baltimore is considerably more than that out of Boston, revenue from the latter about equals that from the former.

Between January 1, 1946, and April 4, 1947, Mormac had 12 sailings from Boston, or one every 40 days. During the same period there were 15 foreign-flag sailings, or one every 32 days. From April 30, 1947, to May 21, 1948, Mormac had 23 sailings, or one every 16 days. Correspondingly, Shepard had 21 sailings, or one every 18 days. Foreign-flag sailings between May 1, 1947, and June 3, 1948, averaged one every 21 days. Mormac would not call for small amounts of cargo during the war and immediately thereafter. It would not be fair to place

upon Mormac the full blame for lack of service during the above dates, nor should its increased activity since the war be attributed solely to the inauguration of Shepard's service, for during the war all tonnage was requisitioned by the Government; it was not until March 1946 that the United Maritime Authority, controlling the use of allied shipping, was terminated; Mormac, in conjunction with other lines, experienced considerable difficulty in securing new vessels and in restoring their older ones to first-class condition; and the last of Mormac's new vessels was not received until May 1948.

Shepard has made intensive efforts to develop small ports in South America and to create new cargo, in line with what Shepard states was the advice of the Commission's staff. Cargo at these ports is called for regardless of whether there is discharge cargo aboard—although it appears that no one of such ports was served frequently or regularly by Shepard in its first year of operation in Service B. Considerable cargo has, however, been secured at up-river ports in Argentina. Porto Alegre is the only small port not accessible to Shepard vessels the entire year. Over 190 different commodities have been carried southbound by Shepard and over 40 northbound.

Table I affords a comparison of Mormac's and Shepard's sailings and the traffic handled on Route 1 between January 1947 and June 1948.

TABLE I

	1947	Jan.–June 1948 [2]
Mormac [3]		
Southbound:		
Sailings	153	53
Cargo tons	1,008,000	265,000
Average tons per sailing	6,588	5,000
Northbound:		
Sailings	128	54
Cargo tons	596,000	285,000
Average tons per sailing	4,656	5,280
Shepard		
Southbound:		
Sailings	12	10
Cargo tons	67,000	54,000
Average tons per sailing	5,583	5,400
Northbound:		
Sailings	6	9
Cargo tons	22,000	36,000
Average tons per sailing	3,670	4,000

[2] Includes 17,000 tons southbound and 27,000 tons northbound to and from north Brazil ports on service 4. Same information not available for 1947.
[3] Excludes passenger-freight vessels *Argentina*, *Brazil*, and *Uruguay*.

During the second half of 1947, after Shepard had commenced its service, Mormac's southbound loadings approximated those of the first half of the year, and continued to show a not-too-great decline for the first half of 1948. Mormac's sailings dropped from 87 in the first half of 1947 to 66 in the second half, but since Shepard had only 9 sailings

during the second half, Shepard's service would account for only a part of the shrinkage. Mormac conceded that it is improbable that all of Shepard's cargo would have moved by Mormac had Shepard not been in the trade. Northbound, Mormac carried more traffic in the second half of 1947 than in the first half, and approximated the same level for the first half of 1948. Shepard had no northbound sailings in the first half of 1947, and in spite of Shepard's six sailings in the second half, Mormac had 10 more sailings than in the first half. Mormac had 15 fewer northbound sailings, and Shepard 3 more, in the first half of 1948 than in the second half of 1947. Nevertheless, Mormac in the first half of 1948 carried nearly half the tonnage it carried in all of 1947, and its average northbound loading exceeded the 1947 average.

As might be expected, Shepard and Mormac interpret the future of Route 1 in different ways. According to Shepard's witnesses, South America is changing from an agricultural to a much more highly industrialized economy, which means a higher standard of living and therefore an export market for the United States. Argentina, Brazil, and Uruguay are said to be vitally in need of our products, which Europe will not be able to supply competitively and in quantity for some time, and they in turn can offer a balanced and expanding trade flow ranging from foods to raw materials. No fully refrigerated vessels are operated regularly on the route, but refrigerated traffic is quite large. The trade with Brazil already has shown improvement. Our accelerated increase in population, it is thought, will continue for some time, thus increasing our purchases. To mention but one important export from South America, linseed, which has moved heavily until recent months, eventually should move again. Since Shepard has been endeavoring to develop Parana River ports, it expects to profit when exportation of that commodity is resumed. In time, Europe's dollar earning capacity should be available to pay South America for its European exports, and thus provide South America with an important part of its dollar purchasing power. According to the estimates of Shepard's witnesses, trade on Route 1 will eventually rise to about the 1947 level, which was very high. Shepard fears that foreign-carrier competition and not lack of trade will be the long-run problem, and that withdrawing American vessels will mean more foreign competition. Shepard testified that it has secured cargo which formerly moved by foreign lines. The fact that Mormac has asked permission of the Commission to increase the number of its sailings indicates to Shepard that the route is still attractive. Shepard is of the firm belief that staggered sailings by the two American lines would help the over-all picture in their efforts to compete with the foreign lines, but the suggestion for such a plan

has not received any support as Mormac has not "seriously considered that Shepard is going to stay in this trade."

Since resumption of normal service, Mormac has had no minimum requirement for traffic out of Boston, and its vice president believes that improved conditions should cut the loss of time from that port to within a few days of Shepard's schedule. In that witness' opinion 1947 is an abnormal competitive pattern and traffic on Route 1 will not again attain that level for a long time; if it does, there probably will be a return to the same unprecedented port congestion in South America unless new facilities are installed, which is not likely, based on past experience (South American terminals in the large ports are not owned by the carriers). A definite trend for the worse is seen by Mormac in recently concluded trade agreements between Argentina and a number of western European countries for the exchange of products which are competitive with those of the United States. If the policy of forcing certain portions of cargo to national vessels continues in South America, Mormac is doubtful whether it or Shepard will get sufficient cargo to utilize their vessels. Under any circumstances, Mormac believes that Shepard will take more cargo from it than from the foreign lines. Mormac is of the opinion that the stagger system does not tend toward good operation as it does not develop initiative. Because of foreign competition, it believes that the system would be disastrous to Mormac and not good for Shepard.

Mormac's fleet of 24 vessels allocated to route 1 (including the three good neighbor ships) has a deadweight capacity in each direction of about one million tons annually, and Mormac doubts whether southbound liner traffic on Route 1 (excluding coal) can sustain itself at an average much greater than one million tons annually, of which the share of U. S.-flag vessels would be one half under the recommendations of the Commission's Trade Route Committee. Northbound, the long-range traffic would approximate one and a half million tons annually, but since the stowage factor southbound is greater than that northbound, the spread is not so great as might appear. It is stated by Mormac's vice president that the company would not have invested in so many vessels in accordance with the suggestions of the Trade Route Committee had it known that the Commission contemplated subsidizing another company in the use of vessels which would exceed the reasonable needs of the trade.

CONCLUSIONS

There is good reason to believe that the present slump on Route 1 is temporary and may be eased in the not too distant future. The development plans of the various South American countries will probably

create a strong demand for American goods for some time. The mere fact that Mormac has ample facilities to handle all cargo now moving by American vessels does not mean that Shepard, which has made a good start in the trade, cannot secure cargo without prejudicing the financial standing of Mormac. Indeed, the figures hereinbefore set out indicate that Mormac has been holding its own reasonably well since the Shepard service was commenced. That Shepard has already made inroads on cargo formerly carried by foreign lines has also been noted. In a trade of the magnitude of Route 1, served so predominantly by foreign lines, there is no assurance that one American line can adequately handle at least half of the traffic that potentially will move via all American lines. Instances were cited at the hearing where a foreign line was used when a second American line was not available. Most shippers who testified stated that they prefer to ship by American lines when possible, and that their experience has been that more than one American line in a trade acts as a healthy spur to competition. It is a natural phenomenon that shippers, like buyers, enjoy the opportunity to choose.

As appears from Report No. 1618 of the Senate Committee on Commerce, 75th Congress, 3rd Session, the whole subsidy system is designed "to preserve and expand an industry demanded in the interest of our national welfare" and not aid "for the benefit of the shipowner." Upon the facts of record in this proceeding we conclude that, under the second part of section 605(c) of the Act, the granting of an operating-differential subsidy to Shepard on service B of Trade Route 1 would not "be to give undue advantage or to be unduly prejudicial, as between citizens of the United States, in the operation of vessels in competitive services, routes, or lines."

Mormac's exceptions have been carefully considered, and except to the extent that the examiner's recommended decision has been modified by this report in conformity with those exceptions, they are overruled.

We find:

1. That the vessels being operated and in service in Freight Service B of Trade Route 1 by applicant, Shepard Steamship Co., are providing an existing service, and that applicant, Shepard Steamship Co., is an existing operator on said Service B of Trade Route 1; and

2. That the effect of the granting of an operating-differential subsidy to applicant, Shepard Steamship Co., with respect to the operation of vessels on Freight Service B of Trade Route 1 would not be to give undue advantage or be unduly prejudicial as between citizens of the United States in the operation of vessels in competitive services in said freight service on said Trade Route.

This proceeding under section 605 (c) of the Merchant Marine Act, 1936, is hereby discontinued. Questions arising under other provisions of law will be separately considered and decided in due course.

Coddaire, *Commissioner*, concurring:

The issue presently before the Commission is very narrow—whether section 605(c) of the Merchant Marine Act, 1936, stands in the applicant's way in seeking an operating-differential subsidy covering its operations on Freight Service B of Trade Route 1. The report of the Commission holds merely that section 605(c) does not stand in the way. The Commission has not held that subsidy will be awarded. That question is expressly reserved for future determination.

Moore-McCormack Lines, Inc. (Mormac), holds an operating-differential subsidy contract for service on Trade Route 1. The service which Shepard is now operating and for which it asks a subsidy is in direct competition with Mormac. Mormac insists that since it was the first line to be subsidized in the affected trade and is prepared to furnish all the service recommended by us in our report on essential trade routes, no subsidy may be given to Shepard. There are several answers, all of which I deem conclusive, to Mormac's position.

Under section 601(a), Merchant Marine Act, 1936, 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 * * *." We must assume that the statutory reference to the application of "any citizen" means what it says, and it follows that no citizen applicant may be summarily turned away simply because it was not the first successful applicant for Government aid. Even if the Commission had contracted not to subsidize a Mormac competitor, I should consider the agreement void for inconsistency with the obligation to consider the application of *any* citizen. The Commission may not contract away responsibilities imposed upon it by law.

The legislative history of section 605(c) proves that Congress did not mean to prescribe any rule limiting operating-differential subsidies to a single line in a single trade. The Guffey Bill (S. 4110, 74th Congress), one of the many bills which Congress considered in evolving the Merchant Marine Act, 1936, contained such a restriction, but was never reported out of Committee; and no similar restriction is found in any of the other bills which dealt with the subsidy problem, although the question of single-subsidy versus multiple-subsidies was considered in the legislative proceedings. See, for example, hearings before the Senate Commerce Committee on S. 4110, S. 4111, and S. 3500, 74th Cong., 2d Sess., p. 135.

It is unnecessary, however, to go beyond the Act itself for authority to award dual or multiple subsidies in a proper case. Section 605(c)

implicitly recognizes the Commission's power to subsidize competing operators, by setting forth the conditions which must be met before such action is taken. The operators entitled to be heard under that section on questions of adequacy of service, and of undue advantage or undue prejudice, are subsidized as well as unsubsidized lines. If we were forbidden to subsidize competing operators, the law would presumably have told us so instead of setting up the complex scheme found in section 605(c) for the qualified protection of operators (including subsidized operators) against subsidized competition. The Commission has recognized all this—as long ago as 1938 in subsidizing the Robin Line alongside the Farrell Line (American South African Line) on Trade Route 15A, and as recently as 1948 in subsidizing Pacific Argentine Brazil Line (PAB) in competition with Mormac on Trade Route 24.

It follows then that the Commission is entirely free to subsidize two or more United States-flag operators in a particular trade if it finds that such action is in conformity with the purposes of the Merchant Marine Act, 1936, and does not conflict with the prohibitions of section 605(c). The Commission has found that the granting of the Shepard application would not conflict with those provisions and I think that the law and the evidence fully support its findings. If similar findings were justified (as I believe they were) in the PAB case, they are inescapable on the record now before us.

The dissenting opinion raises several points which invite discussion.

The dissent traces the history of Mormac's application for resumption of subsidized operations and concludes, on the basis of various actions taken by the Commission with respect thereto, that such application stands approved, subject to the Commission's direction that notice of approval be withheld from Mormac. I read the record differently. The Commission, having voted to approve the Mormac application on October 14, 1948, rescinded its approval on October 19, 1948, before notice of its action had been transmitted to Mormac. The action of October 19 necessarily constituted a recission not only of the approval as voted on October 14 but also of the approval previously voted on April 13, 1948—of which notice was withheld pending the Shepard application. Thus, the Mormac application still awaits definitive approval or disapproval; and in view of section 601 of the Act, I should suppose that the Commission ought not to pass upon it except in conjunction with its consideration of the pending Shepard application on its merits.

The dissent includes the opinion that the Act does not contemplate the subsidizing of two or more operators in the same service if the presently subsidized operator has a contract for carrying a "substantial portion" (section 101 of the Act) of cargo moving in the trade and

demonstrates capacity and willingness to fulfill his contract. I have indicated that I think the Commission has no power to foreclose, by contract or otherwise, its consideration of the Shepard application or any other application. I fully agree that the Commission may ultimately, as a matter of policy, determine that Shepard should not be subsidized, but that determination, if made, must be based upon full consideration of the facts. It seems to me in no sense conclusive that Mormac has purchased a fleet so large that Mormac ships alone can provide all of the service recommended by us for Trade Route 1. If that fact were determinative, it would mean that Mormac would be unduly prejudiced whenever a subsidized competitor carried any traffic other than Mormac's overflow. I am convinced that such is not the meaning of the law. The Commission sells no monopolies and Mormac has purchased none.

The other points raised by the dissenting opinion will be relevant when the Commission finally considers whether to award a subsidy. It cannot be over-emphasized that the Commission has not yet made that determination, as is concluded in the dissent. It has had before it, and has made determinations with respect to, only those issues arising under section 605(c). Public hearings were held for the purpose of receiving evidence relative to those issues alone. The Commission's determination that Mormac has failed to demonstrate that it would be unduly prejudiced by the granting of the Shepard application is based upon a record made in public hearings, and upon nothing else. If the record is to have any meaning, it must (except as to facts officially noticed) be the exclusive source of evidence upon which the Commission draws in passing upon the matters in issue. The dissent says, "It could be that the examiner's lack of familiarity with all of the phases of Moore-McCormack's contract caused him to err" in recommending a finding that Mormac would not suffer undue prejudice. Mormac had every opportunity to acquaint the examiner and the Commission with the relevant phases of its contract (which was stipulated into the record), and if there were collateral considerations bearing thereon which were not made matters of record, the examiner, and the Commission as well, properly left them out of account.

The question of expense to the Government is discussed in the dissenting opinion and the conclusion made that the award of a subsidy to Shepard would constitute a waste of Government funds. It does not necessarily follow that a subsidy to Shepard would substantially increase the Government's cost, such cost being dependent on the number of subsidized sailings rather than the number of subsidized operators. In any event, I do not understand that the subject of Government extravagance is related to the question whether Mormac will suffer undue

prejudice; but, the question having been raised, I think it fitting to observe that a subsidy in a proper case is not to be condemned solely because it might be more cheaply withheld than granted. The question in any case is whether Commission action in awarding a subsidy represents a prudent expenditure of Government money in promoting the national maritime policy—which is always a question of policy, not of law. It should not be assumed that a long-range subsidy program can be administered without cost to the Treasury or that such cost may not be many times returned in economic advantage to the nation, if indeed it is not repaid in the form of recapturable profit.

In concluding, it should be noted that the experience in Trade Route 15A, on which the Farrell Line (American South African Line) and the Robin Line have been subsidized side by side for ten years, does not support a finding that dual subsidies are disadvantageous or prejudicial to either of the subsidized competitors or to the interests of United States participation in the doubly-subsidized trade. During the ten years in which the Farrell Line and the Robin Line have been subsidized on Trade Route 15A, they have increased substantially their combined share of the United States-South African trade. The Farrell Line was the first of the two lines to be subsidized, but notwithstanding the grant of a subsidy to its competitor, both Farrell Line and Robin Line during the ten-year period enjoyed comparable increases.

The proportion of traffic on Trade Route 1 carried by United States-flag vessels has been steadily decreasing since 1947, and as early as the first half of 1948 had dropped to considerably less than half of the total, with foreign-flag competition steadily on the increase. If competition between United States-flag operators on Trade Route 1 will tend to increase the share of traffic carried in vessels of United States registry—as competition under dual subsidies seems to have done on Trade Route 15A—there would seem to be scant justification for concluding that the award of a subsidy to Shepard would be unduly prejudicial, either to Mormac or to the United States merchant marine.

By order of the Commission.

[SEAL] (Sgd.) A. J. WILLIAMS,
Secretary.

Washington, D. C., *April 14, 1949.*

MCKEOUGH, *Commissioner,* dissenting:

1. Shepard Steamship Company filed an application for an operating subsidy under date of April 19, 1948, requesting a minimum of 18 and a maximum of 26 sailings on Service B of Trade Route No. 1.

Following the Commission's approval on May 7, 1948, of recommendation from the Government Aids Division dated April 28, 1948, notice of

public hearing was dated May 7, 1948, and served May 28, 1948. The notice, among other things stated: "The purpose of the hearing is to receive evidence relevant to determinations which the Commission is required, after hearing, to make pursuant to the provisions of Section 605(c) of the Merchant Marine Act, 1936." Hearings were held in Boston and New York in August 1948 before Examiner Robinson. Moore-McCormack Lines, Inc., the only subsidized operator on Trade Route No. 1, intervened and opposed the application.

The examiner's report, served November 24, 1948, contained the following recommendation:

The Commission should find (1) that Shepard is an existing operator on Service B of Route 1, and that as a consequence it is not necessary for Shepard to prove the inadequacy of Moore-McCormack's service in order to be eligible for a subsidy; and (2) that the granting of a subsidy to Shepard would not be to give undue advantage or to be unduly prejudicial as between citizens of the United States. *As previously stated in this decision, the scope of the hearing is limited by the notice thereof to section 605(c) of the Act, hence no recommendation will be made as to whether a subsidy should be granted to Shepard.* [Italics added.]

On December 13, 1948, the intervener, Moore-McCormack Lines, Inc., filed exceptions to the above report and on December 17, 1948, the Commission heard oral argument in connection with the examiner's report.

2. Before filing its application for subsidy on Trade Route No. 1, Shepard had applied on May 27, 1946, for the purchase of five C3-S-A3 vessels for operation on Trade Route 8 (New York-Boston-Rotterdam-Antwerp). On July 31, 1946, Shepard filed an application for an operating-differential subsidy on Trade Route 8 (Antwerp/Rotterdam) in which it stated that it would purchase four C-3 type vessels, converted to carry 74 passengers each, for operation on Trade Route 8, if its application for a subsidy were approved. On September 30, 1946, Shepard withdrew this application for a subsidy on Trade Route 8 and on the same date its vessel purchase application was amended to show that it wanted to operate on Trade Route No. 1, Service B, and that while it preferred five vessels it would accept four vessels. The latter number was actually purchased by Shepard.

Shepard made its first sailing in Service B of Trade Route No. 1 in May 1947 and, as indicated above, applied for a subsidy on that Trade Route on April 19, 1948.

3. The intervener, Moore-McCormack Lines, pursuant to competitive bidding, purchased the American Republics Line, now known as Trade Route No. 1, from the Commission in 1936 and has been operating on that route under an operating-differential subsidy contract since.

Moore-McCormack's current operating-differential contract for Trade Route No. 1 is dated September 30, 1938 and scheduled to expire June 30, 1951.

The American Republics Line (Trade Route No. 1) is described in Moore-McCormack's subsidy contract, as amended, as follows:

> "Between United States Atlantic ports and ports on the East Coast of South America south of and including Para, Brazil."

Moore-McCormack's subsidy contract provided for a minimum of 48 and a maximum of 64 voyages. By addenda to this contract the voyages were increased for the calendar year 1940 to a minimum of 64 and a maximum of 94 and for the calendar year 1941 to a minimum of 75 and a maximum of 95. The service was discontinued in 1942 as the vessels of all subsidized operators were taken over by the government for war purposes during 1942. Moore-McCormack resumed operation on Trade Route No. 1 in March 1946.

4. The Commission's Trade Routes Committee Report, issued by the Commission in May 1946, divided the freight services on Trade Route No. 1 as follows:

Freight Service A:

Itinerary: New York (regular calls also to be provided at Philadelphia, Baltimore, Hampton Roads and at South Atlantic ports within the Wilmington, North Carolina-Jacksonville range) to Rio de Janeiro, Santos, Montevideo, Buenos Aires, with calls to be arranged at other South American ports within the Pernambuco-River Plate range as traffic offers, loading at River Plate (including up-river ports if conditions warrant) and returning via Brazilian ports to U. S. Atlantic Ports; with privilege of calling at Canadian ports to load or discharge cargo but not exceeding 12 calls per year.

Sailing Frequency: 52 weekly sailings per year.

No. and Type of Ships: 10 C-3 type freight vessels.

Freight Service B:

Itinerary: U. S. Atlantic ports to East Coast South American ports within the Pernambuco-River Plate range, including up river ports in the River Plate area, with privilege of calling at Canadian ports to load or discharge cargo but not exceeding 12 calls per year.

Sailing Frequency: 18 to 24 sailings per year.

No. and Type of Ships: 4 C-2 type freight vessels.

Freight Service C:

Itinerary: U. S. Atlantic ports to Belem (Para), other North Brazil ports, as traffic offers, to and including Bahia; returning via Belem (Para) and other ports in central and north Brazil as traffic offers to U. S. Atlantic ports with privilege of calling at Canadian ports to load or discharge cargo, but not exceeding 12 calls per year.

Sailing Frequency: 2 sailings per month—24 sailings per year.

No. and Type of Ships: 4 C1-A or other suitable type freight vessels.

Thus a minimum of 94 and a maximum of 100 voyages are called for with respect to the three freight services listed above. It should be noted that the description of Moore-McCormack's service in its original contract previously quoted herein includes the entire territory covered by the three services created on Trade Route No. 1.

In its application of August 22, 1946, for resumption of subsidized operations, Moore-McCormack said,

> The minimum sailings are herewith given as proposed by the report of the Commission on essential foreign trade routes and services recommended for U. S. flag operation except as to passenger service.

5. Subsequent to August 22, 1946, Moore-McCormack acquired from the Commission more than sufficient vessels of the type required to cover adequately the three services described under Trade Route No. 1. The recommendation received by the Commission from the staff with respect to these purchases showed that the vessels were being acquired by Moore-McCormack from its Capital Reserve Fund, for the expressed purpose of providing sufficient freight vessels of the type required on Trade Route No. 1 to make the voyages called for by the Trade Routes Committee's Report of May 1946.

6. In its report to the Commission dated March 4, 1948, under subject: "Moore-McCormack Lines, Inc.—Application for Resumption of Subsidized Operations," the Government Aids Division recommended that Moore-McCormack's subsidy contract be modified effective as of the date subsidy payments were to be resumed, January 1, 1947, to provide the following:

American Republics Line (Trade Route No. 1)

Freight Service A–48	60 sailings per year
Freight Service B–18	24 sailings per year
Freight Service C–18	26 sailings per year
Total	110 sailings per year

It was explained in the recommendation that the decrease in the minimum from 94 as provided for in the Trade Routes Committee's Report of May 1946, to 84, and the increase from 100 to 110 was recommended at the suggestion of the Trade Routes Committee, in order to give greater flexibility, particularly during the early post-war period. The same memorandum of March 4, 1948, from the Government Aids Division pointed out that Moore-McCormack had purchased sufficient vessels for Trade Route No. 1 (as well as for its other services, Trade Routes Nos. 6 and 24) to make the number of voyages prescribed in the Trade Routes Committee Report of May 1946. That 110 voyages was the *maximum* number of voyages required to be subsidized in the opinion of the Trade Routes Committee was reaffirmed in a recent

memorandum from the Chairman, Trade Routes Committee, to Chief, Bureau of Government Aids, dated February 17, 1949.[1] *This recommendation as to increased number of voyages was consistent with the recommendations made to and approved by the Commission with respect to other subsidized operators.* The Commission has increased the number of voyages of other operators (without public hearing, where the geographical scope of the operators subsidized service as described in its contract was not enlarged and where no change in the type of service was involved) in order to provide for a nominal increase in the number of sailings required on a long-range post-war basis, the Trade Routes Committee Report of May 1946 having been the Commission's guide in this respect.

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1 We wish to refer to your memorandum of December 29, requesting a list of tentatively approved and actual sailings in the subsidized services of the Moore-McCormack Lines for the calendar year 1948, which are listed below:

American Republics Line:

Sailings by ownership vessels—subsidized	86
Chartered sailings—non-subsidized	4
Combination passenger and freight vessels, non-subsidized	24
Total	114
Tentatively scheduled sailings	* 111

* November was strikebound month when 8 sailings were scheduled, but 4 vessels sailed.

The Trade Routes Committee has approved the minimum and maximum voyages on this service as—

	Minimum	*Maximum*
A Line	48	60
B Line	18	24
C Line	18	26
Total	84	110

Pacific Republics Line:

Sailings by ownership vessels, subsidized	6
Chartered sailings, non-subsidized	3
Total	9
Tentatively scheduled sailings	*14

* September, October and November were strikebound months, and 3 ownership vessels were tied-up as the result of the strike.

The Trade Routes Committee has approved the minimum and maximum voyages on this service as—

Minimum	*Maximum*
12	18

American Scantic Line:

Sailings by ownership vessels, subsidized	33
Chartered sailings, non-subsidized	1
Total	34
Tentatively scheduled sailings	*40

* November was strikebound month when 4 vessels were scheduled and only 1 sailed.

The Trade Routes Committee has approved the minimum and maximum voyages on this service as—

Minimum	*Maximum*
48	52

7. On April 13, 1948, the Commission approved the aforementioned recommendation of March 4, 1948 for resumption of Moore-McCormack's subsidized operations. However, before Moore-McCormack was advised of that action by letter the Commission ordered that formal notice be withheld until Shepard's application was received.

After the submission of a supplemental memorandum dated April 28, 1948, by the Government Aids Division, the Commission's approval of the resumption application was reaffirmed on October 14, 1948, but once again the Commission instructed the staff not to notify Moore-McCormack "pending consideration of application for subsidy by Shepard Steamship Company." Thus the recommendation of March 4, 1948, from the Government Aids Division stands approved but without formal notification of Moore-McCormack.

8. The following are some of the factors that appear to have a direct bearing on the finding to be made by the Commission under section 605(c) of the 1936 Act:

The Operating Department of the Moore-McCormack Lines has informed us it is their intention to remove the vessels which are now on charter for bulk cargo operation and restore them to subsidized services as indicated below:

Mormacowl—Now on charter with full cargo of grain for Italy. Due Philadelphia March 8. Will be returned to subsidized operation on American Republics Line about March 8.

Mormacport—Now on time charter for full cargo of grain from Houston to Italy. Expected to be returned to subsidized operation on the Scantic Line March 10.

Mormacwave—Now on charter with a full cargo of grain from Baltimore to Italy. Expected to be returned to subsidized operation on the Scantic Line about February 24.

Mormacwren—Completed voyage with full cargo of grain from Baltimore to Italy. Returned to subsidized operation on American Republics at Baltimore on February 5.

When the above vessels are returned to subsidized operation there will be no Moore-McCormack-owned vessels on charter, with grain, coal or Army per diem voyages.

a. The 1936 Act, in my opinion, does not contemplate the subsidizing of two or more operators in the same service if the existing subsidized operator has a contract for carrying a "substantial portion" (section 101 of the 1936 Act) of cargo moving over such service and has shown the capacity and willingness to fulfill the requirement of his contract.

b. Until the recent operating-differential subsidy contract was awarded to the Pacific Argentine Brazil Line, there had been no ap-

parent desire on the part of this Commission or any previous Commission to disregard the principle enunciated in "a" above. Only in one case prior thereto had the Commission granted operating-subsidy contracts to two operators on the same service and, in this one instance, I believe the record shows that the existing operator which had a mail contract that was cancelled along with other similar contracts as of June 30, 1937, pursuant to the provisions of the 1936 Act, was not willing to provide sufficient tonnage to move what was considered by the Commission to be a "substantial" portion of the cargo.

c. Moore-McCormack, the existing subsidized operator, purchased the American Republics Line (Trade Route No. 1) upon competitive bidding. The report of the Trade Routes Committee issued by the Commission in May 1946 divided Trade Route No. 1 into three freight services. The total of the three services represented an overall increase over the prewar sailing requirements in the subsidy contract of Moore-McCormack but all ports listed are included in the area covered by Moore-McCormack's contract.

d. Moore-McCormack, with Commission approval, purchased all of the additional vessels required to make the voyages provided for in the report of May 1946, i.e., the anticipated long-range requirements, rather than temporary increases of the period immediately after the war.

e. The Commission has twice approved the recommendation from the Government Aids Division of March 4, 1948, which provided for a minimum of 84 voyages and a maximum of 110, the latter being the maximum number the Trade Routes Committee believed necessary to carry a "substantial portion" of the cargo expected to move on Freight Services A, B, and C of Trade Route No. 1.

f. In 1947, the first full year of postwar operations by Moore-McCormack, as well as in 1948, Moore-McCormack exceeded the minimum number of voyages (84) referred to in "e" above.

g. Section 804 of the 1936 Act provides in part that "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 the Pacific ports of the United States", but the law does not say that the Commission should award a contract to a new operator domiciled in a particular port on the Atlantic seaboard, irrespective of the cargo that normally moves through that port or irrespective of the fact that another operator already has a contract which requires it to serve said port. Notwithstanding all the calls made at Boston by both Shepard and Moore-McCormack in 1947, the examiner points out that only approximately 8,000 tons moved southbound from Boston on Trade Route No. 1 that year during which Moore-McCormack, according to Exhibit 36, made 43 northbound calls at Boston and scheduled 25 outbound

calls and "on most of which they didn't book a ton of cargo," according to a statement by the attorney for Moore-McCormack.

h. The examiner stated that to give Shepard a subsidy on Service B of Trade Route No. 1 "would not be to give undue advantage or to be unduly prejudicial, as between citizens of the United States, in the operation of competitive services, routes or lines. This renders moot, under the same part, whether it is necessary to make a contract in order to provide adequate service by vessels of United States registry." It could be that the examiner's lack of familiarity with all of the phases of Moore-McCormack's contract caused him to err in the first conclusion. If, however, we assume, for the purpose of this discussion, that he is correct in his first conclusion, he would presumably be correct in further concluding that he is not concerned as to the *necessity* for subsidizing a second operation in this service. However, this question of the need for a second subsidized service should be of paramount concern *to the Commission.*

i. The Commission cannot subsidize unnecessary operators and unnecessary voyages without *wasting* government funds both by paying out more money in subsidy than is required to carry out the purposes and policies of the 1936 Act and by reducing the profits that otherwise would be subject to recapture.

j. The findings of the examiner appear to me to conflict with the requirements of Moore-McCormack's subsidy contract as modified by Commission action of April 13, 1948, which provides for all of the freight voyages (a maximum of 110 voyages) on Trade Route No. 1 found necessary in the Trade Routes Committee Report of May 1946. Naturally, the Commission is free to revise the Trade Routes requirements *but until such revision is made sailings complying with the requirements of the Report of May 1946 must be assumed by operators to be adequate. (As late as February 17, 1949, the Chairman of the Trade Routes Committee reaffirmed that the maximum voyages per annum which the Commission should require was 110).*

k. Moore-McCormack also operates the "Good Neighbor" fleet of passenger vessels (owned by the Commission) under bareboat charter in the passenger and freight service of Trade Route No. 1. These vessels are nearing the end of their economic lives of 20 years each. We have no subsidy contract with Moore-McCormack which requires it to construct for its account new vessels of this type for operation in this service. However, it is my impression that we have made considerable progress in our discussions with this company, looking toward it investing some of its capital in the purchase of new combination vessels suitable for this operation. This phase of the Commission's problem with respect to Trade Route No. 1 is of great importance to the U. S. mer-

chant marine and to the continuation of the Government's "Good Neighbor" policy toward the South American countries. Neither Shepard nor any other company except Moore-McCormack has shown any interest whatsoever in acquiring suitable combination passenger and cargo vessels for operation on Trade Route No. 1. None of the subsidized operators has shown any interest in passenger, or combination passenger and cargo, vessels standing alone; all appear to want such freight services as they can get as a support to the passenger business. If the Commission continues to permit the chiseling away of Moore-McCormack's freight services irrespective of the merits of the case or the requirements of the services, it is reasonable to believe that it will be difficult, if not impossible, to persuade Moore-McCormack on the soundness of any proposal involving the investment by it of millions of dollars in new passenger or combination vessels.

l. The examiner has *not* recommended that a subsidy contract be awarded to Shepard and neither has he recommended against such an award. Hence, the Commission has neither an affirmative nor a negative recommendation on this phase of the matter before it for consideration. Based on the record, it appears obvious that there is no *necessity* for the requested contract, which fact standing alone is ample reason for rejecting the same.

9. In line with the policy of section 101(a) of the 1936 Act, I favor subsidizing an operator where needed, and only where needed, to carry a "substantial portion of the water-borne export and import foreign commerce of the United States" moving over an essential foreign trade route, whether such operator would be in addition to an existing subsidized operator or would be operating on an essential foreign service not heretofore covered by an existing subsidized operator. To follow any other course would be a waste of public funds and most certainly would be contrary to the practices of a "prudent businessman", whose standards the Commission members are admonished to follow in the 1936 Act.

UNITED STATES MARITIME COMMISSION

No. M–2

AMERICAN-HAWAIIAN STEAMSHIP COMPANY AND PITTSBURGH STEAMSHIP COMPANY—APPLICATIONS FOR EXTENSION OF PERIOD FOR COMMITMENT OF CONSTRUCTION RESERVE FUND DEPOSITS

Submitted September 30, 1949. Decided November 30, 1949

The period from and after December 1, 1949, within which deposits in applicant American-Hawaiian Steamship Company's Construction Reserve Fund, aggregating $7,236,111.91, shall be expended or obligated for construction or acquisition of new vessels as defined in section 511 of the Merchant Marine Act, 1936, as amended, should be extended to September 30, 1951.

The period from and after December 1, 1949, within which deposits in applicant Pittsburgh Steamship Company's Construction Reserve Fund, aggregating $852,000, shall be expended or obligated for construction or acquisition of new vessels as defined in section 511 of the Merchant Marine Act, 1936, as amended, should be extended to September 30, 1951.

Edward P. Farley and *Donald S. Morrison* for applicant American-Hawaiian Steamship Company.

Wendell W. Lang and *Harold L. Hale* for applicant Pittsburgh Steamship Company.

Hoyt S. Haddock for CIO Maritime Committee, intervener.

George F. Galland for the Commission.

REPORT OF THE COMMISSION

MELLEN, *Vice Chairman:*

Exceptions were filed by American-Hawaiian Steamship Company to the examiner's recommended report but briefs and oral arguments were waived. Our conclusions differ from those of the examiner.

Hearing on these applications was held on August 31, 1949, in accordance with House and Senate Committee Reports on H. J. Res. 186, 81st Congress, pursuant to notice in the Federal Register of August 26, 1949.

Both applicants are citizens of the United States operating vessels in the foreign or domestic commerce of the United States within the meaning of section 511(b) of the Merchant Marine Act, 1936, as amended.

A Construction Reserve Fund depositor has two years within which to obligate deposits in such a fund and, under section 511(h) of the

Act referred to, the Commission has authority to grant extensions for an additional period not in excess of two years. In 1943, a proviso was added to section 511(h) which in effect, authorizes further extensions ending not later than six months after the termination of the war, or such earlier date as might be designated. March 31, 1951 was established as the date of the termination of the war for the purposes of this proviso by Public Law 50—81st Congress (Approved April 20, 1949). This enactment authorizes the Maritime Commission to further extend the period within which to obligate deposits in the Construction Reserve Fund to September 30, 1951. The House and Senate Reports on H. J. Res. 186—81st Congress, state that it is the hope, expectation, and understanding that the Commission:

. . . will hold open hearings on each application for an extension in which the applicant line will be required to explain fully the need for extension and the steps being taken to undertake construction or acquisition of new vessels within the extended time.

The authority of the Commission to grant extensions of time for the obligation of deposits in the Construction Reserve Fund is permissive rather than mandatory, and is not retroactive as to deposits withdrawn or deposits as to which the time for extension has lapsed.

The questions in this proceeding are whether the applicants have fully explained the need for extension; what steps are being taken to undertake construction or acquisition of new vessels within the extended time; and whether granting the requests of the applicants would foster the development and encourage the maintenance of the American merchant marine, as set forth in Title I of the Merchant Marine Act, 1936, as amended.

By application filed July 15, 1949, American-Hawaiian Steamship Company, hereinafter referred to as American-Hawaiian, requested an extension to September 30, 1951, of the time within which deposits aggregating $7,236,111.91 in its Construction Reserve Fund may be obligated for the acquisition of new vessels as defined in section 511 of the Merchant Marine Act, 1936, as amended. The deposits with respect to which the extension is requested are as follows:

Date of Deposit:	*Amount*
April 24, 1945	$3,228,742.50
February 18, 1946	595,785.25
June 21, 1946	520,000.00
August 8, 1946	730,000.00
November 22, 1946	385,000.00
December 12, 1946	360,000.00
May 9, 1947	340,000.00
July 8, 1947	367,000.00
September 30, 1947	340,000.00
	6,866,527.75

March 17, 1949, additional deposits on which the statutory two-year period will not expire until March 17, 1951	369,584.16
	$7,236,111.91

On April 21, 1949, the Commission granted American-Hawaiian an extension of time to September 30, 1949, and, by actions on September 27 and November 10, 1949, granted interim extensions to December 1, 1949, within which any uncommitted deposits in its Construction Reserve Fund, joint accounts Nos. 1 and 2, aggregating $6,866,527.75 between April 24, 1945, and September 30, 1947, shall be expended or obligated for construction or acquisition of vessels in accordance with the provisions of section 511 of the Merchant Marine Act, 1936, as amended.

The application of American-Hawaiian, upon which the company relied for an extension of time to September 30, 1951, within which to obligate deposits in its Construction Reserve Fund, states, in substance, that the company is continuing to plan for the prudent investment of its Construction Reserve Fund in vessels suitable for the intercoastal trade; that it has recently instituted a careful study of the use of cargo containers as a means of reducing cargo handling costs in that trade; and that the company believes that the restoration of intercoastal shipping will be promoted by the retention of the deposits in the company's Construction Reserve Fund where they will remain available for the acquisition of vessels. In addition to the company's application, further information was adduced during the hearing.

American-Hawaiian has been in the steamship business since 1860 and has been operating an intercoastal service since shortly after 1900. Before the war the company owned 39 vessels, 32 of which were in the intercoastal service. During the war 12 vessels were lost as war casualties, 10 were requisitioned for title by the Government, and the balance have been sold, some in 1940 and the rest since the war.

All receipts received by the applicant as a result of the sale, loss, or requisition of its vessels have been deposited in the Construction Reserve Fund, with the exception of the proceeds from the vessels sold during the early part of 1940, prior to the passage of section 511 of the Merchant Marine Act, 1936, as amended. Since American-Hawaiian established its Construction Reserve Fund, it withdrew from the Fund the sum of $2,692,302.48 for the acquisition of 5 vessels in the name of its wholly owned subsidiary, Mount Steamship Corporation, now American-Hawaiian Steamship Company (Del.). Two of these 5 vessels were sold shortly after purchase and a Construction Reserve Fund was established with the proceeds of such sales in the name of that subsidi-

ary. It also withdrew from the Fund $6,120,997.52 on September 30, 1948, when the statutory period for commitment of that sum expired. With respect to this withdrawal, the applicant paid a tax of $1,400,000.

Immediately after the war, American-Hawaiian reestablished its intercoastal organization and at first operated vessels in that trade for the account of the Government as a General Agent. In 1947 the company began intercoastal operations for its own account, and is now using 5 or 6 vessels chartered from the Maritime Commission. Notwithstanding the company's assertion that the intercoastal trade is its primary interest and concern, the company is presently operating about 20 chartered vessels in foreign commerce. Such vessels are employed in maintaining a monthly berth service from Atlantic coast to transpacific ports, are chartered to the Army on a time charter basis, or are operating in the bulk cargo movements.

The charter hire on a vessel owned by the Maritime Commission which is operated in the domestic intercoastal trade is at the rate of 15% per annum of the statutory sales price of the vessel or the floor price, whichever is higher, of which 8½% shall be payable unconditionally and the balance of 6½% shall be payable from the earnings before any participation in such earnings by the charterer. The applicant asserts it has never become obligated to pay any portion of such 6½% on the vessels it operates in its intercoastal service and that its losses in such service from August 1947 to June 1949 were $1,265,611.33.

American-Hawaiian contends that every effort is being made by the company to reduce its costs, that rates are about as high as can be maintained without a loss of traffic, that terminal and handling costs amount to approximately 50% of gross freight revenue. These costs are felt to be reducible through the use of containers for general freight, which will also save pilferage, damage, and certain rehandling costs. The studies made by the company, as well as those carried on by others, have not yet progressed sufficiently far to indicate the size, type, weight, construction, and other characteristics of a container which would be interchangeable between ship, railroad, and motor truck, or to form the basis for the development of a plan for a specially designed vessel or for the modification of any existing vessel. The load factor on applicant's intercoastal vessels is increasing, and the company alleges that their operations are beginning to show a gain. However, the company asserts that it could not remain in the intercoastal business operating only five or six vessels if it were not for the distribution of overhead between its foreign and intercoastal services.

The basic design of the C–4 cargo vessel, built by the Maritime Commission during the war, was developed by the applicant, and it is now using several vessels of this type, chartered from the Government, in its

intercoastal service. The C–4 type of cargo vessel is considered most desirable by the company for intercoastal operations, due to compartmentation, the engines being aft, and the ease with which it can be loaded and discharged, but it cannot be operated profitably at the present time in those operations.

On behalf of the company it was asserted that it would not be prudent either to plan for the construction of new vessels under prevailing circumstances, or to purchase vessels at prevailing prices. Also, that if the requested extension were not granted it would have no alternative but to withdraw the deposits in its Construction Reserve Fund and pay a substantial portion thereof in taxes, and that this would remove the amount paid in taxes from possible future investment in the American merchant marine.

In the face of demands from some stockholders to liquidate, it was alleged that the Board of Directors of the company has taken affirmative action to stay in the business, although losing money. The company states that if it receives a two-year extension it is confident something can be worked out, otherwise, it would not have made the application.

On the foregoing record, it appears that American-Hawaiian has adequately explained the need for an extension of time, and that to extend the period for the obligation or commitment of the deposits in applicant's Construction Reserve Fund to September 30, 1951, to afford the company an opportunity to place its intercoastal operations on a profitable basis so that management may prudently invest in vessels is in furtherance of the policy of the Merchant Marine Act, 1936, as amended.

Pittsburgh Steamship Company, hereinafter referred to as Pittsburgh, by a letter dated August 3, 1949, as supplemented at the hearing, requested an extension of time to September 30, 1951, within which deposits aggregating $852,000 in its Construction Reserve Fund may be obligated for the acquisition of new vessels, as defined in section 511 of the Merchant Marine Act, 1936, as amended. The deposits with respect to which the extension is requested are as follows:

Date of deposit:	*Amount*
June 13, 1945	$125,000
August 11, 1945	10,000
September 4, 1945	490,000
May 24, 1946	152,000
	777,000
December 8, 1948, additional deposits on which the statutory two-year period will not expire until December 8, 1950	75,000
	$852,000

On May 18, 1949, the Commission granted Pittsburgh an extension of time to September 30, 1949, and on September 27, 1949, and November 10, 1949, granted interim extensions to December 1, 1949, within which any uncommitted deposits made in its Construction Reserve Fund shall be expended or obligated for expenditure for construction or acquisition of vessels in accordance with the provisions of section 511 of the Merchant Marine Act, 1936, as amended.

Applicant Pittsburgh is a contract carrier operating exclusively on the Great Lakes, and has no plans to go beyond the Great Lakes. The company operates 61 vessels wholly owned by it. These are all the same type, Great Lakes bulk-cargo carriers. The company's need for new vessels is largely replacement, and it is to the applicant's advantage to pursue plans actively because the average age of its fleet is 30 years. The oldest vessel is 51 years old and the newest vessels were built in 1942.

Occasionally the company utilizes Canadian-flag vessels to carry commodities which normally are and could be carried by its own vessels if they had sufficient capacity. The waiver of coastwise laws under a temporary statute authorizing the use of foreign tonnage has had no effect on the company's construction plans. Its use of the Canadian vessels is sporadic, not a policy or a practice.

Pittsburgh testified that it has developed several plans for modern Great Lakes cargo carriers and, by conducting tests, has eliminated all but two hull patterns from consideration.

During the past year some of the companies for which Pittsburgh carries have made explorations for ore outside of the continental limits of the United States and one of the largest of such companies has already acquired foreign ore properties. The results of these explorations will have an effect on Great Lakes shipping and will influence the respective tonnage requirements for ore, coal, and limestone. The tonnage requirements will, in turn, have a strong bearing on the choice of hull pattern, as well as other vessel characteristics such as unloading machinery and hatches.

The company stated that its hesitation in building is not the result of dissatisfaction with existing designs, but rather because of the uncertainty as to what quantities of what cargoes will be carried. It believes that the present uncertainty will be resolved by 1951 and that there would be no delay in construction simply because the requested extension was granted. The cost of a vessel built according to the plans already prepared by the company was estimated at between $4,500,000 and $5,500,000.

A representative of the CIO Maritime Committee appeared in opposition to the application and asserted that it was general knowledge

that Pittsburgh needs ships which it has not built, and one of the reasons it has not built them is because foreign tonnage could be utilized pursuant to the temporary coastwise waiver statute previously referred to. This basis for opposition does not appear controlling in view of the direct statements by applicants that the delay in proceeding with construction has been because of other cogent reasons.

On this record, it appears that Pittsburgh has explained the need for an extension of time and has shown that it has taken steps to undertake construction of new vessels. It further appears that, in view of the uncertainty of the cargo requirements of the company, it is in accordance with the policy of the Merchant Marine Act, 1936, as amended, to grant the extension requested, thereby giving the applicant an opportunity to make a more intelligent determination of the new type of vessel to be constructed in accordance with its plans and tonnage requirements.

The examiner recommended certain limitations upon the extensions of time requested by the applicants for the commitment or obligation of their construction reserve funds. Although such limitations would make possible a reexamination of the matters involved and would not proscribe future applications for further extensions, consideration of all facts relevant to the subject requests leads to the conclusion that advantage would accrue to no one as a result of the recommended limitations. To so limit the time would unnecessarily interrupt the continuity of the companies' plans and developments, require further hearings, and leave the applicants in a state of uncertainty, while factors pertinent to the formulation of sound long range investment decisions continue indefinite.

An appropriate order granting extensions, in each case to September 30, 1951, will be entered.

UNITED STATES MARITIME COMMISSION

No. S–15

MOORE-MCCORMACK LINES, INC.—RESUMPTION OF OPERATING-DIFFERENTIAL SUBSIDY FOR "GOOD NEIGHBOR FLEET"

Submitted January 12, 1950. Decided April 13, 1950

The Commission finds that the passenger carryings of foreign-flag cargo vessels and of certain cruise ships on Trade Route No. 1 constitute foreign competition with the Good Neighbor Fleet, and that an operating subsidy is necessary to meet such competition.

Ira L. Ewers, Donald Lincoln, Melville J. France, and *Albert F. Chrystal* for applicant.

Paul D. Page, Jr., Solicitor, and *Joseph A. Klausner* for the Commission.

REPORT OF THE COMMISSION

BY THE COMMISSION:

This proceeding involves the application of Moore-McCormack Lines, Inc., hereinafter referred to as Mormac, for the resumption of payment to it of an operating-differential subsidy on its "Good Neighbor Fleet" on Service 1 of Trade Route No. 1 (between New York, N. Y., and the East coast of South America), as described in the Commission's Report on Essential Foreign Trade Routes of the American Merchant Marine, issued May 1949. A recommendation favorable to the applicant was submitted by the hearing examiner, based upon grounds which Mormac deemed too narrow. Exceptions were filed by Mormac and argued before the Commission. Our decision follows the examiner's recommendation that the application be approved, but rests upon somewhat broader grounds.

Trade Route No. 1 was determined by the Commission to be an essential route in the commerce of the United States, pursuant to sec. 211(a) of the Merchant Marine Act, 1936 (hereinafter called the "Act"), which provides:

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

(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 . . .

In accordance with the policy of the Act [1] and in aid of the Government's Good Neighbor Policy in relation to Latin America, the Commission, in 1938, purchased from Panama Pacific Line the passenger vessels *Pennsylvania, Virginia,* and *California* for operation in the service under consideration. The vessels were reconditioned and renamed *Argentina, Brazil,* and *Uruguay.* On June 17, 1938, the Commission offered for sale or charter, under competitive bidding, its American Republics Line of ten vessels, then operating in the trade between the United States and the East coast of South America, plus the three recently-acquired passenger vessels, the successful bidder to receive an operating-differential subsidy whether the line be purchased or chartered. If chartered, the subsidy was to continue for three years—the duration of the charter—with a two-year extension. The route was divided into three services, the passenger vessels to be used on Line A, which is the present Service 1. There were no bids for the purchase of the line, but Mormac's affiliate, American Scantic Line, Inc., was the successful bidder for operation under charter. The charter-subsidy agreement was signed on September 30, 1938.

By addenda to the charter, the vessels were operated until January 1, 1942, when they were taken over for national defense purposes, provision being made for their eventual return to the charterer if not lost.

[1] Sec. 101 of the Act provides:

"SEC. 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."

Upon the return of any or all of the vessels the charter was to be extended to such "extent as may be necessary so as to make the period between the date of the return of such vessel and the date of expiration equal to the unexpired portion of the charter period as of the date when the vessel was made available for national defense purposes." The last of the vessels was returned to Mormac at midnight of May 7, 1948, and the charter and subsidy again became effective for two years from that time.

Mormac waived a subsidy for the first year after resumption of service but reserved the right to request a subsidy for the second year if it became necessary. Such a request was made on April 12, 1949, and was approved by the Commission on July 14, 1949, "on the basis that, as, if and when, it is determined in principle that an operating-differential subsidy . . . is appropriate and there shall have been found the amount of subsidy that is to be paid, it will be made effective as of May 8, 1949."

In its letter to the Commission of July 27, 1949, concurring in the Commission's action of July 14, Mormac requested a hearing under section 602 of the Act, "since our application is predicated upon direct competition as well as competition which may be considered indirect . . ." The notice of hearing, which was published in the Federal Register of August 25, 1949, recited that the purpose of the hearing "is to receive evidence relevant (1) to determinations which the Commission is required, after hearing, to make pursuant to the provisions of section 602 of the Merchant Marine Act, 1936, as amended, and (2) to the scope and weight of the direct passenger competition provided by foreign-flag dry cargo vessels carrying a limited number of passengers on Trade Route No. 1."

Mormac's Contentions—Mormac contends (1) that the movement of passengers on foreign cargo vessels on Trade Route No. 1 is direct and substantial competition for the Good Neighbor Fleet; (2) that interport traffic in South America on Trade Route No. 1 is direct and substantial competition; (3) that cruise competition is direct and substantial; (4) that passenger carryings between South America and Europe are substantial and are indirectly competitive; (5) that passenger carryings from the United States to Europe are substantial and are indirectly competitive; and (6) that the transshipping at New York of passengers to and from Europe and South America is indirectly competitive with carryings between South America and Europe direct.

Questions Presented—Section 601(a) of the Merchant Marine Act, 1936, prohibits the approval of applications for operating-differential subsidy unless the Commission determines, among other matters, that the vessels covered by the application are "required to meet foreign-flag

competition and to promote the foreign commerce of the United States" —promotion of such commerce being a basic policy of the Act [2] and a fundamental duty of the Commission. The act imposes no procedural restrictions upon the Commission in determining the facts as to foreign competition, except that under section 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.

Mormac having suggested that its application for resumption of operating subsidy was based not only upon direct foreign-flag competition but upon indirect competition as well, the Commission set the matter down for hearing to assure compliance with section 602. The scope of the hearing, however, was broader than section 602, the proceeding having been intended to cover all facts available as to the existence and nature of foreign-flag competition (direct as well as indirect) and the necessity of meeting it. We have now to determine whether the evidence discloses foreign-flag competition which, under the Act, should be met by way of an operating subsidy on the Good Neighbor Fleet. The requirements of section 602 have been fully satisfied. Therefore, there need be no concern with technicalities of definition as to whether a particular species of competition is "direct foreign-flag competition" or "foreign competition except direct foreign-flag competition." In either event, we must decide whether "an operating subsidy is necessary to meet competition of foreign-flag ships," and to promote the commerce of the United States.

Traffic Data.—The basic traffic statistics received in evidence at the hearing are set forth in Appendix A to this report. They indicate, among other matters, that: (1) in 1948 Mormac carried 100 percent of the passengers moving on combination vessels on Trade Route No. 1; (2) during the same period, Mormac carried only 31 percent of the passengers moving on freighters whereas foreign-flag freighters accounted for about 61 percent; (3) from January 1, 1948, to June 30, 1949, travel by air between New York and the East coast of South America nearly equalled travel by water; (4) a large number of cruises, only two of which will touch South America, are scheduled by the transatlantic lines during 1949-1950; (5) a very substantial numbers of passengers went by sea and by air from the United States to Europe during the fiscal year ending June 30, 1949; and (6) over one quarter million persons traveled between the East coast of South America and Europe in

[2] See sec. 101, quoted in footnote 1.

1948. In addition, 174 passengers traveling from England to New York were on-carried by Mormac to South America in 1941. At least ten such passengers were carried in 1942, four in 1948, and ten in 1949 up to the time of the hearing. No figures are available for northbound traffic.

The evidence also shows that for the season 1948-1949, the regular transatlantic lines made 28 special winter cruises out of New York to the West Indies/Caribbean area, carrying 12,279 full-cruise and 1,823 part-cruise passengers, and one cruise to South America, carrying 408 full-cruise and 15 part-cruise passengers. Exhibits of record indicate that during 1949-1950 those lines have projected 28 special cruises, only two of which will touch South America. Exhibits also indicate that those lines will make 450 regular round trips to England and the Continent in 1949. During the fiscal year ending June 30, 1949, 363,678 passengers departed by sea and air from the entire United States to Europe, 256,912 of which were by vessel.

Conclusions—We find on the record before us that substantial foreign-flag competition is encountered on Trade Route No. 1 and that an operating subsidy for the Good Neighbor Fleet is necessary to meet such competition and to promote the commerce of the United States in furtherance of the policy and purposes of the Act.

Our finding of foreign competition requisite to support an award of subsidy is based primarily upon the parallel competition of passenger-carrying cargo ships of foreign registry; and secondarily upon the competition of foreign-flag cruise ships.

Foreign-flag cargo vessels carried 1,817 passengers on Trade Route No. 1 in 1948, or approximately twice as many as were carried on Mormac's freighters and approximately 10 percent of the total passengers carried on all types of vessels on the route. The revenue from the passengers on the foreign freighters was estimated by Mormac's vice president and treasurer at approximately $1,000,000. According to Mormac's undisputed figures, the Good Neighbor Fleet lost $993,490.75 in 1948, and it is argued that the loss would have been wiped out had the passengers on the foreign-flag freighters traveled by the Good Neighbor Fleet instead. The difference in cost, however (fare on the Good Neighbor Ships being higher), might deter some passengers from traveling on the combination vessels. Mormac's freighters made 141 sailings in 1948, carrying 923 passengers. As those vessels are equipped to handle 12 passengers each voyage, their total capacity on the 141 voyages would have been 1,692. Subtracting the 923 actually carried from the potential of 1,692, there remains a potential of 769 that could have been accommodated if all of Mormac's freighters had sailed full on each voyage. Inasmuch as foreign-flag freighter services carried

1,817 passengers during that period, that would leave 1,048 passengers who would have had to use the Good Neighbor vessels for sea travel over this route in the absence of the foreign-flag services.

During 1948 the Good Neighbor Fleet had a passenger capacity southbound of 10,446 and carried 8,112, or approximately 78 percent of capacity. Northbound, with a capacity of 9,018, the vessels carried 6,123 passengers, or approximately 68 percent of capacity. The difference between capacity and the actual number carried may have resulted in some measure from the purchase of extra space by individuals or families desiring to insure their privacy, and from the necessity of separating the sexes, thereby rendering some accommodations unsaleable. While, for such reasons, the record may not be precisely informative as to the extent of unused space actually available to handle the 1948 potential of 1,048 additional passengers on the Good Neighbor Fleet, it is fairly inferable that the Mormac ships could have handled much of this foreign-flag traffic; and that had it done so, its operating loss would have been greatly reduced or, conceivably, eliminated.

The operation, at a loss, of a steamship line on an essential foreign trade route does not of itself entitle the steamship operator to a subsidy, since a subsidy is not intended as a guaranty of profitable operation. The losses of such a steamship operator are relevant, however, to the extent that they enable us to appraise the importance of foreign competition which contributes to such losses.

Mormac is unwilling to continue its service if it will inevitably lose money. Discontinuance of service compelled by losses sustained in consequence of foreign competition would be significant as indicating that foreign competition was substantial, and should be met by way of subsidy to insure continuance of an essential service on an essential trade route.

On the basis of the evidence hereinabove summarized, we find that foreign competition, particularly by passenger-carrying freighters, is of such substantiality as to jeopardize the Mormac Good Neighbor service, and that a subsidy should be awarded to meet such competition.

While the passengers carried on foreign-flag freighters numbered only about 10% of the total movement on the route in 1948, their diversion from the Mormac service was of critical importance to the company, and it is on this basis, rather than on the basis of minimizing small percentages of foreign-flag traffic, that the substantiality of foreign competition should be evaluated.

The Good Neighbor ships are, of course, larger in capacity and superior in service and in certain passenger accommodations than the cargo ships offering passenger competition—a circumstance which in no way detracts from their eligibility for government aid. The number of

passengers who use the Good Neighbor Fleet is so vastly in excess of the passenger capacity of any cargo fleet reasonably scaled to the freight requirements of the trade that any project to transport all such passengers in 12-passenger freight ships would be inconceivable. If the passenger trade is to be served by subsidized vessels, the vessels must —as the Good Neighbor ships do—conform in a practical way to the demands of the traveling public and the economic realities of maritime passenger transportation. Competition to be met within the contemplation of the Act is competition of foreign-flag passenger space for the same passengers sought by United States-flag carriers. We find nothing in the purpose or language of the Act to suggest that to meet such competition we should insist that United States-flag operators provide accommodations or vessels identical with those of foreign competitors. To do so would be to permit foreign competitors to dictate the character and composition of the United States merchant marine.

Although we base our conclusion upon existing competition, it would be improvident to shut our eyes to conditions of the past which indicate the competitive probabilities of the immediate future. During 1938, the most recent prewar year of normal operation, a total of 8,283 noncruise passengers were carried on this route; more than half of that total, 4,247, were carried on foreign-flag ships.[3] The elimination of this foreign competition through the withdrawal of foreign-flag vessels for service in World War II cannot be considered seriously as more than temporary in character. With the revival of foreign shipbuilding and the reconstruction of foreign merchant fleets, it seems a prudent forecast that comparably intense competition on the route must be anticipated in the near future. Since the close of the hearings in this case, the Commission has been informed that three fast and modern Italian-built combination vessels, each having capacity for 116 passengers, will begin regular operation under foreign flag on Trade Route No. 1 within the next few months.

In determining what services are essential to the promotion of the commerce of the United States, the Commission is directed by sec. 211 of the Act to give due weight, among other matters, to "facts and conditions that a prudent business man would consider in dealing with his own business . . ." There can be no doubt that a prudent business man, having responsibilities similar to those of the Commission, would take account not only of his immediate competitive situation, but also of the reasonable probability of future competition. He would not stand idly by while his future competitors established a secure and perhaps permanent competitive advantage—and neither should we.

[3] Source: U.S.M.C. Report No. 2610—Water-Borne Foreign and Non-contiguous Commerce and Passenger Traffic of the United States—Calendar Year 1938, pp. 112, 117.

While basing our determination in this case mainly upon the competition of foreign-flag freighters, we do not disregard the competition of foreign-flag cruise ships. Many of the transatlantic lines operate cruises into the Caribbean area, and a lesser number to South America, during the winter months when European travel is light and travel to warmer climates heavy. The Caribbean cruises are usually cheaper and shorter than a South American round voyage via Mormac, but Mormac claims such Caribbean cruises are effective and substantial competition notwithstanding. Such competition is impossible of any precise evaluation, although it may be true that more travelers would sail to South America via Mormac but for the availability of vacations at sea on foreign ships.

More pertinently competitive are foreign-flag cruises to South America. While such cruises are far less numerous than the shorter cruises to Caribbean destinations, they more nearly rival the offerings of the Good Neighbor service. Only one such foreign-flag cruise touching South America was offered in the 1948-1949 season and two in the current season of 1949-1950. Of the latter cruises, one was made by the *Nieuw Amsterdam* of the Holland-America Line. Since the close of the hearings in this proceeding, Mormac has informed the Commission by letter that the ship carried 607 passengers who paid $2,700,000 in passage money. It seems clear that this cruise alone must be regarded as providing substantial competition with the Good Neighbor Fleet, being quite costly to Mormac because it sailed (as such cruises usually do) at the peak of the season in the South American trade when Mormac's fares are high—each passenger diverted being a relatively expensive loss—and the maximum number of potential passengers are subject to diversion.[4] We deem it impossible to ignore the effect of cruise competition on Mormac's regularly scheduled service on this essential trade route.

Mormac, as above noted, has asked us to take account of several other types of foreign-flag operations, which, it claims, constitute the sort of foreign competition envisaged by the Act as justification for subsidy. These include movement of passengers from port to port in South America; carriage of passengers from the United States to Europe (i.e., passengers who could have gone to South America instead), and from South America to Europe (potential travelers to the United

[4] The *Nieuw Amsterdam* departed New York February 7, 1950. Mormac sailed its *Uruguay* January 26, 1950, with 117 cruise (i.e. round trip) passengers as compared with 219 on its sailing of the *Argentina* January 28, 1949. The *Argentina* sailed February 9, 1950, with 120 cruise passengers as compared with 216 on the sailing of the *Brasil* February 11, 1949. Mormac states: "Were it not for the voyage of the *Nieuw Amsterdam* there is no reason to believe that we would not have had an equal number of passengers this year with last year"; and says that "The approximate loss of revenue on the S.S. *Uruguay* was $219,502 and on the *Argentina* $190,290 based on the average rate we secured last year for cruise passengers."

States), and cruise passengers generally, regardless of itinerary. We find it unnecessary to express an opinion with respect to these contentions, having decided the case on other grounds.

We find that passenger-carrying cargo ships of foreign registry on Trade Route No. 1, and the foreign-flag cruise ships hereinabove described—particularly those cruising to South America—constitute foreign-flag competition with Mormac's Good Neighbor Fleet, and that an operating subsidy is required to meet such competition and to promote the foreign commerce of the United States.

By the Commission.

[SEAL] (Signed) A. J. WILLIAMS,
Secretary.

Washington, D. C., *April 13, 1950.*

MCKEOUGH, *Commissioner,* dissenting:

This proceeding involves the application of Moore-McCormack Lines, Inc., for the resumption of payment of operating differential subsidy on the three passenger vessels *Argentina, Brazil,* and *Uruguay,* chartered from the Commission, to cover the period beginning May 8, 1949, and ending May 8, 1950.

The issue, as accurately posed in the report of the majority, is whether the Commission may determine, under section 601(a) of the Merchant Marine Act, 1936, as amended, *as a statutory prerequisite of approval of the application,* that *the operation of such vessels,* i.e., the three aforementioned passenger liners, on Trade Route No. 1 between New York and the East coast of South America, *"is required to meet foreign-flag competition."*

The majority's finding "that passenger-carrying cargo ships of foreign registry on Trade Route No. 1, and the foreign-flag cruise ships hereinabove described—particularly those cruising to South America—*constitute foreign-flag competition with Moore-McCormack's Good Neighbor Fleet and that an operating subsidy is required to meet such competition* and to promote the foreign commerce of the United States" (underscoring added), is not responsive to and is at variance with the required finding quoted above and, therefore, irrelevant.

The record shows that during the test period (1948) applicant carried *all* the passengers traveling on passenger or combination passenger-cargo vessels on this route; also that applicant's three passenger vessels, *Argentina, Brazil,* and *Uruguay,* through 1948 were filled to approximately 78 percent of their capacity northbound, and approximately 68 percent of capacity southbound, a utilization that compares favorably with commercial operations of passenger or combination passenger-cargo vessels on other trade routes; that the only *direct* foreign-flag competi-

tion, i.e., foreign-flag competition on the same route, consisted of freighters each having accommodations for a maximum of 12 passengers; that U.S.-flag vessels, including applicant's three passenger vessels, applicant's freighters, and other U. S.-flag freighters, in spite of the fact that during the early part of 1948 not all of the three passenger vessels were in operation, carried 89.4 percent of all passengers traveling on Trade Route No. 1 during 1948, viz., 90.0 percent southbound and 88.7 percent northbound, amounting to a near-monopoly of passenger carriage under the U. S. flag, i.e., far in excess of "a substantial portion of the water-borne export and import foreign commerce of the United States" (see section 101, declaration of policy of the Merchant Marine Act, 1936, as amended) as far as transportation of passengers was concerned; that even disregarding applicant's passenger vessels, U. S.-flag *freighters*, both those of the applicant and of other U. S. operators, carried nearly 40 percent (38.8 percent) of all passengers *traveling on freighters*, i.e., likewise a "substantial portion" of this special-type traffic. The record further shows that "cruise competition" by foreign-flag vessels on Trade Route No. 1 consisted of *one* voyage during the winter 1948/1949 and two voyages during the winter 1949/1950. As far as *other than direct* foreign-flag competition is concerned (section 602 of the Merchant Marine Act, 1936, as amended), no showing has been made that cruises to other areas than Trade Route No. 1 or carriage of passengers from the United States to Europe or from South America to Europe would permit a determination that the operation of applicant's vessels *"in such service, route, or line"*, viz., Trade Route No. 1, is required to meet foreign-flag competition.

On this record I find it impossible to determine that the operation of the three large luxury-type passenger vessels *Argentina, Brazil,* and *Uruguay* was "required to meet foreign-flag competition" during the period at issue.

As to the possible entry into Trade Route No. 1 of three Argentine-flag combination passenger-cargo vessels reported after the close of the hearings in this case, since they are not to come into operation until after the end of the period which is the subject of this proceeding, we need not act on the question of whether they would provide the type of foreign-flag competition which to meet would require the subsidized operation of applicant's vessels. In no event can their possible future competition be used to sustain a *retroactive* grant of subsidy. Not only the overriding parity principle of the Merchant Marine Act, 1936, as amended, but administrative considerations, too, seem to make improper and impractical the payment of operating *differential* subsidy except as, if, and when there is *actual* rather than *potential or future* foreign-flag competition (sections 601(a), 602, and 603(b)).

APPENDIX A

TABLE 1.—*Number of sailings and passenger carryings of combination or freighter-type line vessels on Trade Route No. 1 in 1948.*

Type and flag of vessels	Total passengers	Southbound		Northbound	
		Sailings	Passengers	Sailings	Passengers
Total	17,204	269	9,734	260	7,470
American Republics	15,157	94	8,636	88	6,521
Combinations	14,234	22	8,112	19	6,122
Freighters	923	72	524	69	399
Other U. S.	230	23	122	19	108
Foreign	1,817	152	976	153	841

TABLE 2.—*Percentage of passengers carried in combination and freighter line vessels on Trade Route No. 1 during 1948:*

Type and flag of vessels	Total		Southbound		Northbound	
	Passengers	Percent	Passengers	Percent	Passengers	Percent
All lines	17,204	100.0	9,734	100.0	7,470	100.0
U. S.	15,387	89.4	8,758	90.0	6,629	88.7
Foreign	1,817	10.6	976	10.0	841	11.3
All types	17,204	100.0	9,734	100.0	7,470	100.0
Combination	14,234	82.7	8,112	83.3	6,122	81.9
Freighter	2,970	17.3	1,622	16.7	1,348	18.1
Combination	14,234	100.0	8,112	100.0	6,122	100.0
U. S.	14,234	100.0	8,122	100.0	6,122	100.0
Foreign	.....	....	....	....	....	....
Freighter	2,970	100.0	1,622	100.0	1,348	100.0
U. S.	1,153	38.8	646	39.8	507	37.6
Foreign	1,817	61.2	976	60.2	841	62.4
American Republics	15,157	100.0	8,636	100.0	6,521	100.0
Combination	14,234	93.9	8,112	93.9	6,122	93.9
Freighter	923	6.1	524	6.1	399	6.1

TABLE 3.—*Passenger traffic, by sea and by air, between New York and Brazil, Argentina, and Uruguay between January 1, 1948, and June 30, 1949:*

	1948			January–June 1949		
	Total	S/B	N/B	Total	S/B	N/B
Total	28,505	14,865	13,640	11,685	5,405	6,280
Sea	14,981	8,618	6,363	6,051	2,751	3,280
Air	13,524	6,252	7,273	5,654	2,654	3,000

TABLE 4.—*Number of passengers, by sea and by air, traveling between East coast of South America ports and Europe in 1948:*

	Arrived from Europe	Departed from South America
Total	195,685	58,698
Sea	177,003	44,053
Air	18,682	14,645

UNITED STATES MARITIME COMMISSION

No. S–16

PACIFIC ARGENTINE BRAZIL LINE, INC.—APPLICATION UNDER SECTION 805(a) OF THE MERCHANT MARINE ACT, 1936, AS AMENDED, FOR PERMISSION FOR ITS PARENT COMPANY, POPE & TALBOT, INC., TO ENGAGE IN COASTWISE TRADE

Submitted May 15, 1950. Decided May 18, 1950

Application for permission to engage in northbound transportation of automobiles and parts from California ports south of, but not including, Crescent City to ports in Oregon and Washington, granted.

William Radner and *Robert F. Donoghue* for applicant.
George F. Galland for the Commission.

REPORT OF THE COMMISSION

BY THE COMMISSION:

Hearing in this proceeding was held on May 15, 1950, pursuant to notice in the Federal Register of May 6, 1950. Briefs by the parties and recommended decision by the examiner were waived by counsel for all parties represented.

The application in question was made by Pacific Argentine Brazil Line, Inc., under section 805(a) of the Merchant Marine Act, 1936, as amended, for permission for its parent company, Pope & Talbot, Inc., to engage in the northbound transportation of automobiles and parts from California ports south of, but not including, Crescent City to ports in Oregon and Washington as a part of its intercoastal service.

Applicant's witness testified that the transportation involved is limited exclusively to vessels of Pope & Talbot, Inc., and only to vessels of that company engaged in the intercoastal trade. Applicant is a wholly owned subsidiary of Pope & Talbot, Inc., and holds a subsidy contract granted by the Commission. Pope & Talbot, Inc., does not hold a subsidy contract under the Merchant Marine Act, 1936.

The facts on which the application is based are postwar developments

and growth in the automobile assembly business in California. It is estimated that between 15,000 and 25,000 automobiles are available for water transportation to the Northwest and Alaska, principally to the Northwest. At present these are handled only by American-Hawaiian and Coastwise. Each of these lines carries about 300 cars monthly which, applicant believes, is not sufficient to carry presently available automobiles, not including anticipated increase as another plant gradually shifts to water.

Applicant plans to operate 26 sailings annually in the intercoastal trade, and expects to handle 75 or more automobiles per sailing, which will not represent cargo diverted from other water carriers, but will represent added traffic by water which would otherwise move by other methods of transportation. This, applicant states, will gross the company between $3,000 and $6,000 per voyage in the movement of automobiles and parts, and would be an important contribution to the rehabilitation of its intercoastal service.

No objection has been raised to the proposed operation; all of the certificated water carriers having standing to object have instead furnished the Commission their written waivers and consent; and applicant has a certificate from the Interstate Commerce Commission permitting operation in both the intercoastal and coastwise trades, including transportation between all the ports here involved.

We adopt the recommendations of the examiner, that the granting of the application (1) will not result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service; (2) will not be prejudicial to the objectives and policy of the Merchant Marine Act, 1936, as amended; and (3) will be in the public interest and convenience; provided: that such permission shall be subject to revocation, cancellation, or modification by the Commission upon 60 days' notice in writing to Pacific Argentine Brazil Line, Inc.

The application is hereby granted.

By the Commission.

[SEAL] (Sgd.) A. J. WILLIAMS,
Secretary.

WASHINGTON, D. C., *May 18, 1950.*

FEDERAL MARITIME BOARD

No. M–3

AMERICAN MAIL LINE LTD. ET AL.[1]—APPLICATIONS FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE TRANS-PACIFIC SERVICE, TO BE TIME CHARTERED TO MILITARY SEA TRANSPORTATION SERVICE

TO THE SECRETARY OF COMMERCE.

Applications for bareboat charter of 15 war-built Victory-type dry-cargo vessels for use in transpacific service have been filed by the following companies, to be time chartered by them to Military Sea Transport Service:

American Mail Line Ltd.
Pacific Transport Lines, Inc.
Pacific Atlantic S. S. Co.
Pacific Far East Line, Inc.
American President Lines, Ltd.
States Marine Corporation

Section 3, Public Law 591, 81st Congress, approved June 30, 1950, provides, in part, as follows:

> Notwithstanding the provisions of sections 11 and 14 of this Act, as amended, war-built, dry-cargo vessels owned by the United States on or after June 30, 1950, may be chartered pursuant to this Act for bareboat use in any service which, in the opinion of the Federal Maritime Board, is required in the public interest and is not adequately served, and for which privately owned American flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service. No charter shall be made by the Secretary of Commerce under authority of this subsection until the Federal Maritime Board shall have given due notice to all interested parties and shall have afforded such parties an opportunity for a public hearing on such charters and shall have certified its findings to the Secretary of Commerce.

In accordance with the requirements of the foregoing law due notice of a hearing on the applications was published in the Federal Register of July 13, 1950, and hearing was held today by the Board. The usual fifteen days notice was not given due to the emergency conditions ex-

[1] Pacific Transport Lines, Inc., Pacific Atlantic S.S. Co., Pacific Far East Line, Inc., American President Lines, Ltd., and States Marine Corporation.

isting and the immediate necessity for transporting military cargoes to Korea.

Witnesses from Military Sea Transport Service, Maritime Administration, and ship-owning organizations testified in support of the applications. No testimony was offered in opposition to the proposed charters. The evidence clearly shows that, in view of the present Korean situation, 15 Victory-type ships, in addition to vessels presently operating, are needed immediately for the transportation of government owned or controlled cargo for the military services and that there are no privately-owned American-flag vessels of the required size, type, and speed available for charter by private operators within the time required for use in such service. The testimony is also clear that regular berth services will not suffice for logistic support of American troops in the Far East as all movements are unit movements and any vessel carrying cargo for such movements must be under direct orders of the Military Sea Transport Service.

The Board accordingly finds and hereby certifies to the Secretary of Commerce—

That the bareboat chartering by applicants of 15 war-built Victory-type, dry-cargo vessels from the Reserve Fleet for use in the transpacific service is required in the public interest;

That such service is not adequately served; and

That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

In accordance with the above Act, the Board recommends that the following restriction and condition be included in the charters as it deems them necessary and appropriate to protect the public interest and to protect privately-owned vessels against competition from the vessels so chartered:

That the vessels be time chartered to the Military Sea Transport Service to be employed by that service in transporting military and other Government controlled cargoes; and

That the terms of the bareboat charters be limited to such time as the vessels remain so time chartered during the period of military necessity.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

JULY 14, 1950.

FEDERAL MARITIME BOARD

No. M–4

POPE & TALBOT, INC.—APPLICATION FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE INTERCOASTAL TRADE

FINDINGS AND CERTIFICATION OF THE FEDERAL MARITIME BOARD TO THE SECRETARY OF COMMERCE

This is an informal proceeding instituted by the Board pursuant to Public Law 591, 81st Congress, approved June 30, 1950, which requires the Board to hold public hearings on applications for bareboat charters of Government-owned war-built dry-cargo vessels, and to make certain findings with appropriate certification thereof to the Secretary of Commerce. In accordance with the law, due notice of a hearing was published in the Federal Register of July 19, 1950, and hearing was held by the Board today. The usual notice of 15 days was not given because of the urgency of the matter, and although counsel for the Committee for the Promotion of Tramp Shipping under the American Flag in Foreign Commerce contended that he had not had sufficient time to secure the desired number of witnesses, he was permitted wide latitude in the presentation of his case and it appears reasonably certain from his statements that the testimony of any additional witnesses would have been merely cumulative.

STATEMENT OF FACTS

By letter of July 14, 1950, Pope & Talbot, Inc., which owns two C-3 and one Victory-type vessels, filed its application for bareboat charter of the Liberty vessels *Allen C. Balch* and *William Allen White*, presently laid up at Astoria, Washington. At the hearing the applicant limited its application to one round voyage each without prejudice to any further application if the need was present. The regular intercoastal carriers did not oppose the application.

With the exception of the war years, applicant has been engaged in the intercoastal trade since 1923. It also has operated in the foreign trade. As early as May 12, 1950, applicant announced to the trade

that it was planned to place its own vessels in the intercoastal trade upon the withdrawal of the Government-owned vessels therefrom, the first vessel to sail eastbound on July 29 and the second on August 2 of this year. Two additional vessels of the same type were to be secured. One of its vessels to be placed in the service was returning from Japan under charter to States Marine Corporation when the Korean situation developed, and at the request of Military Sea Transport Service she was turned over to that service and diverted to Japan. As a consequence, the applicant sought other vessels to fill its needs to meet its scheduled sailings and booking commitments.

The record shows that presently there are not enough vessels or rail cars to handle the eastbound movement of lumber, for which there is an urgent and critical need. In addition, the efforts made by the individual lines as well as the Board's predecessor to build up the intercoastal trade should be encouraged in every way possible; further, failure to meet scheduled sailings prejudices a carrier with the public.

The evidence is clear that no privately-owned Liberty vessels have been available on the Pacific coast during the period above referred to. On the other hand, two such vessels were available on the Atlantic or the Gulf coasts during that period, which could have arrived on the Pacific coast in early August. This would not have met the schedule for applicant's first sailing but would have been in time for the second sailing. Not only is the time factor of importance, but the vessels would have had to move westbound in ballast at an estimated cost to applicant of approximately $41,000 per vessel. This cost, added to the charter hire, constitutes an unreasonable rate for one round voyage.

FINDINGS AND CERTIFICATION

On the basis of the facts received above, the Board accordingly finds and hereby certifies to the Secretary of Commerce:

That the bareboat charter by applicants of the two war-built dry-cargo Liberty vessels *Allen C. Balch* and *William Allen White*, or substitutes, for one round voyage each in the intercoastal trade is required in the public interest:

That such service is not adequately served; and

That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

JULY 20, 1950.

FEDERAL MARITIME BOARD

No. M–5

COASTWISE LINE—APPLICATION FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE ALASKA TRADE

FINDINGS AND CERTIFICATION OF THE FEDERAL MARITIME BOARD . . . TO THE SECRETARY OF COMMERCE

This is an informal proceeding instituted by the Board pursuant to Public Law 591, 81st Congress, approved June 30, 1950, which requires the Board to hold public hearings on applications for bareboat charters of Government-owned war-built dry-cargo vessels, and to make certain findings with appropriate certification thereof to the Secretary of Commerce. In accordance with the law, due notice of a hearing was published in the Federal Register of July 22, 1950, and hearing was held by the Board today. The usual notice of 15 days was not given because of the urgency of the matter. No testimony was offered in opposition to the proposed charters, although counsel for Alaska Steamship Company explained that the company could have a suitable vessel at loading point between August 15th and 18th, 1950. He further stated that Alaska Steamship Company could not meet the August 5th date, and urged that if the charters be granted restrictions be imposed limiting the vessels to the transportation of government contract materials.

STATEMENT OF FACTS

By letter of July 12, 1950, Coastwise Line filed its application for bareboat charter of the Liberty war-built dry-cargo vessel *James W. Cannon,* and amended its application at the hearing to include the Liberty war-built dry-cargo vessel *John Cropper,* or other suitable war-built dry-cargo vessel, to transport the cargo involved. Both Liberty vessels are presently laid up in the national defense reserve fleet at Astoria, Oregon.

Applicant has been engaged in the Pacific coastwise service for a number of years, and in 1947 extended its service to include southwest Alaska.

About July 11, 1950, applicant was approached by a construction contractor for ship space for transportation of 9,000 tons of Government contract materials, which by testimony adduced at the hearing is now estimated at 12,000 tons, to be shipped to Alaska in one lot from Seattle, Washington, not later than August 5, 1950. Applicant is unable to handle this cargo in its regular operations and thus applies for these charters. Applicant points out that as to the second vessel there may not be enough Government contract materials to fill the ship. In this event they propose carrying commercial cargo, and on return voyages, commercial cargo on both vessels.

There is not now, nor was there on July 11th when applicant was first approached, private tonnage on the West coast suitable to handle this cargo movement by August 5, 1950, the deadline fixed by military authority. There were, however, on July 11th Libertys available on the Atlantic coast and the Gulf. These would have had to move westward in ballast at an estimated cost to applicant of approximately $41,000 per vessel. This cost, added to the charter hire, constitutes an unreasonable rate for one round voyage.

On the basis of the facts recited above, the Board accordingly finds and hereby certifies to the Secretary of Commerce:

> That the bareboat charter by applicant of the two Liberty war-built dry-cargo vessels *James W. Cannon* and *John Cropper*, or suitable war-built dry-cargo substitute vessel for the latter, for one round voyage each in the Alaska trade is required in the public interest:
>
> That such service is not adequately served; and
>
> That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

It is recommended that the charters should contain a provision that the aforesaid voyage of each vessel, with its attendant rates, terms, and conditions for use of the vessels by shippers or charterers, shall have the approval of the Maritime Administrator.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

JULY 26, 1950.

FEDERAL MARITIME BOARD

No. M–6

ACTIUM SHIPPING CORP. ET AL.[1]—APPLICATIONS FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE TRANSPACIFIC AREA UNDER TIME CHARTER TO MILITARY SEA TRANSPORTATION SERVICE OF THE DEPARTMENT OF THE NAVY

FINDINGS, CERTIFICATION, AND RECOMMENDATIONS OF THE FEDERAL MARITIME BOARD TO THE SECRETARY OF COMMERCE

This is an informal proceeding instituted by the Board pursuant to Public Law 591, 81st Congress, approved June 30, 1950, which requires the Board to hold public hearings on applications for bareboat charters of Government-owned war-built dry-cargo vessels, and to make certain findings with appropriate certification thereof and recommendations thereon to the Secretary of Commerce. In accordance with the law, due notice of a hearing was published in the Federal Register of July 25, 1950, and hearing was held by the Board today. The usual notice of 15 days was not given because of the urgency of the matter.

STATEMENT OF FACTS

Applications have been filed by the above-named parties to bareboat charter Government-owned war-built dry-cargo vessels for use in the transpacific area under time charter by such parties to Military Sea Transportation Service of the Department of the Navy. Some of the applications were filed prior to publication of the notice of hearing in the Federal Register and some were filed subsequently thereto in accordance with the permission given in the notice.

[1] Admanthos Ship Operating Co., Inc., Agwilines (New York & Cuba Mail), Albatross Steamship Co., American Foreign S.S. Corp., American-Hawaiian Steamship Co., American Mail Line, American Pacific Steamship Co., American President Lines, Blidberg Rothchild Co., Inc., Burns Steamship Co., Allen Cameron Transportation, Inc., W. R. Chamberlin & Co., Clifton S.S. Corp., Coastwise Line, Cosmopolitan Shipping Co., Dichmann, Wright & Pugh, Dolphin S.S. Corp., Eastern Steamship Line, Eastport Steamship Corp., Firth S.S. Corp., Gulf Range S.S. Corp., Isbrandtsen Co., A. Willard Ivers, Inc., J. Lasry & Sons, Inc., Luckenbach S.S. Co., Mississippi Shipping Co., Moore-McCormack Lines, Inc., North Atlantic & Gulf S.S. Co., Ocean Freighting & Brokerage Co., Olympic S.S. Co., Omnium Trading Co., Orion Shipping & Trading Co., Pacific Transport Lines, Palmer Shipping Corp., Polarus S.S. Co., Prudential S.S. Corp., St. Lawrence Navigation Co., Inc., Senior Lines, Shepard Steamship Co., South Atlantic S.S. Lines, Standard Fruit & S.S. Co., Stockard S.S. Corp., Union Sulphur Co., Inc., United States Lines, U. S. Navigation Co., Wessel Duval & Co., Inc., West Coast Trans-Oceanic S.S. Co., West India Steamship Co., White Range S.S. Co., Daniel F. Young.

The representative of Military Sea Transportation Service testified that on account of the Korean situation there is an urgent need for 20 Victory-type vessels from the Government's reserve fleet to handle Government-owned and controlled cargo, and that there are no privately-owned vessels to meet the Service's time requirements, spaced over a long period. Operation by the Service itself is necessary to meet logistic requirements. Furthermore, Pacific coast liner services are presently being utilized by the Service to their full capacity. There was no opposition to the applications and it appears, from a direct question by the Board to persons in attendance at the hearing, that there are no available privately-owned American-flag vessels for utilization in the service under consideration.

FINDINGS, CERTIFICATION, AND RECOMMENDATION

On the basis of the facts adduced of record, the Board accordingly finds and hereby certifies to the Secretary of Commerce:

That the bareboat charter to applicants of 20 Victory-type war-built dry-cargo vessels from the Government's reserve fleet, for use in the transpacific area under time charter by applicants to Military Sea Transportation Service of the Department of the Navy, is required in the public interest;

That such service is not adequately served; and

That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

The Board recommends that the following restrictions and conditions be included in the charters as it deems them necessary and appropriate to protect the public interest and to protect privately-owned vessels against competition from the vessels so chartered:

That the vessels be time chartered to the Military Sea Transportation Service to be employed by it in transporting military and other Government-controlled cargoes; and

That the terms of the bareboat charters be limited to such time as the vessels remain so time chartered during the period of military necessity.

The Board further recommends that as suitable privately-owned American-flag tonnage becomes available under reasonable conditions and at reasonable rates, it be substituted when practicable for equivalent Government-owned tonnage under such charter arrangements.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

JULY 27, 1950.

FEDERAL MARITIME BOARD

No. M–6

ACTIUM SHIPPING CORP. ET AL.—APPLICATIONS FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE TRANSPACIFIC AREA UNDER TIME CHARTER TO MILITARY SEA TRANSPORTATION SERVICE OF THE DEPARTMENT OF THE NAVY

On July 27, 1950, the Board conducted a hearing in this matter in accordance with Public Law 591, 81st Congress, and on that date submitted to you its findings, certification, and recommendations. A very large number of applications were received, some of which came in after the notice of hearing appeared in the Federal Register of July 25, 1950, but before the time for filing expired. The applications of the following companies were received in time but the names were inadvertently omitted from the Board's report:

Pacific American Steamship Association
Pacific Atlantic Steamship Company
Pacific Far East Line, Inc.
Ponchelet Marine Corp.
Pope & Talbot, Inc.
William J. Rountree Co., Inc.
States Marine Corp. of Delaware
T. J. Stevonson & Co., Inc.
Sudden & Christenson, Inc.
Transportation, Inc.

While the omission of the names in no way affected the orderly processing of the applications, as will be seen by the fact that vessels were awarded to three of the companies, thus clearly indicating that *all* applications were duly considered, it is believed that the present memorandum is advisable so that the record will show why the above names were not included in the title of the Board's report.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

AUGUST 1, 1950.

FEDERAL MARITIME BOARD

No. M–7

ACTIUM SHIPPING CORP. ET AL.[1]—APPLICATIONS FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE TRANSPACIFIC AREA UNDER TIME CHARTER TO MILITARY SEA TRANSPORTATION SERVICE OF THE DEPARTMENT OF THE NAVY.

FINDINGS, CERTIFICATION, AND RECOMMENDATIONS OF THE FEDERAL MARITIME BOARD TO THE SECRETARY OF COMMERCE

This is an informal proceeding instituted by the Board pursuant to Public Law 591, 81st Congress, approved June 30, 1950, which requires the Board to hold public hearings on applications for bareboat charters of Government-owned war-built dry-cargo vessels, and to make certain findings with appropriate certification thereof and recommendations thereon to the Secretary of Commerce. In accordance with the law, notice of this hearing was published in the Federal Register of August 2, 1950, and hearing was held by the Board today. The usual notice of 15 days was not given because of the urgency of the matter.

[1] Admanthos Ship Operating Co., Inc., Agwilines (New York & Cuba Mail), Alaska Steamship Co., Albatross Steamship Co., American Foreign Steamship Corp., American-Hawaiian Steamship Co., American Mail Line, American Pacific Steamship Co., American President Lines, Arnold Bernstein Line, Inc., Nick Bez, Blidberg Rothchild Co., Inc., A. H. Bull, A. L. Burbank & Co., Burns Steamship Co., W. R. Chamberlin & Co., Clifton Steamship Corp., Coastwise Line, Cosmopolitan Shipping Co., Cuba Mail Line, Dichmann, Wright & Pugh, Dolphin Steamship Corp., Eastern Steamship Line, Eastport Steamship Corp., John S. Emery & Co., Inc., El Dia Steamship Corp., Fall River Navigation Co., Federal Motorship Corp., Firth Steamship Corp., Fribourg Steamship Co., Inc., Flomarcy Lines, Inc., James Griffiths & Sons, Gulf Range Steamship Corp., Isbrandtsen Co., A. Willard Ivers, Inc., W. P. Iverson & Co., Inc., J. Lasry & Sons, Inc., Luckenbach Steamship Co., Marine Steamship Co., Marine Transport Lines, Inc. & Marine Navigation Co., Mariner Steamship Co., Inc., Mississippi Shipping Co., Moore-McCormack Lines, Inc., Wm. H. Muller Shipping Corp., Naess Mejlander & Co., Inc., Newtex Steamship Corp., North American Shipping, North Atlantic & Gulf Steamship Co., Ocean Freighting & Brokerage Co., Ocean Tramp Carriers, Inc., Olympic Steamship Co., Omnium Freighting Corp., Orion Shipping & Trading Co., Pacific Transport Lines, Pacific Transport Lines, Inc., Palmer Shipping Corp., Pittston Marine Corp., Polarus Steamship Co., Pope & Talbot, Inc., Prudential Steamship Corp., St. Lawrence Navigation Co., Inc., Senior Lines, Shepard Steamship Co., South Atlantic Steamship Lines, Southern Seas Steamship Co., Inc., Standard Fruit & Steamship Co., Stockard Steamship Corp., Sudden & Christenson, Inc., Sword Line, Tramar Shipping Co., Inc., Transportation, Inc., Wm. J. Rountree Co., Inc., Ponchelet Marine Corp., Pacific-Atlantic Steamship Co., Pacific Far East Line, Inc., States Marine Corp. of Delaware, T. J. Stevenson & Co., Inc., Union Sulphur Co., Inc., United States Lines, U. S. Navigation Co., Wessel Duval & Co., Inc., West Coast Trans-Oceanic Steamship Co., West India Steamship Co., White Range Steamship Co., Daniel F. Young.

STATEMENT OF FACTS

The Acting Administrator on July 31, 1950, requested the Federal Maritime Board to hold this hearing covering the bareboat charters of thirty Government-owned war-built dry-cargo vessels for use in transpacific service. Applications have been filed by the above-named parties to bareboat charter Government-owned war-built dry-cargo vessels for use in the transpacific area under time charter by such parties to Military Sea Transportation Service of the Department of the Navy. Some of the applications were filed prior to publication of the notice of hearing in the Federal Register, and some were filed subsequently thereto in accordance with the permission given in the notice.

The representative of Military Sea Transportation Service testified that on account of the Far Eastern situation there is an urgent need for 30 Victory-type vessels from the Government's reserve fleet to handle Government-owned and controlled cargo; that there are no privately-owned vessels to meet the Service's time requirements, and operation by the Service itself is necessary to meet logistic requirements. Furthermore, Pacific coast liner services are presently being extensively utilized by the Service. The representative of Military Sea Transportation Service further testified that he has been in daily touch with private owners and no suitable vessels are available within the time requirements. No testimony was adduced at the hearing in opposition to the chartering of the 30 vessels involved and there was no testimony offered showing that any privately-owned American-flag vessels are available.

FINDINGS, CERTIFICATION, AND RECOMMENDATION

On the basis of the facts adduced of record, the Board accordingly finds and hereby certifies to the Secretary of Commerce:

That the bareboat charter to applicants of 30 Victory-type war-built dry-cargo vessels from the Government's reserve fleet, for use in the transpacific area under time charter by applicants to Military Sea Transportation Service of the Department of the Navy, is required in the public interest;

That such service is not adequately served; and

That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

The Board recommends that the following restrictions and conditions be included in the charters as it deems them necessary and appropriate to protect the public interest and to protect privately-owned vessels against competition from the vessels so chartered:

(a) Provision that the bareboat-chartered vessels be promptly time chartered to Military Sea Transportation Service for transportation of military and other Government-controlled cargo.

(b) Provision that such bareboat charters shall be terminated upon termination of such time charters to Military Sea Transportation Service.

The Board further recommends that as suitable privately-owned American-flag tonnage becomes available under reasonable conditions and at reasonable rates, it be substituted when practicable for equivalent Government-owned tonnage under such charter arrangements.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

AUGUST 4, 1950.

FEDERAL MARITIME BOARD

No. M–8

ACTIUM SHIPPING CORP. ET AL.[1]—APPLICATIONS FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE TRANSPACIFIC AREA UNDER TIME CHARTER TO MILITARY SEA TRANSPORTATION SERVICE OF THE DEPARTMENT OF THE NAVY.

FINDINGS, CERTIFICATION, AND RECOMMENDATIONS OF THE FEDERAL MARITIME BOARD TO THE SECRETARY OF COMMERCE

This is an informal proceeding instituted by the Board pursuant to Public Law 591, 81st Congress, approved June 30, 1950, which requires the Board to hold public hearings on applications for bareboat charters of Government-owned war-built dry-cargo vessels, and to make certain findings with appropriate certification thereof and recommendations thereon to the Secretary of Commerce. In accordance with the law, notice of this hearing was published in the Federal Register of August

[1] Admanthos Ship Operating Co., Inc., Agwilines, Inc. (New York & Cuba Mail), Alaska Steamship Co., Albatross Steamship Co., Inc., American Foreign Steamship Corp., American-Hawaiian Steamship Co., American Mail Line, Ltd., American and Overseas Chartering Co., American Pacific Steamship Co., American President Lines, Ltd., Arnold Bernstein Line, Inc., Nick Bez, W. R. Blackburn and Co., Blidberg Rothchild Co., Inc., A. H. Bull Steamship Co., A. L. Burbank & Co., Burns Steamship Co., W. R. Chamberlin & Co., Clifton Steamship Corp., Coastwise Line, Cosmopolitan Shipping Co., Inc., Cuba Mail Line, Dichmann, Wright & Pugh, Inc., Dolphin Steamship Corp., Eastern Steamship Lines, Eastport Steamship Corp., El Dia Steamship Corp., John S. Emery & Co., Inc., Fall River Navigation Co., Federal Motorship Corp., Firth Steamship Corp., Flomarcy Lines, Inc., Fribourg Steamship Co., Inc., James Griffiths & Sons, Gulf Range Steamship Corp., Intercontinental Steamship Corp., Isbrandtsen Co., Inc., A. Willard Ivers, Inc., W. P. Iverson & Co., Inc., J. Lasry & Sons, Inc., Luckenbach Steamship Co., Inc., Lykes Bros. Steamship Corp., Maine Steamship Corp., Marine Navigation Co., Inc., Marine Transport Lines, Inc., Mariner Steamship Co., Inc., Mississippi Shipping Co., Inc., Moore-McCormack Lines, Inc., Wm. H. Muller Shipping Corp., Naess Mojlander & Co., Inc., Neptune Shipping, Inc., Newtex Steamship Corp., North American Shipping & Trading, Nautilus Shipping Co., North Atlantic & Gulf Steamship Co., Ocean Freighting & Brokerage Corp., Ocean Tramp Carriers, Inc., Olympic Steamship Co., Inc., Omnium Freighting Corp., Orion Shipping & Trading Co., Inc., Pacific-Atlantic Steamship Co., Pacific Far East Line, Inc., Pacific Transport Lines, Inc., Palmer Shipping Corp., Pittston Marine Corp., Polarus Steamship Co., Inc., Ponchelet Marine Corp., Pope & Talbot, Inc., Prudential Steamship Corp., Wm. J. Rountree Co., Inc., St. Lawrence Navigation Co., Inc., Senior Lines, Shepherd Steamship Lines, Shepard Steamship Co., South Atlantic Steamship Line, Inc., Standard Fruit & Steamship Corp., Tankers Co., Inc., T. J. Stevenson & Co., Inc., Stockard Steamship Company, Sudden & Christenson, Inc., Sword Line, Tramer Shipping Co., Inc., Transportation, Inc., States Marine Corp. of Delaware, Union Sulphur Co., Inc., United States Lines, U. S. Navigation Co., Inc., U. S. Petroleum Carriers, Inc., U. S. Waterways Corp., Wessel Duval & Co., Inc., West Coast Trans-Oceanic Steamship Line, West India Steamship Co., White Range Steamship Co., Southern Seas Steamship Co., Inc., Daniel F. Young, Inc.

12, 1950, and hearing was held by the Board today. The usual notice of 15 days was not given because of the urgency of the matter.

STATEMENT OF FACTS

The Administrator on August 8, 1950, requested the Federal Maritime Board to hold this hearing covering the bareboat charters of forty Government-owned war-built dry-cargo vessels contemplated for use in transpacific service. On August 15, 1950, the Administrator requested that hearing cover an additional twenty-five vessels. Applications have been filed by the above-named parties to bareboat charter Government-owned war-built dry-cargo vessels contemplated for use in the transpacific area under time charter by such parties to Military Sea Transportation Service of the Department of the Navy. Some of the applications were filed prior to publication of the notice of hearing in the Federal Register, and some were filed subsequently thereto in accordance with the permission given in the notice.

The representative of Military Sea Transportation Service testified that on account of the Far Eastern situation there is an urgent need for sixty-five Victory-type vessels from the Government's reserve fleet to handle Government-owned and controlled cargo; that there are no privately-owned vessels to meet the Service's time requirements, and operation by the Service itself is necessary to meet logistic requirements. Furthermore, Pacific coast liner services are presently being extensively utilized by the Service. The representative of Military Sea Transportation Service further testified that he has investigated the availability of privately-owned vessels and none suitable is available within the time requirements. No testimony was adduced at the hearing in opposition to the chartering of the sixty-five vessels involved and there was no testimony offered showing that any privately-owned American-flag vessels are available.

FINDINGS, CERTIFICATION, AND RECOMMENDATION

On the basis of the facts adduced of record, the Board accordingly finds and hereby certifies to the Secretary of Commerce:

That the bareboat charter to applicants of sixty-five Victory-type war-built dry-cargo vessels from the Government's reserve fleet, for contemplated use in the transpacific area under time charter by applicants to Military Sea Transportation Service of the Department of the Navy, is required in the public interest;

That such service is not adequately served; and

That privately-owned American-flag vessels are not available for char-

ter by private operators on reasonable conditions and at reasonable rates for use in such service.

The Board recommends that the following restrictions and conditions be included in the charters as it deems them necessary and appropriate to protect the public interest and to protect privately-owned vessels against competition from the vessels so chartered:

(a) Provision that the bareboat-chartered vessels be promptly time chartered to Military Sea Transportation Service for transportation of military and other Government-controlled cargo.

(b) Provision that such bareboat charters shall be terminated upon termination of such time charters to Military Sea Transportation Service.

The Board further recommends that as suitable privately-owned American-flag tonnage becomes available under reasonable conditions and at reasonable rates, it be substituted when practicable for equivalent Government-owned tonnage under such charter arrangements.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

AUGUST 17, 1950.

FEDERAL MARITIME BOARD

No. M–9

GRACE LINE, INC.—APPLICATION FOR EXTENSION OF BAREBOAT CHARTER AGREEMENT FOR WAR-BUILT DRY-CARGO VESSELS

W. F. Cogswell and *E. Russell Lutz* for applicant.
Max E. Halpern for the Board.

REPORT OF THE BOARD

This is an informal proceeding instituted by order of the Board pursuant to Public Law 591, 81st Congress, approved June 30, 1950, for the purpose of considering the application of Grace Line, Inc., for an extension of its bareboat charter agreement beyond October 31, 1950, for war-built dry-cargo vessels and to make certain findings with appropriate certifications thereof to the Secretary of Commerce.

In accordance with the law, notice of this hearing was published in the Federal Register of August 16, 1950, and hearing held before Examiner A. L. Jordan on September 1, 1950. The examiner's recommended decision was issued on September 5, 1950, and the applicant notified of that decision on the same date. Our conclusions agree with those of the examiner and we adopt his findings of fact and recommendations as our own with minor modification.

FINDINGS AND CERTIFICATION TO THE SECRETARY OF COMMERCE

On the record adduced before the examiner, the Board accordingly finds and hereby certifies to the Secretary of Commerce:

That the service operated by applicant pursuant to its bareboat charter of war-built dry-cargo C1–MAV–1 vessels *Coastal Nomad, Coastal Adventurer, Gunners Knot,* and *Anchor Hitch* from and after October 31, 1950, is required in the public interest; that such service would not be adequately served without such extension; and that suitable privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

SEPTEMBER 26, 1950.

3 F.M.B.

FEDERAL MARITIME BOARD

No. M–9

GRACE LINE, INC.—APPLICATION FOR EXTENSION OF BAREBOAT CHARTER AGREEMENT FOR WAR-BUILT DRY-CARGO VESSELS

Applicant's charter of war-built dry-cargo C1–MAV–1 vessels *Coastal Nomad, Coastal Adventurer, Gunners Knot,* and *Anchor Hitch* should be extended from and after October 31, 1950, indefinitely, subject to termination by either party on fifteen days written notice, and subject to all pertinent limitations of the Merchant Ship Sales Act of 1946, as amended.

W. F. Cogswell and *E. Russell Lutz* for applicant.
Max E. Halpern for the Board.

RECOMMENDED DECISION OF A. L. JORDAN, EXAMINER

Hearing on this application was held on September 1, 1950, in accordance with Public Law 591—81st Congress, pursuant to notice in the Federal Register of August 16, 1950.

The questions in this proceeding are: whether applicant has shown that extension of its bareboat charter of the vessels here involved from and after October 31, 1950, is required in the public interest, whether the trade the vessels are used in would be adequately served without such extension, and whether privately-owned American-flag vessels are available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

By application dated July 5, 1950, Grace Line, Inc., hereinafter referred to as applicant, requested an extension of its charter of the C1–MAV–1 vessels *Coastal Nomad, Coastal Adventurer, Gunners Knot,* and *Anchor Hitch* to October 31, 1950, and thereafter until action is concluded on its long-range program. The application states that these vessels are used in conjunction with applicant's C-2 vessels operating to the West coast of Central and South America, which vessels, due to loaded draft, cannot serve many of the smaller ports; that continued use of the C–MAV–1 vessels is required in order to provide sufficient American-flag service in this trade; that there are no American-flag vessels available for charter on the Pacific coast that can be obtained to replace these C1–MAV–1s; that to charter vessels elsewhere and make all the necessary changes in crew quarters to comply with West coast union agreements and move such vessels to the Pacific coast for entering the service would require a substantial expenditure for the short period of time pending action on applicant's long-range program; and

that the vessels here involved augment applicant's subsidized service and the results from their operation are included in its subsidized operations for the purpose of reserve and recapture and capital necessarily employed.

Applicant's witness testified that the four vessels here involved were delivered to the company between August 13, 1946, and January 22, 1947. The charter has been extended from time to time, and the last extension expires October 31, 1950. The characteristics of each vessel are: speed 10.5 knots, deadweight 6,034 tons, dry cargo bale capacity approximately 225,000 cubic feet, refrigerator space approximately 9,800 cubic feet, draft 21 feet loaded. Service with these vessels between U. S. Pacific ports and ports on the West coast of Mexico and West coast of Central America was commenced on November 30, 1946, and extended to Caribbean ports on July 23, 1948, with a sailing approximately every three weeks.

The witness testified that the importance of this service to the commerce of the United States is demonstrated by the revenue tons carried during 1949 and the first six months of 1950, as follows: in 1949, outward, 111,237 tons, homeward 46,169 tons; first six months of 1950, outward 40,257 tons, homeward 30,169 tons. Dry cargo from the United States in greatest volume was asphalt, burlap bags, chemicals, canned goods, cement, milk, explosives, flour, lubricating oil, cocoanut oil, caustic soda, NOS soda, tallow, paraffin wax, oil well and refining supplies, paper and paper products, wheat and wood pulp; and to the United States, principally coffee, used steel pipe, sugar in sacks, hardwood logs and lumber, sesame seed, cocoa beans, sesame seed oil, henequen, canned pineapple, and cotton. The 1949 outward reefer cargo totaled 41,825 cubic feet, and first six months of 1950, 10,119 cubic feet consisting principally of fresh fruits and vegetables and frozen fruits and vegetables; and homeward 1949, 1,602 long tons, and first six months of 1950, 809 long tons, consisting principally of frozen fish.

Applicant stated that on certain voyages the refrigerated boxes were used to capacity; and that even if not fully utilized, they are necessary in order to be in a position to handle all refrigerated cargo offerings not only because of the desirable higher revenue but in order to accommodate shippers who favor lines that can furnish facilities for taking care of all their requirements for both dry and refrigerated cargo. Applicant's principal competitor is the foreign-flag Independence Line operating four vessels, three of which are C1–MAV–1s having refrigerated space available.

Applicant's vessels here involved, in addition to the service described above, lift cargo from Mexico and Central America for transshipment at Cristobal to U. S. Atlantic and Gulf ports, and lift cargo at Cristobal

transshipped from U. S. Atlantic and Gulf ports for Mexico and Central America. The importance of this is indicated by their transshipment of 25,642 tons in 1949 and 14,074 tons in the first six months of 1950, and their loading transshipment cargo at Cristobal in 1949 of 49,247 tons and in the first six months of 1950 of 19,419 tons.

At present these four vessels are carrying capacity loads of dry cargo southbound and reefer cargo to the extent of 25 per cent of reefer capacity. In this connection applicant stated that fruit and vegetables are becoming available in increasing amounts and it is anticipated that approximately 75 per cent of the reefer space will be used for reefer cargo in the very near future. Northbound they are using about two-thirds of capacity, the reefer space being filled with frozen cargoes.

Applicant stated that except for vessels which it owns and operates, calling en route to the West coast of South America, there is no American-flag service between U. S. Pacific ports and ports on the West coast of Mexico and West coast of Central America.

Applicant's witness further testified that he is familiar with the charter market and has investigated through steamship brokers the availability of privately-owned American-flag vessels and none is available for charter which would be suitable for operation in the service described herein.

No testimony was adduced at the hearing in opposition to extension of applicant's bareboat charter agreement beyond October 31, 1950, covering the four war-built dry-cargo vessels named, and there was no testimony offered showing that comparable or suitable privately owned American-flag vessels are available.

On this record the Board should find, certify, and recommend to the Secretary of Commerce:

That extension, indefinitely, of applicant's bareboat charter of war-built dry-cargo C1–MAV–1 vessels *Coastal Nomad, Coastal Adventurer, Gunners Knot,* and *Anchor Hitch* from and after October 31, 1950, for continued use in conjunction with applicant's service between U. S. Pacific coast ports and the West coast of Central and South America, is required in the public interest; that such service would not be adequately served without such extension; and that privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service; and that in order to protect the public interest and to protect privately-owned vessels against competition in respect to such charter extension, such charter should include a provision that it be subject to termination by either party on fifteen days written notice, and subject to all pertinent limitations of the Merchant Ship Sales Act of 1946, as amended.

FEDERAL MARITIME BOARD

No. M–10

PACIFIC FAR EAST LINE, INC.—APPLICATION FOR EXTENSION OF BAREBOAT CHARTER AGREEMENT FOR FULLY-REFRIGERATED WAR-BUILT DRY-CARGO VESSELS

William Radner for applicant.
L. W. Hartman for American Mail Line, Ltd.
William I. Denning for States Steamship Company.
Noah M. Brinson for American President Lines, Ltd.
Henry A. Cockrum and *Charles D. Turner* for United States Department of Agriculture.
Katherine P. Casey for International Apple Association.
Max E. Halpern for the Board.

REPORT OF THE BOARD

This is an informal proceeding instituted by order of the Board pursuant to Public Law 591, 81st Congress, approved June 30, 1950, for the purpose of considering the application of Pacific Far East Lines, Inc., for an extension of its bareboat charter agreement beyond October 31, 1950, for fully-refrigerated war-built dry-cargo vessels and to make certain findings with appropriate certifications thereof to the Secretary of Commerce.

In accordance with the law, notice of this hearing was published in the Federal Register of August 16, 1950, and hearing held before Examiner A. L. Jordan on September 1, 1950. The examiner's recommended decision was issued on September 6, 1950, and the parties notified of that decision on the same date. Our conclusions agree with those of the examiner and we adopt his findings of fact and recommendations as our own with minor modifications.

FINDINGS AND CERTIFICATION TO THE SECRETARY OF COMMERCE

On the record adduced before the examiner, the Board accordingly finds and certifies to the Secretary of Commerce:

That the service operated by applicant pursuant to its bareboat charter

of war-built dry-cargo R2–S–BVI and C2SU vessels *Surprise, Flying Scud, Tradewind, Fleetwood, Contest,* and *Flying Dragon* from and after October 31, 1950, is required in the public interest; that such service would not be adequately served without such extension; and that suitable privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

SEPTEMBER 26, 1950.
3 F.M.B.

FEDERAL MARITIME BOARD

No. M–10

PACIFIC FAR EAST LINE, INC.—APPLICATION FOR EXTENSION OF BAREBOAT CHARTER AGREEMENT FOR FULLY-REFRIGERATED WAR-BUILT DRY-CARGO VESSELS.

Applicant's charter of fully-refrigerated war-built dry-cargo vessels *Surprise, Flying Scud, Tradewind, Fleetwood, Contest,* and *Flying Dragon* should be extended from and after October 31, 1950, indefinitely, subject to termination by either party on fifteen days written notice, and subject to all pertinent limitations of the Merchant Ship Sales Act of 1946, as amended.

William Radner for applicant.
L. W. Hartman for American Mail Line, Ltd.
William I. Denning for States Steamship Company.
Noah M. Brinson for American President Lines, Ltd.
Henry A. Cockrum and *Charles D. Turner* for United States Department of Agriculture.
Katherine P. Casey for International Apple Association.
Max E. Halpern for the Board.

RECOMMENDED DECISION OF A. L. JORDAN, EXAMINER

Hearing on this application was held on September 1, 1950, in accordance with Public Law 591—81st Congress, pursuant to notice in the Federal Register of August 16, 1950.

The questions in this proceeding are: whether applicant has shown that extension of its bareboat charter of the vessels here involved from and after October 31, 1950, is required in the public interest, whether the trade the vessels are used in would be adequately served without such extension, and whether privately-owned American-flag vessels are available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

By application dated July 7, 1950, Pacific Far East Line, Inc., hereinafter referred to as applicant, requested an extension of its charter of the fully-refrigerated vessels *Surprise, Flying Scud, Tradewind, Fleetwood, Contest* and *Flying Dragon* indefinitely, subject to limitations

of the Merchant Ship Sales Act of 1946, as amended. The application states that these vessels are used primarily to provide for military requirements in Japan, Korea, Okinawa, and other points in the Pacific; that the increased requirements resulting from the recent developments in the Pacific will make necessary the continuation of these vessels in that operation; and that no privately-owned reefer vessels are available for the handling of the military requirements referred to.

Applicant's witness testified that these six vessels are basically the C2 type freighter design, modified for refrigerated cargo installations. They are of two types: the R2–S–BV1 and C2SU. They have a capacity of approximately 325,000 cubic feet each, which is about 8,000 measurement tons of 40 cubic feet. After allowing for broken stowage, this has worked out to approximately 6,500 stowed tons per vessel.

Applicant's reefer service operates primarily out of California ports. The vessels do not call at Portland, Oregon, but have called at Puget Sound ports at the request of military authorities to load military cargo both to Alaska and to Oriental destinations. Applicant does not load commercial cargo, either dry or reefer, to the Orient out of Puget Sound, nor does it discharge such cargo from the Orient into Puget Sound. The witness stated that applicant has no intention to depart from this practice unless it appears that the existing lines find themselves in a position where they are unable to handle the movement of traffic, and the movement is cleared by applicant with the existing lines.

The destination points served with these refrigerated vessels are Adak, Alaska, Japan, Okinawa, Guam, and Hong Kong. Military cargo receives preference, and non-military cargo space is made available only after all military requirements have been provided for.

The six vessels here involved have been operated by applicant since the latter part of 1946. The charter has been extended from time to time, and the last extension expires October 31, 1950. The vessels are making about three sailings per month, and provide about 1,000,000 cubic feet of reefer space per month. Applicant states that without this capacity there would be a serious inadequacy of reefer space in the areas served. During July and August 1950 applicant had six sailings with refrigerated vessels on which there was handled approximately 9,500 long tons, or 16,500 measurement tons, each month, of reefer cargo, of which over 90 per cent was military and less than 10 per cent commercial. In addition, there was handled approximately 2,000 tons per month of non-reefer cargo, of which approximately 60 per cent was military. The vessels sailed substantially full. The service is primarily an outbound one, but small amounts of reefer and non-reefer cargo have been secured homebound to California ports. Applicant's witness states that the only other major source of reefer space in the trans-

pacific trade is the fleet of American President Lines which, he understands, has been utilizing substantially all of its reefer space in recent months.

Applicant states that it has been able to provide its service to the military at negotiated freight rates which are approximately half of the conference rates; and that this is due in part to its ability to book space not required by the military for movement of essential commercial cargo, which would not be possible on the basis of military operation.

Applicant's witness further testified that there are no privately-owned refrigerated cargo vessels under American flag suitable for transpacific operation other than the ships of the United Fruit fleet, which obviously are not available for charter for such operation.

A representative of Military Sea Transportation Service testified in support of this application for permission to continue to charter reefer vessels in the transpacific trade for the carriage of military reefer cargo; that at least six reefer vessels as now operated on established routes in the Pacific are necessary for current military operations; that any reduction in the fleet at this time would be extremely detrimental to the national defense interests; and that the Military Sea Transportation Service relies upon these vessels to supply the bulk of the perishable food requirements of our troops in the Japan-Korea area.

A representative of the United States Department of Agriculture testified that that Department has been advised by a number of shippers who have used applicant's reefer vessels that the service has been of major importance to the agricultural industry on the West coast; that the service has made possible the movement of substantial quantities of agricultural commodities from U. S. Pacific coast ports to Oriental destinations, which otherwise would not have moved. He further testified that the Department of Agriculture recognizes that the Korean situation necessarily involves a greater space utilization for strictly military cargo which must take precedence over commercial shipments, but believes it is important that the remaining space should be made available for the movement of agricultural commodities out of U. S. Pacific coast ports; that the Department is certain that if the service is suspended or converted into a strictly military operation without any unused space being made available to the agricultural industry, it will be seriously prejudicial to the agricultural interests of the United States.

A representative of the International Apple Association read into the record a copy of a telegram from this association addressed to the Board, stating, in substance, that the fruit and vegetable industry of the United States, as represented in the membership of the International Apple Association, approximately 1,500 firms, requests that applicant's

reefer service be continued; and that it is of utmost importance that it be continued, for without it, it is impossible to carry on the export business of this association.

States Steamship Company, through counsel, takes the position that any extension of the charter under consideration should be limited to the transportation of reefer cargo; that the charter should not be extended indefinitely, but contain a definite termination date subject to review on application for further extension; and in any event should be terminated when the military need for the service involved ceases.

American Mail Line, through counsel, contends that there is plenty of reefer space out of the Pacific Northwest; and takes the same position as taken by States Steamship Company with respect to termination of charter.

The Board's counsel offered for consideration a communication from the American President Lines to the Board dated August 29, 1950. The parties agreed that it may be received in the record with the understanding that it shall not be considered as evidence of any facts, but merely a statement of the party sending it, and for all practical purposes the equivalent of a statement of counsel. The communication, in substance, states that American President Lines owns and operates vessels with refrigerated space in the transpacific trade with which the vessels here involved compete; that they recognize the military authorities currently require the use of some fully-refrigerated vessels; that the reefer space of American President Lines is utilized at present; and that as long as this remains they have no objection to the continuance of applicant's charter to meet military requirements. The communication further states that the charter should be limited to the time the vessels are required to meet the military needs for the transportation of refrigerated cargo, and should be subject to termination at any time in respect of any or all of the chartered vessels if and when they are no longer required for such purpose.

With respect to period of extension and conditions to be included in the charter, counsel for applicant, contending for extension indefinitely, stated that he would have no objection to a provision that the case be reviewed at any time on a showing, by parties having a bona fide interest, that conditions have changed substantially, requiring a further consideration of the merits; and that if the military need ceases, the case ought to be reviewed.

Counsel for the Board suggested that if an extension be granted it should be for a period not exceeding one year, subject to the terms and conditions of the existing charter, particularly the provision for cancellation on fifteen days notice.

The six vessels here involved are used primarily to provide for mili-

tary requirements in the Far East. The application is predicated on and supported by military necessity. When this necessity no longer exists, the charter should be reviewed by the Board.

With the same understanding by which the communication from American President Lines was received into the record, counsel for the Board offered for consideration several communications from shippers and other interested parties,[1] addressed to the Board. These communications, in substance, urge that applicant's reefer service be continued.

No testimony was adduced at the hearing in opposition to extension of applicant's bareboat charter agreement beyond October 31, 1950, covering the six fully-refrigerated war-built dry-cargo vessels named, and there was no testimony offered showing that comparable or suitable privately-owned American-flag vessels are available.

On this record the Board should find, certify, and recommend to the Secretary of Commerce:

That extension, indefinitely, of applicant's bareboat charter of the fully-refrigerated war-built dry-cargo vessels *Surprise, Flying Scud, Tradewind, Fleetwood, Contest,* and *Flying Dragon* from and after October 31, 1950, for continued use in the transpacific trade, is required in the public interest; that such service would not be adequately served without such extension; and that suitable privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service; and that in order to protect the public interest and to protect privately owned vessels against competition in respect to such charter extension, such charter should include a provision that it be subject to termination by either party on fifteen days written notice, and subject to all pertinent limitations of the Merchant Ship Sales Act of 1946, as amended.

[1] A. Levy and J. Zentner Co., American Fruit Growers, Inc., Armour & Co., Barcley & Co., Inc., California Fruit Exchange, California Fruit Growers Exchange, Connell Bros., Ltd., Cinelli & Co., D. B. Berelson & Co., Di Giorgio Fruit Corp., Duthie & Co., Fidelity Trading Co., Inc., Ghiselli Bros., Gordon Graham Avoset Co., Gwin White & Prince, Inc., Harry C. Suze Co., International Trade Representative, Jacobs Malcolm & Burtt, Jensen-McLean Co., Inc., John Demartini Co., Jones & Guerrero Co., Liberty Gold Fruit, Inc., Midstate Horticultural Co., Mutual Orange Distributors, Normlee Co., Pacific Produce Co., Pan Asiatic Exporting Co., Inc., Paramount Export Co., Perham Fruit Corp., Sunrise Produce Co., Inc., Sunset Produce Co., United Fresh Fruit & Vegetable Ass'n., Washington State Apple Commission, Wenatchee Valley Traffic Ass'n., Wilbur Ellis Co., World Distributors Inc., Yakima Fruit Growers Ass'n., and Ziel & Co., Inc.

FEDERAL MARITIME BOARD

No. M–11

ALASKA STEAMSHIP COMPANY—APPLICATION FOR BAREBOAT CHARTER EXTENSION WITH PERMISSION TO TIME CHARTER TO GRACE LINE, INC.

COASTWISE LINE—APPLICATION FOR BAREBOAT CHARTER EXTENSION

Stanley B. Long and *Ira L. Ewers* for Alaska Steamship Company.
W. F. Cogswell and *E. Russell Lutz* for Grace Line, Inc.
William Radner and *Odell Kominers* for Coastwise Line.
M. E. Halpern for the Board.

REPORT OF THE BOARD

This is an informal proceeding instituted by order of the Board pursuant to Public Law 591, 81st Congress, approved June 30, 1950, for the purpose of considering an application of Alaska Steamship Company for the extension beyond October 31, 1950, of its bareboat charter agreement of Government-owned, war-built, dry-cargo motor vessels *Coastal Monarch, Coastal Rambler, Flemish Knot, Lucidor, Palisana, Ring Splice, Sailor's Splice, Square Knot,* and *Square Sinnet* for operation in the Alaska trade. The application was amended to request permission for the time charter of certain of the vessels to Grace Line, Inc.[1] The Board is required to make certain findings to the Secretary of Commerce.

Coastwise Line made application for extension of its bareboat charter of the S. S.'s *King S. Woolsey* and *James W. Cannon* but this application was withdrawn at the hearing without prejudice to its renewal or resubmission.

In accordance with the law, notice of hearing was published in the Federal Register of September 6 and 20 and October 4, 1950, and hearing was held before Examiner F. J. Horan on October 10, 1950. The examiner's recommended decision was issued on October 11, 1950, and the parties notified of that decision on the same date. No exceptions thereto were filed. Our conclusions agree with those of the examiner and we adopt his findings of fact and recommendations as our own.

The arrangement contemplated by the Alaska application for con-

[1] It developed at the hearing that three vessels are proposed to be time chartered to Grace Line, Inc., during the period between approximately October 15 and April 15.

tinuance of the bareboat charter and the time charter of certain of these vessels to Grace Line, Inc., has advantages accruing to the Alaska Steamship Company, Grace Line, Inc., and the Government. Under ordinary circumstances during the period between approximately October 15 and April 15 certain of the vessels bareboat chartered from the Government would be laid up, due to conditions prevailing in the Alaskan trade. The time charter arrangement with Grace Line, Inc., provides a means for utilizing certain of these vessels during that approximate period, as was done in the past by Alaska Steamship Company with its privately-owned vessels, and also affords uninterrupted employment to the officers and crews of the vessels. The Government will benefit from the increase in basic charter hire from 8½% to 15% payable unconditionally so long as the vessels remain in the offshore trade and additional charter hire.

The Federal Maritime Board on September 26, 1950, made findings and certification to the Secretary of Commerce that the service operated by Grace Line, Inc., (between Pacific ports of the United States and the West coast of Mexico, West coast of Central America, and Caribbean ports) pursuant to its bareboat charter of war-built dry-cargo C1-M-AV1 vessels *Coastal Nomad, Coastal Adventurer, Gunners Knot* and *Anchor Hitch,* from and after October 31, 1950, was required in the public interest; that such service would not be adequately served without such extension; and that suitable privately-owned American-flag vessels were not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service. The vessels to be time chartered from Alaka Steamship are to augment the service provided by the four vessels above-mentioned. The evidence indicates that these additional vessels will be fully booked and unless additional vessels are available to Grace the business will probably go to a foreign-flag competitor.

Findings and Certification to the Secretary of Commerce

The Board finds and hereby certifies to the Secretary of Commerce:

(1) That the service operated by applicant, Alaska Steamship Company, pursuant to its bareboat charter of war-built dry-cargo C1-M-AV1 vessels *Coastal Monarch, Coastal Rambler, Flemish Knot, Lucidor, Palisana, Ring Splice, Sailor's Splice, Square Knot,* and *Square Sinnet,* from and after October 31, 1950, is required in the public interest; that such service would not be adequately served without such extension; and that suitable privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

(2) That the service for which three of the vessels named in the next

preceding paragraph are proposed to be time chartered by Alaska Steamship Company to Grace Line, Inc., is required in the public interest; that such service would not be adequately served without such extension; and that suitable privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

The Board recommends that the terms and conditions of the time charter agreement between Alaska Steamship Company and Grace Line, Inc., shall be subject to approval of the Secretary of Commerce.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

OCTOBER 17, 1950.
3 F M B.

FEDERAL MARITIME BOARD

ALASKA STEAMSHIP COMPANY—APPLICATION FOR BAREBOAT CHARTER EXTENSION WITH PERMISSION TO TIME CHARTER TO GRACE LINE, INC.

COASTWISE LINE—APPLICATION FOR BAREBOAT CHARTER EXTENSION

In proceeding under Public Law 591—81st Congress, found that continuance of the service for which certain Government-owned war-built dry-cargo vessels are now bareboat chartered and of the service for which three of such vessels are proposed to be time chartered during a certain period is required in the public interest; that the former service would not be adequately served without the use therein of such vessels, nor the latter service without the use therein of three of them; and that privately-owned American-flag vessels will not be available for charter by private operators on reasonable conditions and at reasonable rates for use in such services.

Stanley B. Long and *Ira L. Ewers* for Alaska Steamship Company.
W. F. Cogswell and *E. Russell Lutz* for Grace Line, Inc.
William Radner and *Odell Kominers* for Coastwise Line.
M. E. Halpern for the Board.

RECOMMENDED DECISION OF F. J. HORAN, EXAMINER

This is a proceeding under Public Law 591—81st Congress concerning an application of Alaska Steamship Company for (1) the extension beyond October 31, 1950, of the bareboat charter to it of the Government-owned war-built dry-cargo motor vessels *Coastal Monarch, Coastal Rambler, Flemish Knot, Lucidor, Palisana, Ring Splice, Sailor's Splice, Square Knot,* and *Square Sinnet* for operation in the Alaskan trade, and (2) permission "during any period for which the vessels are not needed in the Alaska trade to time charter them to Grace Line, Inc., for operation in conjunction with the C-2 vessels in the trade from the West Coast of the United States to the West Coasts of Mexico, Central America and South America, including ports in the Canal Zone and the Caribbean now served by four C1-MAV-1 vessels chartered from the Government."[1] As indicated in notices of hearing published in the Federal Register,[2] the questions to be determined are whether continu-

[1] The proceeding also concerned an application of Coastwise Line for extension of its bareboat charter of the steamships *King S. Woolsey* and *James W. Cannon.* This application was withdrawn at the hearing.

[2] 15 F. R. 6001, 6298, and 6687.

ance of the service for which the above-named vessels are now bareboat chartered and of the service for which such vessels or some of them are proposed to be time chartered to Grace Line, Inc., is required in the public interest; whether such services would be adequately served without the use therein of such vessels, and whether privately-owned American-flag vessels will be available for charter by private operators on reasonable conditions and at reasonable rates for use in such services. The Board is required by Public Law 591 to certify its findings to the Secretary of Commerce.

In House Report No. 39, 80th Congress, it was said at page 3:

> The people of the Territory of Alaska are completely dependent upon continuation of this water-borne service, both to insure that they are supplied with the necessities of life and to provide means of bringing their products to the continental United States for sale. Approximately 90,000 persons are now residents of the Territory, of whom about 37,000 are of Indian blood. Several thousand veterans have recently settled there and others are steadily moving to this new frontier. All of these people would be completely marooned should this water-borne service be discontinued or inadequately maintained. Moreover, development of the Territory would be set back many years. Because of the strategic importance of the Territory of Alaska, it is also necessary that adequate service be provided to supply our military garrisons and to insure adequate defense installations in that area.

Applicant's vice president and general manager testified that the situation depicted by the above-quoted statements, except with respect to the population of Alaska, which has increased, still exists and that it will continue to exist beyond October 31, 1950. He also points out that the Alaskan service was one of the reasons for extending the authority of the Secretary of Commerce to charter vessels and, in this connection, quotes from the report of the Merchant Marine and Fisheries Committee of the House of Representatives on the bill which became Public Law 591 as follows:

> The Alaskan service is essential both in the public interest and the interest of national security, but until adequate American-flag service can be attracted to this trade on reasonable conditions and at reasonable rates, the way should be left open for the continuation of the service with chartered Government-owned tonnage.

He likewise calls attention to the report on the same bill of the Interstate and Foreign Commerce Committee of the Senate, in which it was said:

> The peculiarities of the Alaskan trade and the need in that service for special-type vessels not generally available in the private market is an apt illustration of the situation described above. The continuation of limited authority provided for in the bill would make it possible to charter vessels on a bare-boat basis in

The annual rate of water-borne commerce in the Alaskan trade is in excess of 700,000 tons. It consists principally of general merchandise and military cargo northbound and canned salmon and frozen fish southbound. In the calendar year 1949, 693,000 tons of the traffic transported in the service was carried by applicant. In 1950, during the peak seasons, that is, from April 15 to September 30 northbound and from July 25 to October 15 southbound, the cargo transported by applicant averaged 80 percent of vessel capacity. It was testified that indications are that the traffic will increase and that all of the vessels chartered to applicant, and perhaps additional ones, will be needed next season.

Applicant owns and operates in the Alaskan service four combination vessels, two Liberties, 1 C1-MAV-1, and one small freighter. Seven of the nine chartered vessels in question are of the C1-MAV-1 type, and the remaining two are R1-MAV-3's. All nine are comparatively small vessels and, because of this fact, can get into and out of certain harbors in Alaska that are unable to accommodate larger vessels, such as a Liberty. There are no privately-owned C1-MAV-1's or R1-MAV-3's available for charter.

While the continuance beyond October 31, 1950, of the use of the chartered vessels in question in the Alaskan service appears to be required, such requirement is due to the volume of the traffic between the middle of April and the middle of October. It is estimated by applicant that several of the C1-MAV-1's will not be needed by it during the period between October 15 and April 15, and it is proposed to time charter three of them to Grace Line, Inc., during this period.

Grace Line, Inc., hereinafter called Grace, operates a service with four C1-MAV-1's chartered from the Government, the *Gunners Knot, Coastal Nomad, Anchor Hitch,* and *Coastal Adventurer,* between Pacific ports of the United States and the west coast of Mexico, west coast of Central America, and Caribbean ports. These four vessels offer a sailing approximately every three weeks in conjunction with Grace's operation of C-2 vessels to the west coast of Mexico, west coast of Central America, and west coast of South America. The ports of call are Manzanillo, Acapulco, Salina Cruz, Champerico, San Jose de Guatemala, Acajutla, La Libertad, La Union, Amapala, Corinto, Puntarenas, Golfito, Puerto Armuelles, Balboa, Cristobal, Barranquilla, Santa Marta, Maracaibo, Curacao, and Amuay Bay. The route between United States Pacific ports and ports on the west coasts of Mexico and Central America has been declared a part of essential trade route 25, and the route between United States Pacific ports and Caribbean ports also has been declared essential (Trade Route No. 23).

During the calendar year 1949 and the first six months of 1950, the

revenue tons carried to and from the United States in this service were as follows:

	1949	6 months of 1950
Outward to:		
West coast of Mexico	13,115	8,464
West Coast of Central America	49,691	19,016
Caribbean ports	[1] 48,431	[2] 12,777
	111,237	40,257
Homeward from:		
Caribbean ports	4,451	3,531
West coast Central America West coast Mexico	41,718	26,638
	46,169	30,169

[1] Including 11,544 Balboa and Cristobal.
[2] Including 2,367 Balboa and Cristobal.

Shipments from the United States of dry cargo included many items, those in greatest volume being asphalt, burlap bags, chemicals, canned goods, cement, milk, explosives, flour, lubricating oil, cocoanut oil, caustic soda, NOS soda, tallow, paraffin wax, oil well and refining supplies, paper and paper products, wheat, lumber, wood pulp, and refrigerated cargo. The homeward dry cargo consisted principally of coffee, used steel pipe, sugar in sacks, hardwood logs and lumber, sesame seed, cocoa beans, sesame seed oil, henequen, canned pineapple, frozen fish, and cotton.

The four vessels mentioned also lift cargo at Mexican and Central American ports for transshipment at Cristobal to United States Atlantic and Gulf ports, as well as transhipped cargo at Cristobal.

Except for vessels which are owned and operated by Grace and which call enroute to the west coast of South America, there is no American-flag service between United States Pacific ports and ports on the west coasts of Mexico and Central America. Before the war, Grace found it necessary to supplement with chartered vessels service by its own vessels to west-coast-of-Mexico and west-coast-of-Central America ports. There is no American-flag service between United States Pacific ports and the other ports named above except Balboa, Cristobal, and Curacao.

Grace's principal competitor in this trade is the foreign-flag Independence Line, which is operating four vessels of the C1-MAV-1 type having refrigerated space available.

There has recently been a substantial increase in cargo offerings in this trade. The *Gunners Knot,* which sailed from Los Angeles on October 1, was loaded to capacity, as was the *Coastal Nomad,* which

ation in this trade are booked to capacity through their November sailings. In addition, it has on its books cargoes sufficient to fill practically to capacity an October 15 sailing to the west coast of Mexico, west coast of Central America, and the Caribbean, and a sailing in late October to the west coast of Mexico, west coast of Central America, and the west coast of South America as far south as Callao. More space is needed to care for the normal cargo offerings from regular shippers who depend upon it to take care of their requirements up to the date of sailing, and it is testified that, if not protected by it, the business will go to foreign competitors.

On the basis of present indications of cargo offerings, it is estimated that three additional C1-MAV-1's will be required for the trade, with initial sailings in October and November, two for two round voyages each or a period of from five to six months for each vessel and one for at least one voyage of approximately 90 days' duration. These are the minimum time requirements. If cargo offerings should continue in volume as currently, it would be Grace's plan to charter the third vessel for an additional period.

Grace desires to charter the three additional vessels from Alaska Steamship Company on a time basis. The C1-MAV-1's which the latter operates have refrigeration facilities, which are particularly important in view of the movement of frozen fish northbound and the growing demand for the carriage southbound of fruits and vegetables. Prior to World War II, it was Grace's practice to charter vessels of Alaska Steamship Company during the off-season in the Alaskan trade, which is the period of its heavy seasonal coffee movement from Central America.

The *Ring Splice* will complete its last voyage of the season in the Alaskan trade around October 15-18 and the *Sailor's Splice* around October 27-30. It is contemplated that these vessels would immediately be made available to Grace, which would obviate the necessity of placing them in lay-up, thereby saving considerable expense.

The vice president and treasurer of Grace Line testified that he had made inquiries regarding the availability for charter on the United States Pacific coast of privately-owned American-flag vessels which would be suitable for operation in the trade and that no such vessels have been found. He further testified that no privately-owned American-flag C1-MAV-1's, which is the type most suitable for the trade because of its many shallow-draft ports, are available in any market.

There is no opposition to Alaska Steamship Company's proposal to time charter to Grace.

The Board should find and certify to the Secretary of Commerce:

(1) That the continuance beyond October 31, 1950, of the service for

which the *Coastal Monarch, Coastal Rambler, Flemish Knot, Lucidor, Palisana, Ring Splice, Sailor's Splice, Square Knot,* and *Square Sinnet* are now bareboat chartered is required in the public interest; that such service would not be adequately served from and after such date without the use therein of such vessels; and that privately-owned American-flag vessels are not, and will continue beyond such date not to be, available for charter by private operators on reasonable conditions and at reasonable rates for use in such service; and

(2) That the service for which three of the vessels named in the next preceding paragraph are proposed to be time chartered by Alaska Steamship Company to Grace is, and will continue beyond October 31, 1950, to be required in the public interest; that such service is not, and without the use therein of such three vessels would continue beyond October 31, 1950, not to be, adequately served; and that privately-owned American-flag vessels are not, and will continue beyond October 31, 1950, not to be, available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

FEDERAL MARITIME BOARD

No. M–12

POPE & TALBOT, INC.—APPLICATION FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE INTERCOASTAL TRADE

The intercoastal service is in the public interest and requires the operation by applicant under bareboat charter of the Government-owned, war-built, dry-cargo vessels *Allen C. Balch* and *William Allen White* for one additional round voyage each; such service is not adequately served; and privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

William Radner and *Odell Kominers* for applicant.
Marvin J. Coles for the Committee for Promotion of Tramp Shipping.
Sterling F. Stoudenmire, Jr., for Waterman Steamship Corp.
Max E. Halpern for the Board.

REPORT OF THE BOARD

On July 20, 1950, following a hearing on the application of Pope & Talbot, Inc., under Public Law 591, 81st Congress, for the bareboat charter of the Government-owned, war-built, dry-cargo vessels *Allen C. Balch* and *William Allen White* for operation in the intercoastal trade, the Board found and certified to the Secretary of Commerce that such charter for one round voyage of each of those vessels was required in the public interest, that such service was not adequately served, and that privately-owned, American-flag vessels were not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service. In accordance with applicant's request of September 29, 1950, the Board reopened the proceeding and set for hearing the requested extension of the bareboat charter of the foregoing vessels for one additional round voyage each, and hearing was duly held on October 13, 1950.

The record adduced at the hearing of October 13 shows that the situation at the present time is substantially the same as that which existed at the time of the hearing on July 20. The two C-3 vessels owned by applicant which were planned to be put in the intercoastal trade are still under charter to Military Sea Transportation Service, and the lat-

ter does not know when they will be returned in view of world conditions.

It is clear that Liberty vessels, privately owned, have been available since the last hearing and that applicant could have chartered them had it so wished. On the other hand, the conditions attendant upon their charter have not been reasonable. Such vessels are still not available on the Pacific coast, where applicant's voyages commence, and taking such vessels in ballast from the Atlantic coast or the Gulf coast to the Pacific coast would entail an expense to applicant in excess of $40,000 per vessel. Counsel for the Committee for the Promotion of Tramp Shipping contends, however, that the Maritime Administration could permit redelivery of the two bareboat-chartered vessels in question on the Atlantic coast and that applicant could then charter privately-owned vessels in such area, thus eliminating the taking of the latter vessels to the Pacific coast in ballast. Redelivery, however, of the Government-owned vessels on the Atlantic coast would necessitate repatriation of the crew at applicant's expense pursuant to its labor contract. Although applicant might possibly integrate its operations in the manner described, timing is such an important factor that the Board does not feel such procedure can be insisted on.

FINDINGS AND CERTIFICATION TO THE SECRETARY OF COMMERCE

On the record of the October 13 hearing, the Board finds and hereby certifies to the Secretary of Commerce:

1. That the intercoastal service is in the public interest and requires the operation by applicant under bareboat charter of the Government-owned, war-built, dry-cargo vessels *Allen C. Balch* and *William Allen White* for one additional round voyage each;

2. That such service is not adequately served; and

3. That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

By the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

OCTOBER 17, 1950.
3 F. M. B.

FEDERAL MARITIME BOARD

No. M–13

AMERICAN-HAWAIIAN STEAMSHIP COMPANY ET AL.[1]—APPLICATIONS FOR EXTENSION OF BAREBOAT-CHARTER AGREEMENTS OF WAR-BUILT DRY-CARGO VESSELS IN THE INTERCOASTAL TRADE

Clement C. Rinehart for American-Hawaiian Steamship Company.

William Radner and *Odell Kominers* for Luckenbach Steamship Company, Inc., and Pope & Talbot, Inc.

William I. Denning for Pacific-Atlantic Steamboat Co.

Marvin J. Coles for the Committee for Promotion of Tramp Shipping.

Sterling F. Stoudenmire, Jr., and *Warren Price, Jr.*, for Waterman Steamship Corp.

C. A. Luce for West Coast Lumbermen's Association.

R. Granville Curry and *Frederick M. Dolan* for Albany Port District Commission.

Max E. Halpern for the Board.

REPORT OF THE BOARD

This proceeding was instituted by order of the Board pursuant to Public Law 591, 81st Congress, approved June 30, 1950, for the purpose of considering the applications of American-Hawaiian Steamship Company, Luckenbach Steamship Company, Inc., Pacific-Atlantic Steamship Company, and Pope & Talbot, Inc., made to the Secretary of Commerce, for an extension of certain bareboat charters of Government-owned, war-built, dry-cargo vessels in the intercoastal trade, and to determine whether the Board should make certain findings with appropriate certification thereof to the Secretary of Commerce.

Applicants are operators in the intercoastal trade under a certificate of convenience and necessity from the Interstate Commerce Commission. Each has operated in such trade prior to World War II and resumed operations following the termination of hostilities.

At the hearing before an examiner, counsel for the parties stipulated that the applications originally filed for an unlimited period should be

[1] Luckenbach Steamship Company, Inc., Pacific-Atlantic Steamship Co., and Pope & Talbot, Inc.

amended to limit the extension from November 1, 1950, to January 31, 1951, without prejudice to applications for further extensions beyond that time. We are therefore concerned only with extensions during this period.

The examiner has recommended that the Board find and certify to the Secretary of Commerce that the extension from October 31, 1950, (November 1, 1950) to and including January 31, 1951, of the bareboat-charter agreements of American-Hawaiian Steamship Company, Luckenbach Steamship Company, Inc., Pacific-Atlantic Steamship Company, and Pope & Talbot, Inc., for the operation of Government-owned, war-built, dry-cargo vessels in the intercoastal trade is required in the public interest; that such service is not adequately served; and that there are no privately-owned American-flag vessels available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

Exceptions were filed by Waterman Steamship Corporation, Committee for Promotion of Tramp Shipping, as interveners, and by counsel to the Board, and the matter was argued orally before the Board.

Pope & Talbot, Inc., one of the applicants, has filed a memorandum agreeing with the conclusions of the examiner but recommending that several issues set forth in the examiner's recommended decision be not acted upon because of their controversial nature and the short term of the charter extension. Counsel to the Board, while excepting to one phase of the examiner's report, concurs in his recommendations.

The record is quite clear that the intercoastal service is required in the public interest and for the present would not be adequately served without the use of Government-owned chartered vessels. The examiner correctly points out that the importance of the intercoastal trade has been recognized by the Congress, the Interstate Commerce Commission, and by the Maritime Commission. Thus, in 1947 the Maritime Commission, in order to encourage the rehabilitation of the intercoastal service, interrupted by World War II, authorized the charter of war-built vessels in that service and fixed the basic charter hire rate of 15% per annum of the statutory sales price of the vessel, or of the floor price, whichever was higher, of which 8½% is payable unconditionally and the balance of 6½% is payable from earnings before any participation in such earnings by the charterer. This rate was fixed after a hearing with intercoastal operators to offset expected substantial losses during the period of rehabilitation. The charter hire in the foreign trade is 15% per annum of the statutory sales price of the vessel, or of the floor price, whichever is higher, which is paid unconditionally, and additional charter hire is also provided for.

Prior to June 30, 1950, there had been announcement of, and meas-

ures taken towards, replacement of Government-owned bareboat vessels in the intercoastal trade by privately-owned vessels. This transition was in keeping with Congressional intent and the policy of this Board's predecessors. It remains the policy of this Board.

The unanticipated and heavy demand for cargo vessels in transpacific areas as a result of the United Nations action in Korea interrupted this orderly transition to privately-owned vessels in the intercoastal trade. Public Law 591, 81st Congress, 2nd session, authorizing charters of Government-owned vessels under specific conditions, is sufficiently broad to meet such emergencies as were created by the Korean incident.

Some of these applicants, at the urgent request of the Military Sea Transportation Service, chartered their owned vessels for military purposes for use in the transpacific areas. Other vessels of applicants are privately chartered and are being operated in the transpacific areas carrying a substantial amount of cargo under the control of the military. The time of return of these vessels for availability in the intercoastal trade is a matter of conjecture. The forward demand of the Military Sea Transportation Service is far from clear, but the demand's impact on privately-owned vessels for use in the intercoastal trade may be more readily determinable prior to January 31, 1951.

Waterman Steamship Corporation, an operator in the intercoastal service and a party in opposition in this proceeding, has indicated that the company intends to place additional vessels in the service to meet the needs of the intercoastal service, but some delay is indicated as its principal witness testified that all of its vessels are presently employed.

American-Hawaiian Steamship Company claims it has no owned vessels suitable for their needs in this service. There is strong suggestion in the record that this applicant should purchase vessels and thus terminate the competition of chartered Government-owned vessels with privately-owned vessels in this trade. The law, of course, imposes no requirement to purchase vessels. Failure to purchase, even refusal to do so, while entitled to consideration, should not be determinative of whether the applicants have met the conditions of Public Law 591, particularly for purposes of this decision, for a temporary extension of charter of Government-owned vessels.

While there is some conflict in the testimony as to whether privately-owned vessels are available on the West coast for charter on reasonable rates and conditions, the record is sufficiently clear to justify a finding at this time that such vessels are not so available.

Opponents contend further that the Board should require applicants Pope & Talbot, Inc., and Pacific-Atlantic Steamship Company to redeliver their bareboat-chartered vessels on the Atlantic and Gulf coasts

and require that privately-owned tonnage presently available on the Atlantic and Gulf coasts be chartered in their place. Such an arrangement might involve taking a vessel from the East or Gulf coast to the West coast in ballast and the expense of repatriation of crews (see decisions of the Board of July 20, 1950, and October 17, 1950, applications for charter by Pope & Talbot, Inc., Docket Nos. M-4 and M-12). The current charter requires redelivery to the Maritime Administration on the West coast.

Opponents contend that the burden of proof is upon applicants and, on this point, we agree. We think that the applicants have met this burden sufficiently to justify the Board in making the required findings under Public Law 591.

We feel it unnecessary to pass upon the other exceptions filed to the examiner's report, in view of the short term of the extension. Should further extensions be applied for, it may then be necessary to review the problems mentioned in the exceptions.

FINDINGS AND CERTIFICATION TO THE SECRETARY OF COMMERCE

On the record adduced in this case the Board accordingly finds and hereby certifies to the Secretary of Commerce:

That the service operated by applicants pursuant to their bareboat charters of war-built dry-cargo vessels from and after October 31, 1950, until January 31, 1951, is required in the public interest; that such service would not be adequately served without such extension; and that suitable privately-owned vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

OCTOBER 17, 1950.

MARITIME ADMINISTRATOR

No. S–20 [1]

AMERICAN PRESIDENT LINES, LTD.—APPLICATION FOR PERMISSION TO OPERATE VESSELS BETWEEN CALIFORNIA PORTS AND GUAM, MIDWAY, AND WAKE UNDER SECTION 805(a) OF MERCHANT MARINE ACT, 1936

Whereas the Maritime Administrator on November 21, 1950, published in the Federal Register (15 F. R. 7952) notice of a proposed rule relative to the status of Guam, Midway and Wake under section 805(a), Merchant Marine Act, 1936; and

Whereas by said notice, interested persons were afforded opportunity to comment on the proposed rule on or before December 4, 1950; and

Whereas no objections to the proposed rule have been received by the Administrator,

Now, therefore, it is hereby ordered, That the aforesaid proposed rule be and it is hereby adopted, as follows:

Guam, Midway and Wake.—Steamship service between ports of the United States mainland and ports in the islands of Guam, Midway and Wake is not "domestic intercoastal or coastwise service" within the meaning of section 805(a) of the Merchant Marine Act, 1936. This interpretation is limited to Guam, Midway and Wake and does not signify that a similar interpretation is or would be applicable to Hawaii, Puerto Rico or Alaska.

Dated: DECEMBER 13, 1950.

((Sgd.) E. L. COCHRANE,
Maritime Administrator, Department of Commerce.

[1] The rule here set forth was printed in the Federal Register on December 19, 1950 (15 F. R. 9065).

FEDERAL MARITIME BOARD

No. M–15

AMERICAN EXPORT LINES, INC., ET AL.[1]—APPLICATIONS FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE CARRIAGE OF COAL AND GRAIN FROM THE UNITED STATES TO EUROPEAN COUNTRIES

FINDINGS AND CERTIFICATION OF THE FEDERAL MARITIME BOARD TO THE SECRETARY OF COMMERCE

This is an informal proceeding instituted by the Board pursuant to Public Law 591, 81st Congress, which requires the Board to hold public hearings on applications for bareboat charters of Government-owned, war-built, dry-cargo vessels, and to make certain findings with appropriate certification thereof to the Secretary of Commerce. In accordance with such law, notice of this hearing was published in the Federal Register of December 14, 1950, and hearing was held by the Board on December 18, 1950. The usual notice of 15 days was not given because of the urgency of the matter.

STATEMENT OF FACTS

Applications have been filed by the above-named parties to bareboat charter Government-owned, war-built, dry-cargo vessels for the transportation of cargo to those countries within the purview of the Foreign Assistance Act of 1948, as amended. Some of the applications were filed prior to publication of the notice of hearing in the Federal Register, and some were filed subsequently thereto in accordance with the permission given in the notice.

[1] American Foreign Steamship Corp., American-Hawaiian Steamship Co., Blidberg Rothchild Co., Inc., A. L. Burbank & Co., Burns Steamship Co., Clifton Steamship Corp., Coastwise Line, Dichmann, Wright & Pugh, Inc., Dolphin Steamship Corp., Drytrans Incorporated, Eagle Ocean Transport Corp., Eastern Steamship Lines, Inc., East Harbor Trading Corporation, Eastport Steamship Corp., Firth Steamship Corp., Fribourg Steamship Co., Inc., Isbrandtsen Co., Inc., Luckenbach Steamship Co., Inc., Lykes Bros. Steamship Co., Inc., Maine Steamship Corp., Manning Brothers, Inc., Marine Navigation Co., Inc., Moore-McCormack Lines, Inc., North Atlantic and Gulf Steamship Co., Inc., Orion Shipping & Trading Co., Inc., Pacific-Atlantic Steamship Co., Pacific Far East Line, Inc., Pittston Marine Corp., Polarus Steamship Co., Inc., Seatrade Corporation of Delaware, Seven Seas Steamship Corp., Shepard Steamship Co., South Atlantic Steamship Line, Inc., States Marine Corporation, T. J. Stevenson & Co., Inc., Stockard Steamship Corporation, Transportation, Inc., Union Sulphur & Oil Corp., United States Lines Company, U. S. Navigation Co., Inc., and Wessel, Duval & Co., Inc.

The representative of Economic Cooperation Administration, which carries out the mandates of the Foreign Assistance Act of 1948, testified that current and potential programs for the movement of Economic Cooperation Administration financed and non-Economic Cooperation Administration financed cargo to countries having an Economic Cooperation Administration program are in excess of the capacity of available privately-owned vessels, American and foreign. He also testified that the failure to make additional vessels available promptly will result in further aggravation of the conditions now prevailing, will compel the Economic Cooperation Administration and the participating countries to pay even greater premiums for vessels, and will also prevent or delay those countries from receiving all of the cargoes they so vitally need. Substantiating testimony as to the amount of cargo now available and the scarcity of vessels to carry it was given by a representative of the Department of Agriculture. It was generally conceded that there are not enough privately-owned American-flag vessels to handle present cargo or cargo that will move in the immediate future, and there was no testimony to the contrary.

Although it was testified by the representatives of Economic Cooperation Administration and the Department of Agriculture that cargoes, including those under the Mutual Defense Assistance Pact, are now and in the immediate future will be consigned to countries other than European, for which there will not be enough vessels, the findings herein are limited to cargoes for European countries, in conformance with the notice in the Federal Register under the terms of Public Law 591.

Findings and Certification

On the basis of the facts adduced of record, the Board finds and hereby certifies to the Secretary of Commerce:

1. That the services considered, being for the carriage of coal and grain from the United States to Europe, are required in the public interest;
2. That such services are not adequately served; and
3. That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such services.

By the Board.

(Sgd.) A. J. Williams,
Secretary.

December 20, 1950.

FEDERAL MARITIME BOARD

No. M–18

LYKES BROS. STEAMSHIP CO., INC.—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE GULF, U.K., CONTINENT, AND MEDITERRANEAN SERVICES

FINDINGS, CERTIFICATION, AND RECOMMENDATION OF THE FEDERAL MARITIME BOARD TO THE SECRETARY OF COMMERCE

This is an informal proceeding instituted by the Board pursuant to Public Law 591, 81st Congress, which requires the Board to hold public hearings on applications for bareboat charters of Government-owned, war-built, dry-cargo vessels, and to make certain findings with appropriate certification thereof and recommendations thereon to the Secretary of Commerce. In accordance with such law, notice of this hearing was published in the Federal Register of January 5, 1951, and hearing was held by the Board on January 10, 1951. The usual notice of 15 days was not given because of the urgency of the matter.

STATEMENT OF FACTS

Application has been filed by Lykes Bros. Steamship Co., Inc., to bareboat charter the Government-owned, war-built, dry-cargo vessels *Princeton Victory, Legion Victory,* and *Fisk Victory,* or suitable substitutes, for use in its subsidized services over Trade Routes Nos. B-2 and C, that is, Gulf, U. K., Continent, and Mediterranean services.

Applicant's witness testified that all of the company's vessels are now fully employed on its several trade routes except those made available to Military Sea Transportation Service to meet urgent military requirements; that the company made available to MSTS seven of its C-2 and C-3 type vessels, five of which have been returned and the other two are not expected to be available for outbound employment for approximately 90 days; that accordingly, the company is two vessels short of its normal complement, and its schedule with respect to the remaining vessels has been reduced by MSTS deferred redeliveries; that currently, the company's fleet is being called upon to handle a greatly enlarged volume of inbound and outbound traffic, and is unable to accommodate

cargo offered for January 1951 shipment; and that the situation is especially acute with respect to outbound cotton, grain, flour, beans and other agricultural commodities, packing house products, and general commodities which, in the main, is Economic Cooperation Administration financed cargo.

On the day before the hearing applicant applied for the purchase of three Government-owned vessels of the AP-3 Victory-type (second choice being AP-2's), and requests that its charter application herein be considered as covering the gap between the time of its purchase application and the date when the vessels covered by its purchase application will be delivered, and that in the event delivery is obtained on one or more of the vessels in time for January 1951 sailing, the company will forego sailing of a like number of chartered vessels. At the hearing, applicant amended its charter application to request charter for one voyage only of each vessel involved. Opposition to the application was thereupon withdrawn.

Applicant's witness testified that there are no suitable privately-owned American-flag vessels available for charter to handle the company's late January 1951 sailings, and that the trade routes here involved will not be adequately served unless additional vessels are made available. There was no testimony to the contrary.

Findings, Certification, and Recommendation

On the basis of the facts adduced of record, the Board finds and hereby certifies to the Secretary of Commerce:

1. That the services under consideration are required in the public interest;
2. That such services are not adequately served; and
3. That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such services.

The Board recommends that adequate provisions be made to protect the interest of the Government under its operating-differential subsidy contracts with applicant.

By the Board.

(Sgd.) A. J. Williams,
Secretary.

January 10, 1951.

FEDERAL MARITIME BOARD

No. M–19

AMERICAN EXPORT LINES, INC.—APPLICATION FOR BAREBOAT CHARTER OF A WAR-BUILT DRY-CARGO VESSEL FOR USE BETWEEN NORTH ATLANTIC AND MEDITERRANEAN PORTS

FINDINGS, CERTIFICATION, AND RECOMMENDATION OF THE FEDERAL MARITIME BOARD TO THE SECRETARY OF COMMERCE

This is an informal proceeding instituted by the Board pursuant to Public Law 591, 81st Congress, which requires the Board to hold public hearings on applications for bareboat charters of Government-owned, war-built, dry-cargo vessels, and to make certain findings with appropriate certification thereof and recommendations thereon to the Secretary of Commerce. In accordance with such law, notice of this hearing was published in the Federal Register of January 5, 1951, and hearing was held by the Board on January 10, 1951. The usual notice of 15 days was not given because of the urgency of the matter.

STATEMENT OF FACTS

Application has been filed by American Export Lines, Inc., to bareboat charter the Government-owned, war-built, dry-cargo vessel *Elmira Victory,* or a suitable substitute, for a period of up to six months, for the transportation of general cargo in applicant's liner service between North Atlantic ports of the United States and Mediterranean ports. It was testified by a representative of applicant that one of its vessels was under charter to Military Sea Transportation Service and that another one recently sustained damage and will have to be repaired extensively, and that applicant's vessels are not able to meet the abnormal demand for space resulting from world conditions. It was further testified that applicant has been unable to secure privately-owned American-flag vessels of suitable capacity, type, and speed for charter upon reasonable terms and conditions for operation in the service under consideration. There was no opposition to the application.

Applicant expressed its willingness to operate the chartered vessel without subsidy, and to incorporate any profits therefrom in its subsi-

dized operation account so that such profits will, to the extent provided by the Merchant Marine Act, 1936, as amended, and by its operating-differential agreement with the Board, be available for the repayment to the Government of any operating-differential subsidy received in connection with the operation of its other vessels.

FINDINGS, CERTIFICATION, AND RECOMMENDATION

On the basis of the facts adduced of record, the Board finds and hereby certifies to the Secretary of Commerce:

1. That the service under consideration is required in the public interest;

2. That such service is not adequately served; and

3. That privately-owned American-flag vessels are not available for charter from private operators on reasonable conditions and at reasonable rates for use in such service.

The Board recommends that adequate provision be made to protect the interest of the Government under its operating-differential subsidy contracts with applicant.

By the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

JANUARY 10, 1951.

FEDERAL MARITIME BOARD AND MARITIME ADMINISTRATOR

No. S–17

AMERICAN PRESIDENT LINES, LTD.—APPLICATION TO CONTINUE OPERATION AFTER DECEMBER 31, 1949, OF ATLANTIC-STRAITS FREIGHT SERVICE C–2, TRADE ROUTE NO. 17, WITHOUT OPERATING-DIFFERENTIAL SUBSIDY.

Submitted December 1, 1950. Decided January 24, 1951

Application of American President Lines to continue to operate unsubsidized vessels in Atlantic-Straits Freight Service C–2 of Trade Route No. 17 approved, with conditions.

Reginald S. Laughlin and *Willis R. Deming* for applicant.

William Radner, Odell Kominers, and *William F. Ragan* for Luckenbach Steamship Company, Inc., and Luckenbach Gulf Steamship Company, Inc., *Donald D. Geary* and *David Dawson* for United States Lines Company, *Walter S. McPherson* and *Donald S. Morrison* for American-Hawaiian Steamship Company, *Bon Geaslin, Sterling F. Stoudenmire, Jr.,* and *Warren Price, Jr.,* for Waterman Steamship Corporation, *Thomas F. Lynch* and *Wendell W. Lang* for Isthmian Steamship Company, *William I. Denning* and *Earl C. Walck* for States Steamship Company and Pacific-Atlantic Steamship Company, *Timothy J. Murphy* and *Walter W. McCoubrey* for Port of Boston Authority, and *G. Stewart Henderson* for Baltimore Association of Commerce, interveners.

Paul D. Page, Jr., and *Joseph A. Klausner* for the Board.

REPORT OF THE BOARD AND MARITIME ADMINISTRATOR.

This proceeding is based upon an application filed by American President Lines, Ltd., a subsidized line, for permission to continue the operation on Trade Route No. 17 (United States Atlantic and Gulf ports—Straits Settlements and Netherlands East Indies)[1] of its "At-

[1] Due to postwar political changes, the areas formerly called Straits Settlements and Netherlands East Indies have been re-named and will be referred to throughout this report as, respectively,

lantic-Straits" unsubsidized Freight Service "C–2" described as follows:

Freight Service C–2: (Commission's report of May 20, 1946, on essential foreign trade routes and services recommended for United States-flag operation)

Itinerary: New York (other Atlantic ports as traffic offers) via Panama Canal, Los Angeles, San Francisco to Manila, Hong Kong, Singapore, Belawan, Batavia, Soerabaja, Hong Kong and Philippine Islands (as traffic offers) to San Francisco, Los Angeles and via Panama Canal to New York; privilege of calling at French Indo China and Siam as traffic offers.

Permission is required under applicant's operating-differential subsidy contract, paragraph 6:

> "Competition. The Operator agrees that, without the express written approval of the Commission, neither the Operator nor any affiliate, subsidiary or holding company will operate or cause or permit any unsubsidized vessels owned or controlled by any of them to be operated in the subsidized service of the Operator or in the foreign commerce of the United States in competition with any other service, route, or line receiving financial aid pursuant to the provisions of the Act."

As the Atlantic-Straits service is via the Panama Canal and California ports and thus affords opportunity for competition with domestic intercoastal services, the proceeding also brings in issue section 805(a) of the Merchant Marine Act, 1936, as amended.

Since May 1941 applicant has filed three applications for a subsidy on this route. Two filed during the war were not acted upon and the third, filed July 31, 1946, was denied without prejudice because our predecessor, the Maritime Commission, determined under section 605(c) of the Act, that the then-existing American-flag services were adequate. (*Trans-Pacific cases*, June 9, 1947).*

Thereupon applicant filed an application on June 19, 1947, for permission to operate the service without subsidy. After hearing, the

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Malaya and Indonesia, it being understood for the purpose of the report that the term Malaya includes the British crown colony of Singapore.

Malaya. The present Federation of Malaya consists of the nine states of the Malay peninsula (Perak, Selangor, Negri Sembilan, Pahang, Johore, Kedah, Perlis, Kelantan, Trengganu) and the two British settlements of Penang and Malacca; Singapore, the third of the former *Straits* Settlements, is now a separate colony. (From 1826 to 1946, Malacca and Penang were incorporated with Singapore under a single government which, from 1867 to 1946, was a British crown colony known as Straits Settlements.)

Indonesia. The United States of Indonesia (U.S.I.) comprises a great number of islands between the southernmost tip of the Asian mainland (Malaya) and the north shore of *Australia*. *Sumatra, Java,* and *Lesser Sundas* form the western and southern boundary, the latter connecting in a northeasterly direction with *New Guinea.* Western New Guinea is claimed by the U.S.I. but its claim is disputed by the Netherlands, which controls the territory. Other large islands within U.S.I. are *Borneo* (more than two thirds of the land area of which is in U.S.I., the remainder consisting of British-governed Sarawak, Brunei, and North Borneo), *Celebes,* and the *Moluccas.*

* This proceeding is now known as Docket No. S-7, *United States Lines Company et al.—Applications for Financial Aid, etc.*

Commission, by Resolution of May 18, 1948, authorized applicant to operate on the above-described C–2 Service of Trade Route No. 17, without operating-differential subsidy, not more than thirteen voyages per annum, subject to the following conditions:

1. Applicant shall (a) use on the C–2 Service of Trade Route No. 17 only such number and type of vessels as may be approved by the Commission; (b) coordinate all its non-subsidized sailings, so far as possible and to the extent required by the Commission, with services of other operators carrying cargo to or from ports included in the itinerary of said C–2 Service of Trade Route No. 17; and (c) enter into an agreement with the Commission, in form satisfactory to the Commission, providing for the protection of Applicant's subsidized operations from the diversion of cargo and revenues by the non-subsidized operations from the vessels operated in its subsidized operations.

2. No non-subsidized voyage in said C–2 Service of Trade Route No. 17 shall be commenced after June 30, 1949.

3. The capital employed by the Applicant in the non-subsidized operations in said C–2 Service of Trade Route No. 17 and the earnings derived therefrom shall not be taken into account in applying the reserve and recapture provisions of Applicant's operating-differential subsidy agreement with the Commission; however, the Applicant's net profits, if any, as determined by the Commission in accordance with sound accounting practice as determined by the Commission, resulting from Applicant's non-subsidized operation of said C–2 Service of Trade Route No. 17 shall be deposited in Applicant's capital reserve fund maintained pursuant to said operating-differential subsidy agreement as a voluntary deposit and treated accordingly, and such deposits, if any, shall be in addition to any and all statutory requirements of Applicant under said operating-differential subsidy agreement. In no event, however, shall the non-subsidized operations be permitted to reduce the amount of earnings from Applicant's subsidized services subject to recapture by the Commission.

4. Applicant shall file in triplicate with the Commission, at such times and in such form as may be prescribed by the Commission, semiannual profit and loss statements covering its non-subsidized operations in C–2 Service of Trade Route No. 17 and such other data as may be required by the Commission.

5. The Commission shall have the right in its sole discretion to cancel and terminate this authorization upon the expiration of

written or telegraphic notice given at least fifteen (15) days prior to the completion of any such non-subsidized voyage.

On March 17, 1949, applicant asked to have the June 30, 1949, limitation removed, whereupon the Commission ordered an administrative hearing on the application. By successive Commission and Board actions, applicant's operating authority has been temporarily extended, most recently to January 31, 1951. Previous authorizations for applicant's C–2 Service are superseded by this decision.

On June 28, 1949, the proceeding was enlarged, upon motion of the Commission's counsel, to embrace issues under section 805(a) of the Act.[2] Hearings were held from September 14 to October 4, 1949, and briefs were filed on October 25 and 31, 1949. Thereafter the presiding examiner submitted a recommended decision adverse to the applicant, to which exceptions were filed, upon which the Commission heard argument. Reargument was heard by the Board on November 14, 1950, following which a limited hearing before the examiner was held for the purpose of receiving information bringing certain portions of the record down to date. While we agree with many of the examiner's findings of fact, our conclusions differ from his with respect to the advisability of authorizing continued operation of the applicant's C–2 Service.

CONTENTIONS OF THE PARTIES

The applicant's position is that its Atlantic-Straits service should be continued because (1) it is necessary to provide adequate service between United States Atlantic ports and the C–2 area and between California ports and Malaya and Indonesia; (2) foreign-flag lines dominated these trades before World War II, and the favorable position gained by American-flag lines after the war has already been lost and overcome; (3) the C–2 Service will not endanger or impair any other American-flag services, either foreign or domestic; and (4) the termination of its C–2 Service will not further the maintenance or development of the American merchant marine. Further, the applicant contends that it should be allowed to continue the carriage of intercoastal cargo as a part of the C–2 Service, on the ground that the intercoastal leg is required for the soundness of the C–2 Service as a whole.

The application is opposed upon the basic grounds (a) that existing

[2] Permission to intervene was granted to Luckenbach Steamship Company and its subsidiary, Luckenbach Gulf Steamship Company, Waterman Steamship Corporation, Isthmian Steamship Company, States Steamship Company and its subsidiary, Pacific-Atlantic Steamship Company (Quaker Line), American-Hawaiian Steamship Company, and United States Lines Company (American Pioneer Line). All of these lines, except United States Lines, operate services in the intercoastal trade; and all except Luckenbach operate services in the trade area of Service C-2 of Trade Route No. 17. The Baltimore Association of Commerce and the Port of Boston Authority intervened in support of the application.

services both in the foreign and domestic trades involved are more than adequate, and (b) that continuance of the service will continue to result in diffusion of available traffic.

Specifically, the principal contentions are (1) that the competition clause of applicant's subsidy contract must be so construed as to be consistent with and effectuate the purposes of the Act; (2) that the purpose of section 605(c) of the Act was to prevent undue prejudice to unsubsidized as well as subsidized operators; (3) therefore, before the application may be granted the Commission must find existing services inadequate, including the applicant's subsidized services, but excluding its unsubsidized operation, and that the grant will not give undue advantage to the applicant or be unduly prejudicial to operators of existing services, including applicant's subsidized services; (4) that operation of applicant's C–2 Service has failed to meet the aims and objectives of Service C–2 of Trade Route No. 17; (5) that applicant has no "grandfather" rights under section 805(a) [3] because of interruptions and changes in its service since 1935 and therefore it has the burden of proving the operation is necessary to provide adequate service in the intercoastal trade; (6) that there have been diversions of cargo from applicant's subsidized to its unsubsidized operations resulting not only in a breach of the conditions of the outstanding authorization and subsidy contract, but in unfair competition contrary to section 805(a) and in contravention of the objects and policy of the Act.

Broadly viewed, the issues are of two kinds: those which involve an appeal to our discretion, and those which hinge on particular statutory or contractual restrictions. Differently stated, the questions are whether the general policy of the Act would be served by the granting of the application, and if so, whether the promotion of that general policy would deprive the Government or competitors of the applicant of rights protected by law or contract.

THE C–2 SERVICE AND ITS OBJECTIVES

The Act (sec. 101) declares as a policy that the United States shall have a merchant marine sufficient to carry its domestic water-borne commerce and a "substantial portion" of its water-borne export and import foreign commerce; and calls for execution of that policy in various ways, among them by determining trade routes and services "essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States . . ." (sec. 211). In the performance of that duty, our predecessor established such routes and described services thereon, including Route 17 and Service C–2.

[3] The applicant concedes, for the purposes of this case, that it has no such rights.

The Commission's Trade Routes Committee found Route 17 to be essential because of the strategic importance of Malaya and Indonesia as sources of rubber, tin, palm and other vegetable oils, as well as tapioca, fibers, teas, spices, and a veriety of raw materials important to the economy of the United States. It noted that trade between our Atlantic ports and the Malaya-Indonesia area had been historically dominated by foreign-flag carriers—a condition which rendered the United States dependent upon transportation systems over which it had virtually no control, for the importation of substantial quantities of strategic and necessary materials. "There is a strong need for United States shipping here", the Committee found.

Traffic to Malaya-Indonesia from the Atlantic coast of the United States is considerably lighter than in the reverse direction. In establishing the C–2 Service the Trade Routes Committee took account of this circumstance by designating Manila and Hong Kong as regular ports of call outward in order to fill space unlikely to be needed for Malaya-Indonesia cargo, and by authorizing calls at Hong Kong and at the Philippines only as traffic should offer on the inward voyage, on which it was anticipated that Malaya-Indonesia cargo would be considerably heavier than outbound. The service was primarily an Atlantic/Malaya-Indonesia service. It was in no sense intended to serve primarily the Philippines and Hong Kong.

The route between U. S. Atlantic and Malaya-Indonesia via California, Philippines, and Hong Kong is materially longer than via Suez. This, of course, was known to the Commission when it established the C–Service, as was the fact that because of the longer C–2 itinerary the C–2 operator would be pressed for time in competing from Malaya-Indonesia to U. S. Atlantic against operators via Suez. It was expected that the C–2 operator, having regard for the main objective of the service, would develop homeward traffic from the Malaya-Indonesia area by calling at several Indonesian ports and two or more ports in Malaya. Unless Malaya-Indonesia cargo were to be sacrificed, the schedule of the C–2 Service admitted of no material delays resulting from pursuit of Philippine and Hong Kong cargo for the homeward voyage. The privilege of loading Philippine and Hong Kong cargo on the homeward voyage was the privilege of loading such cargo as might be readily available—not of concentrating on such cargo at the expense of the basic schedule from Malaya-Indonesia to U. S. Atlantic ports.

APPLICANT'S OPERATION OF THE C–2 SERVICE

In considering the present application, we are obliged to focus upon the foregoing considerations, and to compare the service rendered by applicant with the objectives sought to be attained, to ascertain whether

those objectives have been attained in fact, or, if not, whether they are reasonably attainable. On the record, we must conclude, as did the examiner, that the objectives of the C–2 Service have not been substantially met by the applicant's method of operation in the past. It appears, however, that with certain modifications of service, for which we shall provide in disposing of the case, there is a reasonable possibility of their attainment.

An important objective for Trade Route No. 17 was to provide transportation by U. S.-flag vessels of at least 50% of the cargo, outbound and inbound, between U. S. Atlantic ports and Malaya-Indonesia. It was anticipated that cargo to Philippines-Hong Kong from California as well as from Atlantic ports would be required to fill out the vessel on the outward voyage, inclusion of California ports outbound being practicable since calls at these ports would not involve excessive deviation.

As operated by the applicant, the C–2 Service has developed in a manner considerably different from the Commission's expectations as manifested by the route description. In the large inward trade from Malaya-Indonesia to the Atlantic, the applicant's C–2 Service carryings have been quite insignificant, amounting to only 1,400 tons in the first half of 1949, the most recent period of which a complete record is available. During the same period, total inbound traffic from Malaya-Indonesia to the Atlantic was 196,000 tons, of which 78,000 tons was carried by U. S.-flag lines.[4] U. S.-flag service to the Atlantic consisted (during the same period) of the applicant's C–2 Service and a westward subsidized Round-the-World service by the applicant; eastbound and westbound services by Isthmian; and two voyages by Isbrandtsen. U. S.-flag participation accounted for 40% of inbound traffic. The inward carryings of the applicant's C–2 Service were less than 1% of the total inward traffic (U. S.-flag and foreign-flag) and about 2% of the U. S.-flag carryings. Having regard for the fact that the C–2 Service was established as one of the important services on this route, it is obvious that the applicant has failed to meet the Commission's expectations, even in the light of supplemental information received after the case was reargued. From July 1949 through June 1950 applicant's C–2 Service, while showing a considerable percentage increase over the first half of 1949 in Atlantic-bound carryings from Malaya-Indonesia, averaged less than 1,000 tons of such cargo per sailing (14 voyages), as against an average of 4,000 tons (28 voyages, via Suez) for Isthmian and an average of 2,200 tons (Malaya cargo only, 25 voyages, via Suez) for applicant's Round-the-World Service. Isthmian's gains tonnage-

[4] Throughout this report, "tons" refers to cargo tons of 2240 pounds.

wise in the latter period over the former greatly exceeded those of applicant's C–2 Service.

Outward from U. S. Atlantic to Malaya-Indonesia, the applicant's C–2 Service carried about 16,000 tons during the first half of 1949. During the same period the total outward traffic (U. S.-flag and foreign-flag) from U. S. Atlantic to Malaya-Indonesia was 142,000 tons, of which U. S.-flag lines (including applicant's C–2 Service) carried 47,000 tons. Applicant's C–2 carryings were about 11% of the total traffic and about 33% of U. S.-flag traffic. U. S.-flag lines collectively were 33% of the total.[5] It thus appears that the applicant has obtained an appreciable volume of the outward trade—a volume sufficient to indicate a prospect of successful future operation. In this connection, it is significant that of the 47,000 tons of U. S.-flag outward traffic from Atlantic to Malaya-Indonesia, more than half (about 26,000 tons) moved over the route of the C–2 Service via Panama; and that of this traffic, the applicant's C–2 Service carried the major share (about 60%). During the period July 1949 through June 1950, the outward traffic from U. S. Atlantic to Malaya-Indonesia declined considerably—but the decline was less severe for the C–2 Service than for any other—again indicating considerable vitality in the C–2 Service outbound.

The principle carryings of applicant's C–2 Service have consisted of U. S./Philippines—Hong Kong cargo. In the first half of 1949 the applicant's inward traffic of this description on the C–2 Service was 30,000 tons (79% of applicant's total inward carryings from the entire C–2 area); outward it was nearly 23,000 tons (56% of applicant's total outward carryings to the entire C–2 area). Philippines-Hong Kong carryings are thus seen to have preponderated heavily during the first half of 1949 over Malaya-Indonesia carryings (and this preponderance continued through the next 12 months), whereas the reverse should be true, particularly as to inbound traffic. Operation of the service in accordance with the Commission's objectives calls for emphasis on traffic to and from the Malaya-Indonesia area.

Although the C–2 objectives, especially with respect to inward traffic from Malaya-Indonesia, have conspicuously failed of attainment in the case of carryings to the Atlantic, the applicant's accomplishment is much more substantial measured by the volume of Malaya-Indonesia cargo to California. In the first six months of 1949 such cargo carried via the C–2 Service was 6,580 tons (as against 1,400 tons to the Atlantic). Total Malaya-Indonesia cargo to California during the same period was 35,700 tons, of which the U. S.-flag share was 10,600 tons. The applicant's C–2 carryings of such cargo are thus seen to constitute

[5] This discussion relates to traffic between U. S. Atlantic and Malaya-Indonesia. Traffic between California and Malaya-Indonesia is discussed below.

18% of the total and 62% of the share carried by U. S.-flag vessels.[6] Further, the applicant's C–2 carryings of Malaya-Indonesia cargo to California amounted to 17% of its total inbound C–2 carryings during the first six months of 1949 (and in the corresponding period in 1950). It thus appears that the inward cargo of this description has reached substantial proportions in the post-war period. The Trade Routes Committee contemplated that the principal flow of Malaya-Indonesia cargo would be to and from the Atlantic, but it did not foresee the substantially increased importance of California and the Pacific coastal area as a user of and as a gateway for imported materials of Malaya-Indonesia origin. Although the applicant has fallen short of meeting the Commission's expectations as to Atlantic-bound inward traffic, it has contributed substantially to the movement of imports via California.[7]

Applicant's C–2 operations provide California with its only assured service from both Malaya and Indonesia, and during the first half of 1949 it carried a larger volume of such cargo than the combined volume of the other two U. S.-flag operators in the inbound trade—and its carryings during the ensuing 12 months exceeded the rate for the first half of 1949. Even so, total U. S.-flag carryings between California and Malaya-Indonesia during the first half of 1949 were much less than the foreign-flag carryings, which accounted for 66% of the outward traffic from California to Malaya-Indonesia and 70% of the inward traffic.

Since U. S.-flag lines (including applicant's C–2 Service) are carrying substantially less than half of the cargo, both outward and inward, between the United States Atlantic and California ports and Malaya-Indonesia, the objective being at least half of such cargo in both directions, the C–2 Service is needed.[8] We find that substantial opportunity exists for successful operation of such Service by the applicant, with concentration on cargo to and from Malaya and Indonesia—which will necessitate regularity of sailings to and from that area, adequate service of the ports, minimization of transit time (particularly homeward), and resistance of the temptation to regard Malaya-Indonesia as an optional and sometimes inconvenient extension of a route between the United States mainland and Philippines-Hong Kong.

[6] The U. S.-flag services consists of the applicant's C-2; Isthmian's Round-the-World Service homeward via Panama; American Mail Line homeward via California to the Pacific Northwest; and occasional sailings by Isbrandtsen.

[7] It may be noted that for the period in question the volume of applicant's California traffic from Malaya-Indonesia in the C-2 Service exceeded that of California traffic from Philippines-Hong Kong (6,580 tons as against 5,880 tons).

[8] This report is concerned only with Atlantic and California/Malaya-Indonesia traffic and in no way relates to the trade between the latter areas and U. S. Gulf ports, in which trade Lykes Bros. is the principal operator. No operator in the Gulf/Malaya-Indonesia trade is a party to this proceeding.

UNITED STATES-FLAG COMPETITION

Several U. S.-flag operators in trades to and from the C–2 area intervened and sought to prove that applicant's C–2 Service constituted unfair competition. The principal objectors were Waterman and Isthmian. At the time of the hearings and for some time theretofore and thereafter, Waterman was not serving Malaya-Indonesia and can scarcely be heard to protest against service of that area by the applicant or any other operator. Waterman contends that applicant's C–2 Service results in unfair competition for the foreign traffic of nine U. S.-flag lines other than Waterman and Isthmian. Of these nine lines, three are subsidized and six are not. Of the same nine lines, only three intervened in the case (States Steamship Company, American-Hawaiian Steamship Company, and United States Lines). States and American-Hawaiian confined their objections to applicant's intercoastal activities (as to which they relied on the case made by Luckenbach). United States Lines, which is engaged in foreign trade exclusively, took no position relative to the application. (It does not proceed into the C–2 area beyond Philippines-Hong Kong.) Six of the nine lines to which Waterman refers were not represented in the proceedings. In these circumstances, we are unable to accept Waterman's contention that unfair competition or undue prejudice in foreign trade will be experienced by the nine lines in question, none of which made any such contention in its own behalf, and none of which serves more than a fraction of the C–2 area.

Isthmian conceded on the record that as regards Malaya-Indonesia cargo, the competition of applicant's C–2 Service was inconsequential. In the first half of 1949 the applicant's C–2 Service carried 7,981 tons from Malaya-Indonesia to U. S. ports (Atlantic and California), as against 51,265 tons carried by Isthmian via Panama and Suez. For the first half of 1950 the corresponding tonnages were: APL, 16,002; Isthmian, 70,786. In both periods the major share of total inward cargo was destined to the Atlantic, although the larger share of APL cargo was to California. As to Atlantic-bound traffic alone, Isthmian's services (via Panama and Suez) in the first half of 1949 carried 49,693 tons out of 51,094 for Isthmian and APL's C–2 Service combined; in the first half of 1950 Isthmian carried 67,453 tons out of 74,833.[9]

The great preponderance of Isthmian's carryings to the Atlantic over those of applicant's C–2 Service invites attention to the transit time between Malaya and New York of the two operations.

Isthmian's Atlantic-bound carryings from Malaya-Indonesia move

[9] First half 1949: 39,550 tons via Suez, 10,143 tons via Panama. First half 1950: 66,847 tons via Suez, and 606 tons via Panama.

mainly over Suez. During the 12 months ending June 30, 1949, its transit time to New York averaged, from Penang 33 days, from Singapore 38. The applicant's published schedules covering the past year for its C–2 Service, which operates via Panama, call for transit time to New York averaging, from Penang 56 days, and from Singapore 52. The handicap to the applicant of its substantially slower C–2 Service is obvious. Even applicant's Round-the-World Service, which calls at many intermediate ports homeward (via Suez) from Malaya, is scheduled to reach New York from Penang in 44 days, and from Singapore in 48—materially faster than C–2. To render C–2 competitive on the vital homeward run, its time must be reduced to approximately that of the principal carriers in the trade—Isthmian and the Java-New York line. Such reduction involves the shortening of the C–2 homeward schedule by about two weeks.

PORT INTERESTS

Applicant was supported by two intervening port interests: Port of Boston Authority and Baltimore Association of Commerce. Boston's case was founded largely on the inadequacy of Far East service available to Boston as compared with New York. Baltimore showed that the applicant's C–2 Service has conferred substantial benefits upon the port, moving foreign-bound traffic in considerable volume, some of which had not flowed through Baltimore until the C–2 Service was established. (The applicant does not serve Baltimore intercoastally).

COMPETITION BETWEEN APPLICANT'S C–2 SERVICE AND ITS SUBSIDIZED SERVICES

Paragraph 1 of the Commission's Resolution of May 18, 1948, granting temporary permission for operation of the applicant's C–2 Service, required applicant to "enter into an agreement with the Commission . . . providing for the protection of Applicant's subsidized operations from the diversion of cargo and revenue by the non-subsidized operations * * *." The record shows that some traffic and revenue have in fact been diverted from applicant's subsidized services to the C–2 Service.

Because of the intersecting and overlapping pattern of applicant's several routes, some measure of diversion is possible and the condition above quoted should be modified to take account of this fact. Our aim is prevention of undue diversion, having regard for the practical problems encountered in such operations as the services of the applicant embrace.

For example, both the applicant's C–2 Service and its Round-the-World service operate from New York to Manila via California. From

California, C–2 proceeds to Manila direct, whereas Round-the-World proceeds via Japan and Hong Kong, the result being that Manila-bound cargo from New York or California on C–2 Service vessels requires a week to ten days less time in transit than such cargo via Round-the-World ships. As to Malayan destinations, C–2 has no transit-time advantage to Penang, but Round-the-World has an advantage of about a week to Singapore. Indonesia is not served by applicant's Round-the-World ships. Inbound, C–2 fails, by one or two weeks, to meet the Round-the-World transit time from Malaya to New York—which offers an explanation of the fact that the Round-the-World service in 1949 and the first nine months of 1950 consistently carried several times as much Malaya-Indonesia cargo to U. S. Atlantic ports as did the C–2 Service. Thus, the only decisive transit-time advantage of C–2 over applicant's Round-the-World service, as to ports common to both, is found in the *outward* run from either U. S. coast to Manila. This time advantage is inevitable, owing to the more direct C–2 route. The competitive transit time of C–2 to Penang is not objectionable when account is taken of the fact that C–2 was intended, as Round-the-World was not, to provide the most direct of transpacific services to Malaya.

From the foregoing summary it clearly appears that by reason of its excessive transit time between Malaya and U. S. Atlantic, the C–2 Service has not drawn substantial cargo (if it has drawn any) from applicant's Round-the-World Service (or from Isthmian); and further, that it is unlikely to succeed in the future as an Atlantic/Malaya-Indonesia carrier unless its transit time, particularly homeward, can be materially reduced. Such reduction might result in diversion of some Malayan cargo from applicant's Round-the-World service—which would be unobjectionable since the C–2 Service was established primarily to provide efficient homeward carriage of Malayan-Indonesian products. The Round-the-World Service, because of its many intermediate calls enroute homeward from Malaya, is not ideally suited to such assignment. Moreover, it should not be substantially harmed by the loss of Malayan cargo to C–2 since Round-the-World has opportunities to load cargo at intermediate ports enroute homeward from Malaya—service of such intermediate ports being one of its important functions.[10]

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[10] While the possibility of some cargo diversion must be recognized, such diversion does not seem inevitable. The inward trade from Indonesia-Malaya should make substantial gains as the result of increasing industrial and defense requirements in the United States and it may develop that the flow of cargo will be large enough to sustain the present loadings of all carriers, and in addition, provide adequate cargoes for C–2. Whether the trade thus increases or not, the fact is that the preponderance of Atlantic-bound carryings from Malaya-Indonesia is by foreign-flag ships—the foreign-flag percentage having risen from 35% in the first half of 1947 to 60% in the first half of 1949. Between the same two periods, foreign-flag tonnage to U. S. Atlantic increased from 75,000 tons to 118,000 tons. Clearly there is an adequate reservoir of traffic for which APL can compete without diverting cargo from its own subsidized service, or the services of its U. S.-flag competitors.

Applicant's C–2 Service and its transpacific service are approximately competitive as to transit time between California and Manila-Hong Kong. It does not follow, however, that the C–2 Service ships, with one sailing each four weeks, will divert substantial traffic from applicant's much more frequent sailings in its transpacific services, unless the C–2 sailings blanket the others. While there is evidence in the record of such blanketing, it is not inevitable and the practice is unjustifiable.

ALLOCATION OF VESSELS BY APPLICANT

The record indicates that at the time of the hearing the applicant was operating a number of owned ships (along with chartered ships) in its C–2 Service, simultaneously operating several chartered vessels in subsidized services. Charges for the hire of chartered ships are generally in excess of capital charges on owned ships. Consequently the use of chartered ships in subsidized services tends to reduce the net earnings of those services, to the prejudice of the Commission's position relative to recapturable profits of the subsidized services. The practice of allocating vessels to the several services in this manner ignores the provision of the Commission's Resolution of May 18, 1948, providing that "In no event, however, shall the non-subsidized operations be permitted to reduce the amount of earnings from applicant's subsidized services subject to recapture by the Commission." It is also inconsistent with our view of sound operating practice which calls for the employment of applicant's own ships in its subsidized services. Applicant's subsidized, rather than unsubsidized, services must be accorded first claim on applicant's owned vessels suitable for use in the respective subsidized operations.

INTERCOASTAL OPERATIONS

Authorization to operate the C–2 Service does not automatically confer upon the operator the right to transport cargo between United States Atlantic coast ports and California ports, since the description of the C–2 Service makes no reference to intercoastal cargo. Whether permission should be granted for continued intercoastal operation as a part of applicant's C–2 Service depends chiefly upon applicant's ability to meet the requirements of section 805(a) of the Act.

Section 805(a) permits us to authorize intercoastal operation by a subsidized operator only if it has grandfather rights by virtue of continuous operation over the route in question since 1935, or in the absence of a Commission finding that the intercoastal operation will result in unfair competition to any line operating "exclusively" in coastwise or intercoastal trade, or will be prejudicial to the objects and policy of the Act. Applicant concedes, for the purposes of this case, that it has no

grandfather rights under section 805(a). Accordingly, we are concerned only with questions of unfair competition, and prejudice to the objects and policy of the Act.

Before World War II eastbound intercoastal cargoes exceeded westbound cargoes by a ratio of about 3-2, which resulted in considerable unused space in westbound sailings. Since World War II the flow of traffic has been more nearly equal in both directions. During the most recent period of record (first half of 1949), Luckenbach operated eastbound with practically no empty space, while westbound it had on the average 10% unused space. It claims that had it filled such space its losses for the period in question would have been eliminated. Despite its inability to fill its ships westbound, Luckenbach at the time of the hearings had been obliged to sail two extra ships eastbound to handle a peak canned-goods movement to the Atlantic. (One of these ships proceeded to the Pacific in ballast.) The other intercoastal operators furnished no statistics on unused space but adopted generally the Luckenbach testimony, which was concentrated against the westbound intercoastal operation of applicant's C–2 Service.

There is no substantial evidence that in the present state of the intercoastal trade, operators engaged "exclusively" in that trade (i.e., operators furnishing an intercoastal service that does not include foreign ports) have experienced unfair competition from applicant's C–2 Service eastbound. As to its westbound operation, however, we find that applicant's C–2 Service has resulted in unfair competition to "exclusive" intercoastal operators.

In adopting the Merchant Marine Act, 1936, Congress manifested a special concern for the protection of coastwise and intercoastal operators, who are not eligible for subsidy, against the competition of subsidized lines (secs. 506, 605(a), 805(a)). The great importance to our merchant marine of its domestic fleet, and the serious difficulties that have attended the reestablishment of domestic shipping in the period since World War II, should prompt us to resolve all doubts against activities of subsidized companies whose operations might tend to impede the development of domestic transportation by sea.

As above indicated, Luckenbach believes that its westbound sailings would have been on a break-even basis had it been able to fill its 10% of unused westbound space during the first half of 1949. The record satisfies us that the applicant's westbound carryings on the C–2 Service deprive the regular intercoastal lines of cargo which they need, have the capacity to carry, and to which they are fundamentally entitled.

The foregoing, however, does not apply to the applicant's westbound carryings of refrigerated cargo. Some of its ships in the C–2 Service have refrigerated space, and moderate quantities of reefer cargo have

been regularly carried from Boston and New York to California (but none in the opposite direction). No other intercoastal carrier offers refrigerator service. Luckenbach objects to the applicant's reefer service for the reason, among others, that it is allegedly furnished at non-compensatory rates. Luckenbach has reefer space in some of its vessels, but is not offering it to shippers.

We regard the applicant's reefer service as a valuable contribution to the intercoastal trade, and find no merit in objections offered by competitors who themselves offer no comparable service. Their complaint that the rates are non-compensatory carries little weight in view of the fact that such rates are fixed by the intercoastal conference, of which all the principal intercoastal operators are members. Intercoastal rates are subject to regulation by the Interstate Commerce Commission, which has authority to pass upon complaints relative to such rates. If applicant's intercoastal reefer charges are too low, the logical remedy lies in remedial conference action or appropriate I. C. C. proceedings, rather than in the present attempt to destroy the service. See *Alabama Great Southern R. R. Co.* v. *U. S.*, 340 U. S. 216.

While applicant's eastbound intercoastal carryings do not appear, on the basis of this record, to have had a serious effect on the intercoastal lines—because those lines have been operating virtually at capacity eastbound—we are not to be understood as deciding that they may not have such effect in the future. For example, any substantial reduction in the volume of available eastbound cargo of the regular intercoastal carriers might necessitate a finding that applicant's eastbound C–2 Service, no less than westbound, resulted in unfair competition to those carriers. Moreover, applicant's foreign service is susceptible to operation in a manner which might result in unfair competition, eastbound or westbound, to the regular intercoastal lines. The record indicates that in some instances the applicant has found it profitable to shut out foreign cargoes in order to save space for intercoastal cargoes—a practice which can not be justified on any ground and which is particularly objectionable because of its tendency to divert to the applicant's ships cargo which should be reserved for the "exclusive" intercoastal lines.

Because of our inability to forecast future conditions with sufficient accuracy, our authorization for applicant's continuance of eastbound intercoastal service will be limited to April 30, 1952. If applicant desires to participate in intercoastal trade thereafter in its C–2 Service, it will be obliged to make timely application for such modification of our present action as it deems appropriate.

GENERAL REQUIREMENTS OF THE C–2 SERVICE

The importance of the service as envisaged by the Trade Routes Committee and the Commission has been demonstrated during the post-war period and is illustrated by recent events. Although the applicant's method of operation has been unsuccessful as regards the primary aim of developing our commerce with Malaya-Indonesia, the fact is that considerable traffic is available but that it is being predominantly carried by foreign-flag ships, as it was before the applicant began operation on Trade Route 17. A U. S.-flag operator *concentrating on Malaya-Indonesia* should be able to obtain a substantial share of what foreign-flag lines are now carrying to and from that area.

The record proves to our satisfaction that the failure of the applicant to develop Malaya-Indonesia traffic on the C–2 Service results from its failure to operate in a manner that rendered the service competitive with that of other carriers. This is not to say that applicant's service should be discontinued, but rather that its future operation should be subjected to such conditions as will afford a reasonable prospect of success in terms of the purpose of the service as described by the Maritime Commission. Such conditions are prescribed herein. They have the effect, among others, of depriving the applicant of certain cargoes between some intermediate ports on the route, and will (a) shorten time in transit, (b) require concentration on more important cargo, and (c) afford opportunity for more adequate coverage of key ports—thereby making the service attractive to the shippers it was chiefly meant to serve.

CONCLUSIONS

We conclude that:

1. U. S.-flag services between United States Atlantic and California ports and Malaya-Indonesia are inadequate, since such services (including applicant's C–2 Service) are carrying, outbound and inbound, substantially less than 50% of the traffic in that trade. Consequently, there is need for the applicant's C–2 Service to and from Malaya-Indonesia, and such service, if efficiently conducted, will promote the purposes and policy of the Merchant Marine Act, 1936.

2. Continued operation in foreign commerce of applicant's C–2 Service, if conducted in conformity with the description and objectives of the C–2 Service will not result in unfair competition or be unduly prejudicial to any U. S.-flag operator, subsidized or unsubsidized.

3. Applicant's operation of its C–2 Service has not substantially conformed to the Commission's description of such service or its objectives with respect thereto, since (a) it has concentrated on cargo from Philip-

pines-Hong Kong to the United States at the expense of service to and from Malaya-Indonesia; (b) it has failed on some voyages to call at either Indonesia or Malaya; (c) its port coverage of Indonesia has been inadequate; (d) it has failed to maintain scheduled transit time, due in part to time spent in serving Philippine outports on homeward voyages; and (e) it has blanketed sailings of its own subsidized services and those of other U. S.-flag operators.

4. Westbound intercoastal carriage of non-refrigerated cargo in applicant's C–2 Service results in unfair competition to persons, firms, and corporations operating exclusively in the intercoastal service, and is prejudicial to the objects and policy of the Merchant Marine Act, 1936. Eastbound intercoastal operation of not to exceed 13 sailings a year of vessels in such service, and the westbound carriage of refrigerated cargo, are not shown to result in unfair competition to persons, firms, or corporations operating exclusively in the intercoastal service, or to be prejudicial to the objects and policy of the Merchant Marine Act, 1936.

5. Applicant has employed owned vessels (along with chartered vessels) in the C–2 Service, concurrently using chartered vessels in subsidized services. We look upon this practice with disfavor.

6. The need for applicant's C–2 Service in foreign commerce having been established, applicant is authorized to continue such service, without subsidy, subject to the following conditions:

(*a*) This authorization shall be subject to review at any time but in no event later than April 30, 1952;

(*b*) Applicant shall operate each voyage in its C–2 Service to Indonesia and Malaya, and shall call on each such voyage at not less than six ports (including Singapore) in the Indonesia-Malaya area.

(*c*) Applicant shall so schedule its operations that the elapsed time homeward from Singapore to New York shall not exceed 38 days. To maintain this schedule, applicant's C–2 Service vessels on homeward voyages shall call at not more than one Philippine port and one California port, and if necessary, shall omit Hong Kong.

(*d*) Applicant's vessels in C–2 Service may carry intercoastal cargo eastbound from California to Atlantic ports, but may not carry intercoastal cargo other than refrigerated cargo westbound in such service on any vessel departing New York after January 31, 1951.

(*e*) Applicant shall so schedule its C–2 sailings as to avoid blanketing the sailings of its own subsidized vessels, and also avoid blanketing in all possible instances the sailings of competing U. S.

flag operators in U. S. foreign trade and eastbound intercoastal trade.

(*f*) Applicant shall not refuse to book inbound cargo from Malaya-Indonesia to U. S. Atlantic ports in the interest of reserving space for intercoastal carriage of cargo from California to such ports, and likewise shall not neglect the solicitation of inbound cargo from Malaya-Indonesia to California or Atlantic ports in the interest of reserving space for the carriage of cargo from intermediate foreign ports to such ports.

(*g*) Applicant shall not operate owned freighters on voyages in its C–2 Service while chartered freighters are employed in its subsidized services.

(*h*) Applicant shall obtain in advance the Maritime Administrator's approval of the sailing schedule of each voyage commencing after January 31, 1951. To be eligible for approval, a schedule must meet the conditions hereinabove set forth, and must be submitted at least 30 days before commencement of the voyage or voyages covered thereby.

(*i*) Applicant may at any time (upon good cause shown) apply for permission to depart from any of the foregoing conditions.

7. Provisions of the Commission's Resolution of May 18, 1948, are continued in force with the following amendments:

(*a*) Paragraph 1, parts (a) and (c), are amended to read:

"(*a*) use on the C–2 Service of Trade Route 17, only such number and type of vessels as may be approved by the Administrator, with a sailing from the Atlantic Coast approximately each four weeks, on the following itinerary: From New York (other Atlantic ports as traffic offers) via the Panama Canal, Los Angeles and/or San Francisco to a Philippine port, Hong Kong, not less than six ports (including Singapore) in Malaya and Indonesia, thence via a Philippine port, to Los Angeles or San Francisco and via Panama Canal to New York; with privilege of calling as traffic offers and as schedules permit, at French Indo China and Siam, and at Hong Kong homeward."

"(*c*) enter into an agreement with the Board, in form satisfactory to the Board, providing for the protection of Applicant's subsidized operations from the undue diversion of cargo and revenues by the non-subsidized operations from the vessels operated in its subsidized operations."

(*b*) Paragraph 2 thereof is cancelled.

The applicant, if it continues operation of its C–2 Service after the date of this decision, is directed to comply with the foregoing requirements, without other or further order of the Board, with respect to all sailings after January 31, 1951. Between the date of this decision and January 31, 1951, applicant's authorization under the Maritime Commission's Resolution of May 18, 1948, as extended, is continued in effect.

By the Board and Maritime Administrator.

[SEAL]

A. J. WILLIAMS,
Secretary.

WASHINGTON, D. C., *January 24, 1951.*

FEDERAL MARITIME BOARD

No. M–14

AMERICAN-HAWAIIAN STEAMSHIP COMPANY AND LUCKENBACH STEAMSHIP COMPANY, INC.—APPLICATIONS TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO VESSELS IN THE INTERCOASTAL TRADE

Clement C. Rinehart and *J. A. Stumpf* for American-Hawaiian Steamship Company.

William Radner for Luckenbach Steamship Company, Inc., and Pope & Talbot, Inc.

William I. Denning and *Earl C. Walck* for Pacific-Atlantic Steamship Company.

Sterling F. Stoudenmire, Jr., for Waterman Steamship Corporation.

Marvin J. Coles for the Committee for Promotion of Tramp Shipping.

Paul D. Page, Jr., and *Max E. Halpern* for the Board.

REPORT OF THE BOARD

This proceeding was instituted by order of the Board (Federal Register of November 21, 1950) pursuant to Public Law 591, 81st Congress, for the purpose of considering the application of American-Hawaiian Steamship Company and the cross application of Luckenbach Steamship Company, Inc., for the bareboat charter of Government-owned, war-built, dry-cargo vessels in the intercoastal trade.

Hearing on the applications was held before an examiner December 6-8, 1950, and exceptions to his recommended decision were filed and the matter was argued orally before the Board. We adopt the findings of fact, conclusions, and recommendations of the examiner as our own, excepting that portion dealing with the Luckenbach application for its Gulf intercoastal service.

AMERICAN-HAWAIIAN STEAMSHIP COMPANY

The application of American-Hawaiian covers the bareboat charter of five C–4 type vessels and one AP–3 Victory-type vessel, such charter to become effective for an indefinite period upon termination (January 31, 1951) of applicant's existing charter of six vessels.

Subsequent to the hearing before the examiner, but before oral argument before the Board, American-Hawaiian Steamship Company (Delaware) filed an application with the Maritime Administrator for the purchase of five C–4 type vessels and in addition, one AP–3 Victory-type vessel. The sale to American-Hawaiian Steamship Company (Delaware) of the six vessels (four of which are C–4s presently under charter to them), "or such other vessels of similar type as may be selected by the applicant," was authorized on January 14, 1951, and contracts therefor were executeed the following day. The company stated that these vessels are to be operated in the intercoastal service.

LUCKENBACH STEAMSHIP COMPANY, INC.

The cross application of Luckenbach covers the bareboat charter of eight C–4 type vessels for operation in the Atlantic/Pacific intercoastal trade. In addition, Luckenbach requested for its Gulf intercoastal service four AP–2 Victory-type vessels, two of which are now being operated by it under charter in this service.

As in the case of American-Hawaiian, subsequent to the hearing before the examiner, but before oral argument before the Board, Luckenbach filed an application with the Maritime Administrator for the purchase of five vessels of the C–4 type. Sale to Luckenbach of five C–4 type vessels (3 of which are presently under charter to them), "or such other vessels of C–4 type as may be designated by the Administration and accepted by the applicant," was authorized on January 15, 1951, and contracts therefor were executed the following day. The company stated that it intends to use the five vessels in its Atlantic/Pacific intercoastal service.

CONCLUSIONS

The sale to American-Hawaiian and Luckenbach of the C–4 type vessels sought to be chartered removes the necessity of a determination as to whether or not those specific vessels should be chartered.

Both applicants have stated that the purchased vessels will be used in the Atlantic/Pacific intercoastal service and it appears that satisfactory arrangements can be made within the time limit of existing charters for an orderly transition of the vessels from chartered to ownership status without interruption of service.

With respect to the application of Luckenbach for the charter of four AP–2 Victory-type vessels for its Gulf intercoastal service we consider the record as insufficient to enable the Board to make necessary findings under Public Law 591, 81st Congress. At the present time Luckenbach is serving this route with two owned vessels and two vessels under charter from the Government, which charter expires January 31, 1951.

FINDINGS AND CERTIFICATION TO THE SECRETARY OF COMMERCE

On the basis of the record adduced in this case the Board is unable to make the required findings under Public Law 591, and the applications for charters of American-Hawaiian Steamship Company and Luckenbach Steamship Company, Inc., for the Atlantic/Pacific intercoastal operation should be denied.

The application of Luckenbach Steamship Company for the bareboat charter of four AP–2 Victory-type vessels for its Gulf intercoastal service is remanded to the examiner for the receipt of additional evidence.

Exceptions may be filed to the examiner's supplemental recommended decision in accordance with the Board's rules of procedure, and the Board may grant oral argument.

By the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

JANUARY 24, 1951.

FEDERAL MARITIME BOARD

No. M–14

AMERICAN-HAWAIIAN STEAMSHIP COMPANY AND LUCKENBACH STEAMSHIP COMPANY, INC.—APPLICATIONS TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO VESSELS IN THE INTERCOASTAL TRADE

The Board should find and so certify to the Secretary of Commerce that the application of American-Hawaiian Steamship Company and the cross-application of Luckenbach Steamship Company, Inc., to bareboat charter Government-owned war-built dry-cargo vessels for use in the intercoastal trade from and after January 31, 1951, should be denied.

Clement C. Rinehart and *J. A. Stumpf* for American-Hawaiian Steamship Company.

William Radner for Luckenbach Steamship Company, Inc., and Pope & Talbot, Inc.

William I. Denning and *Earl C. Walck* for Pacific-Atlantic Steamship Company.

Sterling F. Stoudenmire, Jr., for Waterman Steamship Corporation.

Marvin J. Coles for the Committee for Promotion of Tramp Shipping.

Max E. Halpern and *Paul D. Page, Jr.*, for the Board.

RECOMMENDED DECISION OF A. L. JORDAN, EXAMINER

Hearing on these applications was held December 6-8, 1950, in accordance with Public Law 591, 81st Congress, pursuant to notice in the Federal Register of November 21, 1950.

The questions in this proceeding are: whether applicants have shown that the intercoastal service for which the vessels here involved are proposed to be chartered for bareboat use from and after January 31, 1951, is required in the public interest, whether the intercoastal trade would be adequately served without such chartering, and whether privately-owned American-flag vessels are available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

AMERICAN-HAWAIIAN STEAMSHIP COMPANY

By application filed November 7, 1950, American-Hawaiian applied for a charter for the bareboat use in its intercoastal service of the

Government-owned war-built dry-cargo vessels *Mount Whitney, Mount Rogers, Mount Greylock, Willis Victory, Marine Arrow,* and *Saginaw Victory,* all being C–4s except the last, which is an AP–3 Victory; such charter to become effective upon the termination (January 31, 1951) of applicant's existing charter of these vessels and remain in effect indefinitely, subject to termination by either party on such notice as may be agreed upon and subject to annual review by the Board.

American-Hawaiian has been engaged in the intercoastal trade for the past 50 years. The company maintains a fast express package type service between the major North Atlantic and Pacific coast ports, carrying, on regular schedule, the heaviest to the lightest materials in ordinary commercial trade. This service, applicant states, is such that the company can only use the C–4 type vessels or possibly, as a less satisfactory substitute, C–3s, the C–4s being superior to other war-built vessels in respect of speed, deadweight, cargo care, cargo hatches, cargo gear, number of between decks, number of cargo compartments, deep tanks, refrigerated space, on-deck cargo areas, and location of engines. All C–4 vessels are owned by the Government, applicant states, and there are no privately-owned American-flag C–3s available for charter. The *Saginaw Victory* is used as an extra ship in the trade and calls at some ports occasionally not served by the C–4s. The vessels are running practically full in both directions, carrying about one sixth of the total traffic. It was testified that the number of shippers American-Hawaiian serves is: westbound 19,045 to 12,697 consignees, and eastbound 4,027 to 6,967 consignees; and that the tonnage carried in 1949 was: westbound 282,582 tons in 782 commodity brackets, originating with 7,455 shippers located at 1,094 eastern origins to 8,745 consignees on the Pacific coast; and eastbound 396,262 tons in 587 commodity brackets, originating with 1,985 Pacific coast shippers to 2,644 consignees at 289 eastern destinations.

From January 1, 1950, through December 2, 1950, the company had a total of 18,722,786 cubic feet of space available westbound, and the open space was 298,593 cubic feet. Eastbound the available space was about 19,036,743 cubic feet and the open space was about 266,237 cubic feet. Declined or shut out cargo is substantial per ship; for example, eastbound in September 2,554 tons were declined, and in October 169 tons were turned down and 461 tons were shut out. Therefore, the trade, according to applicant, does not have sufficient vessel tonnage at present to accommodate the cargo offerings, and can stand 6 to 10 more big ships.

Applicant states that although its vessels are running practically full there is only a precarious margin between its revenue and costs, and that the company now has a cumulative loss of $346,858 covering the

period July 1, 1947, through September 30, 1950. Some of its cost comparisons, going back to 1938, are:

	1938	*1st 9 mos. of 1950*
Crew wages, per man per day	$4.15	$14.40
Fuel per barrel	.94	1.75
Repairs per voyage day	67.00	121 00
Stevedoring per ton	3.32	9.64
Clerking, checking, and terminal charges per ton	1.57	4.83
Subsistence of crew per man day	.76	2.00

In 1938 the company had, after expenses, 5.7 cents out of each revenue dollar as against approximately 1.6 cents in 1950.

American-Hawaiian's intercoastal profit and loss operation since World War II shows:

	Before Overhead	*Overhead* [1]	*After Overhead* [2]
Last half of 1947, loss	$4,443	$207,426	$211,869
Full year 1948, loss	151,325	1,014,151	1,165,476
Full yr. 1949 revenue over expense	1,857,759	1,039,307	818,452
1st 9 mo. 1950 revenue over expense	2,109,774	1,830,560	279,214

[1] Under allocation formula between offshore and intercoastal.

[2] May not be exact because of one or two half legs of voyages.

The company has been reducing overhead since 1947; and although freight rates since 1938 have gone up 120% per ton, cargo handling takes 50% of the revenue. The company is studying new methods of handling cargo, and in this connection has acquired a number of cargo containers of different types and sizes from 140 to 300 to 1000 cubic feet each, the use of which on a large scale would involve a new design of ship with more suitable handling gear, larger hatches, and other feature improvements. The company has spent $75,000 on cargo containers. It now has 112 on hand and 8 on order. Most of them are made of steel, some aluminum, and some are a combination of plywood, aluminum, and steel. The most cargo carried in containers on any voyage has been 90 tons. The company, it was testified, has designs on paper for a cargo container ship, but there are no early prospects of construction.

The company's working capital in 1949 was $12,800.000, consisting of cash, accounts receivable, government bonds, and shipping inventory. The company's vessel terminated voyage revenue in 1949 from its intercoastal operation was approximately $14,900,000, and from all operations in 1949 it was $26,307,000.

American-Hawaiian considers Luckenbach its only competitor in the intercoastal trade, and agrees with Luckenbach that an overhead of $2,500,000 per annum is high for a 5 or 6 ship operation in the trade, and if more ships were added it would effect a very substantial saving in

overhead per ship; but does not agree that its and Luckenbach's C–4 vessels should be turned over to just one of applicants, because of the value of competition.

American-Hawaiian requests a new charter with the same terms and conditions as are stated in its existing charter, including particularly the same charter hire basis and cumulative loss provisions. The company states that it could not operate profitably in the trade on a 15% charter hire payable unconditionally. Its application is made on a long-range basis, and is not based on national emergency.

LUCKENBACH STEAMSHIP COMPANY, INC.

On November 13, 1950, Luckenbach filed a cross application for permission to operate chartered vessels in the intercoastal trade, objecting to the application of American-Hawaiian and applying for the allocation to Luckenbach of such of the six vessels named in American-Hawaiian's application, or additional C–4 or other liner-type vessels required for operation in the intercoastal trade beyond January 31, 1951, including those presently chartered to Luckenbach or others and those redelivered June 30, 1950. The application states that there may not be need for continued operation of chartered vessels in the intercoastal trade after January 31, 1951; but if there is such need, such chartered vessels should be allocated preferentially to Luckenbach, who has purchased vessels from the Government for operation in that trade, and none should be allocated to companies which have failed to purchase vessels.

Luckenbach requests allocation of 10 C–4s; that is, the 3 C–4s they now operate in the North Atlantic intercoastal trade, 2 C–4s redelivered to the Government, and the 5 C–4s now allocated to American-Hawaiian. As to the Gulf intercoastal trade they request the 2 AP–2s they now operate under charter and the 2 AP–2s redelivered to the Government; and they are willing to accept satisfactory substitutes in all cases.

The company owns 11 C–3s, 5 C–2s, and 2 pre-war vessels and intends operating all of its war-built vessels in the intercoastal trade as soon as practicable, with at least a weekly frequency in the North Atlantic service. Its vessels now in the trade have had about 10% unused space westbound, and less than 10% eastbound.

From July 1, 1947, to September 30, 1950, while paying the Government approximately $2,500,000 charter hire (8½% basis), the company, it was testified, incurred a cumulative loss of approximately $2,000,000.

The company's profit and loss operation on chartered ships, 8½% charter hire basis, in the North Atlantic intercoastal trade since July 1, 1947, shows:

	Before Overhead	*Overhead*	*After Overhead*
Last half of 1947, loss	$160,836.47	$98,626.05	$259,462.52
Full year 1948, loss	82,331.42	328,193.59	410,525.01
Full year 1949, profit	994,763.24	445,272.16	[1] 549,049.18
First 9 mos. of 1950, profit	1,063,024.00	416,282.09	[2] 646,742.52
Total operating profit	1,814,619.96	1,288,373.89	[3] 526,246.07

[1] Plus $441.90 to balance.
[2] Minus 61¢ to balance.
[3] Profit.

Luckenbach desires to return its own vessels to the intercoastal trade and is agreeable to discontinuing charters now, except for 60 to 90 days or whatever time is necessary for the substitution of owned for chartered vessels. The company offers to place in the Atlantic intercoastal trade as soon as practicable 10 or 11 C–3 vessels (2 being in already); but, if American-Hawaiian is allowed to continue in the intercoastal trade with chartered vessels, Luckenbach is unwilling to operate in the Atlantic intercoastal trade with owned vessels, and requests permission to operate the same number and type of chartered vessels as may be chartered to American-Hawaiian. In this event, Luckenbach will withdraw its 2 privately-owned C–3s from the Atlantic intercoastal trade and replace them with 2 C–4s previously chartered by Luckenbach and redelivered to the Government, and use the C–3s to supplement the service if required by traffic needs. The C–3s, it was testified, are just as good as C–4s for the service.

Luckenbach's witness states that its overhead for the operation of a strictly intercoastal service would be approximately $2,750,000 per annum, and American-Hawaiian's, he believes, would be about the same; that either company could operate double its Atlantic intercoastal fleet without substantial increase in overhead; that neither company's operation can stand such an overhead cost on a 5 or 6 ship operation; that both companies have temporarily reduced overhead for accounting purposes only by allocating a portion of overhead to offshore operations, but if such allocations had not been made, the overhead would have been prohibitive; that the only manner in which Luckenbach can continue to operate in the Atlantic intercoastal trade is by restoring the size of the operation to the point where it will support an overhead of approximately $2,500,000 to $3,000,000 per annum; that until this is achieved, continued operation in the Atlantic intercoastal trade will be possible only if it is indirectly subsidized by offshore operations which absorb part of the overhead.

Luckenbach, it was testified, would like to put its 11 C–3s in the Atlantic intercoastal trade immediately; that its ultimate projection for the Atlantic intercoastal trade contemplates the operation of 17

ships, with which it is feasible to operate two sailings per week which will provide approximately 200% of the capacity available from a fleet of 10 C–4s operated independently by American-Hawaiian and Luckenbach, and that by alternating or staggering ports of call, the average turnaround would be reduced from approximately 70 to 60 days, resulting in a saving of nearly 15% of the vessel operating costs and capital charges, and could produce savings of $2,000,000 per annum, as compared to a 70 day turnaround; and in addition, provide a much more attractive service by reason of the increased frequency and reduced time in transit between ports.

Luckenbach states that the situation in its Gulf intercoastal trade (maintained at present with 2 privately-owned C–2s and 2 chartered AP–2 Victorys) presents a more difficult problem; that from July 1, 1947, through September 30, 1950, the company has lost a total of $1,565,791.82 before overhead; that during this period the company paid over $850,000 in bareboat charter hire for the use of the vessels on which this loss was sustained; that for the first 9 months of 1950 their loss on the chartered ships was over $12,000 before overhead, and over $300,000 after overhead; that on its privately-owned vessels operated in the Gulf intercoastal trade during 1950, there was a net profit of $63,000 for the 9 voyages involved, before repairs, depreciation, interest, overhead, and capital charges; that at capital charges of 8½% for depreciation and interest the loss would exceed $187,000; that if these vessels had been operated in the offshore trade the earnings would have exceeded $400,000 for the bareboat use; that by continuing the Gulf intercoastal service during the first 9 months of 1950, both with chartered and owned vessels, the loss is over $650,000; and that under these circumstances it cannot be expected to continue operation in the Gulf intercoastal trade with owned vessels. Therefore, the company asks permission to charter 4 AP–2 type vessels for continued operation in the Gulf intercoastal service; that is, two in addition to the present two. The company further requests, in view of the uncertain financial results of the proposed operations, that the charter rate be reduced from 8½% to 5%.

Luckenbach, for its North Atlantic intercoastal service, requests a charter with the same terms and conditions as are stated in its existing charter, including particularly the same charter-hire basis and cumulative loss provisions. The company states it may not reject a 15% charter hire payable unconditionally in the North Atlantic service, but would have to fold up before paying 15% unconditionally in the Gulf service, and that as to the North Atlantic service, the company could pay a higher charter hire for operation of 11 or 12 ships, compared to 5 or 6, because of overhead spread and have a better chance of profit.

The Waterman Steamship Corporation appeared as an interested party in opposition to chartering to either of the applicants herein. Waterman and its subsidiaries own and operate 42 C–2 vessels, 11 of which are at present operated in the intercoastal service under the trade name "ARROW LINE," in competition with several other intercoastal carriers, including American-Hawaiian and Luckenbach, between Atlantic and Pacific coast ports on a 7 day frequency both ways, not serving California ports eastbound. The company operates no chartered vessels in any trade.

Waterman's witness testified that his company can handle more intercoastal cargo because its vessels are not running full in either direction. The C–2s, he says, are just as good for the intercoastal trade as the C–4s, the only difference being in the amount of cargo they can carry. His company opposes any further chartering of Government-owned vessels for operation in the intercoastal trade on the ground that it is grossly unfair for privately-owned vessels to be forced to compete with Government-owned vessels in any berth service, because the company owning vessels provides capital assets, while the charterer is getting the benefit of such assets owned by the Government. Sufficient privately-owned vessels will be available for adequate service, Waterman believes, if Government-owned vessels are not permitted to operate in the intercoastal trade after January 31, 1951. The witness states that Waterman will put in additional privately-owned ships if the need arises.

Waterman desires, it was testified, to maintain its intercoastal service on a long-range basis exclusively with its privately-owned vessels, but in the event operation of Government-owned vessels in the trade is permitted after January 31, 1951, Waterman will be compelled to make application for the bareboat charter of a sufficient number of suitable types of Government-owned dry-cargo vessels for intercoastal operation in order to be placed on an equal competitive footing with its competitors operating Government-owned vessels in this trade.

Counsel for applicant American-Hawaiian contends that the statutory requirements in this proceeding under Public Law 591, 81st Congress, have been met; that there is no guarantee of substitutions if chartered vessels are withdrawn; that the trade involved requires all of the vessels in it, and more; that success of the operation depends upon continuance of the same sort of service the public has had for 50 years from American-Hawaiian, which cannot be provided with Libertys or Victorys; that discontinuance of such service would be prejudicial to public interest (not referring simply to the emergency) in view of American-Hawaiian's outstanding record of owning, designing, and operating ships. Counsel also argues that buying or chartering ships

must be decided by each management; that public interest is protected by annual review of charters; and that, if an organization like American-Hawaiian is to be disbanded with its capacity to run a hundred more vessels in emergency times, it would be prejudicial to the Government's interest.

Counsel for applicant Luckenbach suggests that this record should be held open 30 days or more to determine whether, due to the military situation, vessels ought to be taken out of the foreign trade and brought into the intercoastal trade. As to the long-term issues, he contends that it is not necessary to charter to American-Hawaiian to assure adequate service, because Luckenbach and others are prepared to put privately-owned tonnage into the trade as soon as adjustments and arrangements therefor can be made, which would probably take 60 or 90 days; and that no one has standing to charter in a trade that will be adequately served by owned vessels, as would be the case here.

Counsel for Waterman argues that Government-owned vessels should not, as Congress intended they should not, compete with privately-owned vessels in the same trade; that the record does not justify continued chartering to either applicant; that Waterman operates exclusively with privately-owned vessels, and will put additional ones in when necessary; that Luckenbach is ready to put 10 privately-owned vessels in the service; that privately-owned vessels are available to provide adequate service in the trade; and that the applications should be denied.

Counsel for Pacific-Atlantic Steamship Company, an interested party, argues that there is an emergency which justifies chartering beyond January 31, 1951; that his company intends to put privately-owned tonnage in the intercoastal trade, having 3 owned vessels therein now; and in connection with its pending application, later to be heard, for continuing its present charter agreement, it will request continuance for a temporary period of 60 or 90 days.

Counsel for the Committee for Promotion of Tramp Shipping argues that it is contrary to the public interest to use chartered ships in the intercoastal service because such use results in unfair competition with owned vessels, those chartering having no capital risk; that it prevents others from buying who may wish to do so, and militates against the long-range program of the American merchant marine designed for privately-owned American-flag vessels; that the evidence shows there are enough suitable privately-owned vessels available for adequate service in the trade if charters are terminated; but if chartering is to continue, the charter hire should be 15% per annum of the statutory sales price, payable unconditionally. He further argues that the burden

placed upon the applicants, under the statute, has not been met, and that applicants' charters should therefore be discontinued.

Counsel for the Board contends that the findings to be recommended should be uniform with respect to both applicants; that is, there should be no chartering as to both; there should be chartering on long-term basis to both; or for limited period to both. He points out that the intercoastal trade is a mater of public interest, and must continue; that the type of vessel requested, C-type, is not available for charter on any basis on any coast; and that the remaining question as to adequacy of service depends on whether as of the termination of charters the intercoastal trade would be left without adequate service. He is impressed by the declaration on the part of Waterman and Luckenbach herein, which was not made in the recent proceeding involving intercoastal chartering, that they will return to the intercoastal trade privately-owned tonnage adequate to meet all of the demands of shipping interests upon the termination of chartering on January 31, 1951.

CONCLUSIONS

The burden of proof in this proceeding is upon applicants.

Both applicants are operators in the intercoastal trade under certificates of convenience and necessity from the Interstate Commerce Commission. The importance of this trade has been recognized by the Congress, the Interstate Commerce Commission, the Maritime Commission, and the Federal Maritime Board.

The record is clear that the intercoastal service is required in the public interest. The applicants therefore have met the first condition of Public Law 591, 81st Congress, section 3 (e) (1).

On the question whether privately-owned American-flag vessels are available for charter by private operators on reasonable conditions and at reasonable rates for use in such service, the record shows that there are no privately-owned C–4 vessels; and while there is some conflict in the evidence as to other vessels which may be suitable and available, the record justifies a finding that applicants have met this condition also.

The remaining statutory condition is whether the trade would be adequately served from and after January 31, 1951, when applicants' present charters expire, if the vessels involved should not be chartered for bareboat use in this service. On this question there is conflict in the testimony. Top officials of American-Hawaiian, on the one hand, testified that the trade would not be adequately served and that it will stand additional large ships. On the other hand, the President of Luckenbach and the Executive Vice President of Waterman testified that the trade will be adequately served because they will replace all

of the chartered tonnage now in the trade with their privately-owned vessels, and supply more tonnage if necessary. They give definite assurances to this effect on the record, and the Board is entitled to rely thereon.

In view of these assurances, it cannot be said that the trade would be inadequately served after January 31, 1951, if the applications herein are not granted. Therefore, such applications should be denied.

The conclusions and recommended findings herein are based entirely upon the record as made in this proceeding, and do not take into consideration possible altered circumstances resulting from the President's proclamation of national emergency made on December 16, 1950.

RECOMMENDATIONS

The Board should find and so certify to the Secretary of Commerce that the application of American-Hawaiian Steamship Company, and the cross-application of Luckenbach Steamship Company, Inc., to bareboat charter Government-owned war-built dry-cargo vessels for use in the intercoastal trade from and after January 31, 1951, should be denied.

FEDERAL MARITIME BOARD

No. M–16

PACIFIC-ATLANTIC STEAMSHIP COMPANY—APPLICATION FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE INTERCOASTAL TRADE

No. M–17

POPE & TALBOT, INC.—APPLICATION FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE INTERCOASTAL TRADE

William I. Denning and *Earl C. Walck* for Pacific-Atlantic Steamship Company.

William Radner for Pope & Talbot, Inc.

Sterling F. Stoudenmire, Jr., for Waterman Steamship Company.

Marvin J. Coles for Committee for Promotion of Tramp Shipping.

Paul D. Page, Jr., and *M. E. Halpern* for the Board.

REPORT OF THE BOARD

This proceding was instituted pursuant to Public Law Law 591, 81st Congress, upon the applications, as amended, of Pacific-Atlantic Steamship Company and Pope & Talbot, Inc., to bareboat charter Government-owned, war-built, dry-cargo vessels for use in the intercoastal trade for further voyages beginning after January 31, 1951, when the present charters to the applicants expire, but beginning not later than April 15, 1951.

A hearing was held before an examiner on January 4, 1951. The decision of the examiner, filed on January 10, 1951, recommended that the Board certify and find that the service for which application is made is required in the public interest, that such service is not adequately served, and that privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service. Exceptions to said decision as to the application of Pacific-Atlantic Steamship Company were filed by the Committee for the Promotion of Tramp Shipping. No exceptions were filed to the decision as respects the application of

Pope & Talbot, Inc. Oral argument was had before the Board on January 26, 1951. The Board adopts the findings and certification recommended by the examiner, except as herein modified.

The applicants are both certificated operators in the intercoastal trade.

Pope & Talbot, Inc., has contracted to purchase three Victory-type vessels and now seeks to charter for that trade suitable vessels, preferably of the Victory type, for the temporary period necessary to obtain delivery of the vessels purchased, and in no event for voyages to begin later than April 15, 1951.

Pacific-Atlantic Steamship Company also desires to charter for the same temporary period suitable vessels to enable it to effect an orderly replacement of chartered with owned tonnage for use in the same trade. Pacific-Atlantic now operates in this trade with privately-owned tonnage supplemented by a Government-owned AP–3 Victory and two Government-owned Liberty ships under bareboat charter. States Steamship Company, the parent company of Pacific-Atlantic, has recently purchased two Victory-type vessels in order that the combined fleet may serve both the transpacific and intercoastal trades. Pacific-Atlantic is committed to operate in the intercoastal trade with its own tonnage, but part of this is now on charter to Military Sea Transportation Service.

While it is the expressed purpose of both applicants to operate in the intercoastal trade with privately-owned tonnage, neither undertakes an unconditional obligation to do so within the prescribed period.

The purpose of each application in this proceeding appears so closely alike that no difference in treatment is warranted. The record is sufficiently clear to justify the Board in making the required findings under Public Law 591. The exceptions above referred to, if applicable at all, are equally applicable in both cases, but in view of the record the exceptions cannot in any event be sustained.

With respect to the level of charter rates, the record in the instant applications discloses the substantial rehabilitation of the Atlantic-Pacific intercoastal trade. The evidence is uncontradicted that the 8½ percent provisional rate established effective as of July 1, 1947, is no longer justified. Moreover, Pacific-Atlantic's Vice President testified in this case that he would recommend acceptance of a charter, if the application is granted, with provision that charter hire be at the rate of 15 percent of the statutory sales price of the vessels.

Findings and Certification to the Secretary of Commerce

On the basis of the record in this proceeding, the Board finds and hereby certifies to the Secretary of Commerce:

1. That the intercoastal service for which applications are made to bareboat charter the vessels referred to in this case for voyages to begin after January 31, 1951, but not later than April 15, 1951, is required in the public interest;

2. That such service will not otherwise be adequately served during such period; and

3. That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

It is recommended that the Secretary of Commerce include in such bareboat charters as may be entered into with Pacific-Atlantic Steamship Company and Pope & Talbot, Inc., a provision that the charter hire payable thereunder shall be not less than 15 percent of the statutory sales price of the vessels chartered, as provided by section 5(b) of the Ship Sales Act of 1946, as amended.

By order of the Board

JANUARY 26, 1951.

(Sgd.) A. J. WILLIAMS,
Secretary.

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FEDERAL MARITIME BOARD

No. M–16

PACIFIC-ATLANTIC STEAMSHIP COMPANY—APPLICATION FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE INTERCOASTAL TRADE

No. M–17

POPE & TALBOT, INC.—APPLICATION FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE INTERCOASTAL TRADE

In proceeding under Public Law 591—81st Congress, found that service for which certain Government-owned war-built dry-cargo vessels are proposed to be bareboat chartered for period of seventy-five days from January 31, 1951, is required in the public interest; that such service would not be adequately served during such period without the use therein of such vessels; and that privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

William I. Denning and *Earl C. Walck* for Pacific-Atlantic Steamship Company.

William Radner for Pope & Talbot, Inc.

Sterling F. Stoudenmire, Jr., for Waterman Steamship Company.

Marvin J. Coles for Committee for Promotion of Tramp Shipping.

Paul D. Page, Jr., and *M. E. Halpern* for the Board.

RECOMMENDED DECISION OF F. J. HORAN, EXAMINER

This is a proceeding under Public Law 591—81st Congress, concerning applications of Pacific-Atlantic Steamship Company and Pope & Talbot, Inc., hereinafter called Pacific-Atlantic and Pope & Talbot, respectively, to bareboat charter Government-owned war-built dry-cargo vessels beyond January 31, 1951, the expiration date of their present charters, for use in the intercoastal trade. As indicated in the notice of hearing published in the Federal Register of December 19, 1950, the questions to be determined are whether the service for which such vessels are proposed to be chartered is required in the public interest; whether such service would be adequately served without the

use therein of such vessels, and whether privately-owned American-flag vessels are available for charter on reasonable conditions and at reasonable rates for use in such service. The Board is required by Public Law 591 to certify its findings to the Secretary of Commerce.

Pacific-Atlantic, which is wholly owned by States Steamship Company, hereinafter called States, owns four vessels. Of these, one AP–3 Victory is chartered to the Military Sea Transportation Service, one AP–3 Victory and one C–2 are operated in transpacific service by States, and one AP–3 Victory is operated by Pacific-Atlantic intercoastally. States, also, owns four vessels. Three of these, two of the AP–3 Victory-type and one a C–2, are operated by it in transpacific service; the other, an AP–3 Victory, is operated by Pacific-Atlantic in the intercoastal trade. Besides the intercoastal vessel owned by States and the one such vessel owned by Pacific-Atlantic, the latter company operates in the intercoastal trade a Government-owned AP–3 Victory and two Government-owned Liberty ships bareboat chartered to it. These are the three vessels that it seeks by its instant application to bareboat charter beyond January 31.

Prior to the Korean emergency, Pacific-Atlantic operated six Liberty ships under bareboat charter in the intercoastal trade. Preparing, at that time, to replace its chartered tonnage with its own vessels, it canceled the charters and began redelivering the six Liberty ships to the Maritime Administration. After three of the vessels had been redelivered, the Korean situation developed, and Pacific-Atlantic asked permission of the Administration to retain the other three under bareboat charter, which was granted. These three Liberty vessels were supplemented by three Victory ships which it and/or States owned, and a fourth Victory owned by it was about to be placed in the trade when Military Sea Transportation Service asked for it, to which it was chartered. Since then, one of the three Victory ships has been placed on a transpacific berth.

It is testified that Pacific-Atlantic is very anxious to have its (and/or States) own vessels in the intercoastal trade. States recently purchased an AP–3 Victory-type vessel and made application for the sale to it of another with the intention of building up its and Pacific-Atlantic's combined fleet in order to be able to serve both the intercoastal and transpacific berths, but the Navy insisted that the ship which was bought be placed in transpacific service, which was done, and it has made a like request with respect to the vessel for which an application to purchase is pending. The application for the bareboat charter of three vessels to Pacific-Atlantic, which limits the charter period to seventy-five days from January 31, 1951, is made in the hope that within that time the requirements of the Military Sea Transportation Service will

permit of adjustment of the combined fleet so that vessels engaged in transpacific service may be put on berth in the intercoastal trade.

Pope & Talbot's application likewise is to charter three vessels for a period of seventy-five days, or to such earlier time as delivery can be made to it of three Government-owned AP–3 Victory-type vessels which it has made application to purchase. It is planned by this applicant to operate six privately-owned vessels of the C–3 or AP–3 Victory type in the intercoastal trade. It now owns one AP–3 Victory and one C–3-type vessel, which it operates in the intercoastal trade, and, also, a C–3 which is under charter to Military Sea Transportation Service. Pending the return to it of the vessel last referred to and delivery by the Maritime Administration of the three vessels which it has applied to purchase, it finds it necessary to operate in the intercoastal trade with chartered vessels. It has under charter until January 31, 1951, three Liberty-type vessels, but, preferring AP–3 Victory ships, it seeks by its charter application to bareboat charter three vessels of the latter type. It hopes to be able to operate exclusively with its own tonnage within thirty to sixty days after January 31, 1951, the expiration date of its present charter, but this is contingent to some extent on international developments. With the three chartered ships and the Victory and C–3 owned by it and now in operation in the intercoastal trade, the tonnage which would be employed by it would still be less than that called for by its plans.

The importance of the intercoastal trade has been recognized by the Congress, the Interstate Commerce Commission, and the Maritime Commission. *In the Matter of Applications of American-Hawaiian Steamship Company, etc.,* decided October 17, 1950. Both Pacific-Atlantic and Pope & Talbot operate in this service under certificates of public convenience and necessity issued by the Interstate Commerce Commission, carrying principally lumber eastbound and general cargo, largely iron and steel products, westbound. Pacific-Atlantic is being offered a large volume of cargo in both directions. In fact, its ships are running full and, at times, have been overbooked. Pope & Talbot has had difficulty in securing cargo for Liberty vessels westbound, but, with respect to the C–3 and AP–3 westbound, it was testified that it was "probably doing fairly well." Eastbound, its vessels have been operating substantially full, and, in some cases, it has had to turn away cargo. For the months of January, February, and March 1951, it has scheduled two sailings a month, one with a ship of its own and one with a chartered ship, and present indications are that, if this schedule is carried out, the vessels will be booked full. Carrying out of the schedule, of course, depends upon approval of the charter application.

Privately-owned American-flag vessels becoming available for char-

ter are being absorbed by the foreign trades. The charter-hire rates being charged for them, though perhaps reasonable for ships to be placed in such trades, where freight rates are said to have risen substantially, are too high for vessels which are to be employed in the intercoastal service. Liberty-type vessels, which a few months ago were being offered in the market at approximately $40,000 to $42,000 per month, are now commanding $52,500 per month and even as high as $55,000 or $60,000 per month. The record is convincing that applicants, engaged as they are in intercoastal transportation at pre-Korean freight rates, which, as a practical matter, they are prevented from increasing due to railroad competition, could not pay such charter hire without incurring serious financial loss.

There are references in the record to a previous proceeding in which Waterman and Luckenbach Steamship Company made commitments, conditioned upon the discontinuance of charter operations in the intercoastal service, to place in that service additional vessels of their own. It appears, however, that the commitments related to replacing with their own ships the chartered vessels of Luckenbach and American-Hawaiian Steamship Company and assumed that the other operators would continue approximately their present services. It further appears that it was assumed that from sixty to ninety days would be allowed to fulfill the commitments.

Waterman and the Committee for Promotion of Tramp Shipping, believing that within seventy-five days from January 31, 1951, Pope & Talbot will have secured delivery of the vessels which it is seeking to purchase from the Maritime Administration and placed them in the intercoastal service in lieu of the tonnage chartered to it, except, perhaps, such chartered tonnage as it may deem necessary to retain until redelivery of its C–3 under charter to the Military Sea Transportation Service, do not object to the bareboat charter to this applicant of the three vessels for which it has applied, but they oppose Pacific-Atlantic's application, not being satisfied that within the seventy-five day period this applicant will replace its chartered tonnage with its own or States' vessels. The representations which the applicants make do not warrant the taking of these different positions. On behalf of Pacific-Atlantic it was testified that during the interim period of seventy-five days it would make a bona-fide attempt to put its own vessels into the intercoastal trade and that, barring something unforeseen in world affairs, it may be assumed that at the end of such period its own vessels will be in the trade. This, it was stated, depends upon whether Military Sea Transportation Service will redeliver the Victory ship that it has under time charter and whether Pacific-Atlantic "can get loose from other commitments to MSTS." On behalf of Pope & Talbot, which has

named five vessels from which to fill the complement of three which it has applied to purchase, it was testified that all of the good AP–3 vessels are in operation, including the five which it has nominated; that it is hopeful that three of them will be returned to a United States port and delivered to it under its ship-sales contract promptly after January 15 but that "it may be ninety days from January 15, which is seventy-five days from January 31, before that can be accomplished, conceivably longer." It was further stated that if the vessel chartered by Pope & Talbot to Military Sea Transportation Service should not be redelivered within the seventy-five day period and a ship should not be available for charter in the market at a reasonable rate, this applicant would have to file another bareboat-charter application with the Maritime Administration. Thus, there is no unqualified commitment on the part of either applicant. If the charter applications are granted, it should be understood by both applicants that they will be expected to make every reasonable effort to substitute, within the period of the application, their own for chartered tonnage.

Applicants, under their present bareboat charters, are paying the 8½-percent rate of charter hire. Pacific-Atlantic's vice-president, asked whether Pacific-Atlantic would, if its charter application under consideration were granted, accept a charter containing a provision for 15-percent charter hire, said that he would "certainly recommend that they do." If favorable action should be taken on the charter applications and it should be decided to insert a 15-percent charter-hire provision in Pacific-Atlantic's bareboat charter, it would seem that a like provision should be included in the charter agreement with Pope & Talbot.

FINDINGS AND CERTIFICATION TO THE SECRETARY OF COMMERCE

The Board should find and certify to the Secretary of Commerce that the service for which Pacific-Atlantic and Pope & Talbot propose to bareboat charter Government-owned war-built dry-cargo vessels for the period of seventy-five days from January 31, 1951, is required in the public interest; that such service would not be adequately served during such period without the use therein of such vessels; and that privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

FEDERAL MARITIME BOARD

No. M–15

AMERICAN MAIL LINE, LTD., ET AL.[1]—APPLICATIONS FOR BAREBOAT CHARTER OF WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE CARRIAGE OF SULPHUR, COAL, COKE, PITCH, LUMBER, AND GRAIN FROM THE UNITED STATES TO EUROPEAN COUNTRIES, INDIA, AND SOUTHEAST ASIA, AND THE IMPORT OF METALLIC ORES TO THE UNITED STATES.

FINDINGS AND CERTIFICATION OF THE FEDERAL MARITIME BOARD TO THE SECRETARY OF COMMERCE

On December 20, 1950, following a hearing on numerous applications under Public Law 591, 81st Congress, for bareboat charters of Government-owned, war-built, dry-cargo vessels for the transportation of cargo to certain countries within the purview of the Foreign Assistance Act of 1948, as amended, the Board found and certified to the Secretary of Commerce that the services considered, being for the carriage of coal and grain from the United States to Europe, were required in the public interest, that such services were not adequately served, and that privately-owned American-flag vessels were not available for charter by private operators on reasonable conditions and at reasonable rates for use in such services.

At the request of the Economic Cooperation Administration the Board re-opened the proceeding and set for further hearing all applications hereinbefore filed and such other applications received on or before 5:00 p.m. February 12, 1951, to bareboat charter war-built, dry-cargo vessels for use in the export of full cargoes of sulphur, coal, coke, pitch, lumber, and grain from the United States to European countries in which the Economic Cooperation Administration has a program, their dependent overseas territories, India, and countries in Southeast Asia, and the import of full cargoes of metallic ores from countries in these areas to the United States. Notice of the further hearing was

[1] American President Lines, Ltd., Amerocean Steamship Co., Inc., & Blackchester Lines, Inc., American Union Transport, Inc., Atlantic Ocean Transport Corp., Central Gulf Steamship Corp., Dover Steamship Corp., Farrell Lines, Inc., Flanigan Loveland, Inc., Olympic Steamship Co., Inc., Overseas Navigation Corp., Pacific Transport Line, Inc., Seatrade Corporation, Shipenter Lines, Inc., Terrace Navigation Corp. and Traders Steamship Corp.

published in the Federal Register of February 7, 1951, and hearing was held by the Board on February 13, 1951. The usual notice of 15 days was not given because of the urgency of the matter.

The applicants are those shown above as well as those shown in the heading of the Board's findings and certification of December 20, 1950.

Representatives of Economic Cooperation Administration, General Services Administration, Committee for Promotion of Tramp Shipping, and Newtex Steamship Corporation testified at the further hearing. No opposition to the applications was made. The testimony of the Government witnesses is convincing that world shipping conditions are more acute than at the time of the first hearing and that our original findings and certification should be broadened to the extent described herein. Testimony of the carrier witnesses developed matters that might well receive consideration by the Administrator, but they were beyond the scope of this proceeding.

FINDINGS AND CERTIFICATION

On the basis of the facts adduced of record, the Board finds and hereby certifies to the Secretary of Commerce:

1. That the services considered are required in the public interest;
2. That such services are not adequately served; and
3. That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such services.

By the Board.

February 16, 1951.

(Sgd.) A. J. WILLIAMS,
Secretary.

3 F. M. B.

FEDERAL MARITIME BOARD

No. M–14

AMERICAN-HAWAIIAN STEAMSHIP COMPANY AND LUCKENBACH STEAMSHIP COMPANY, INC.—APPLICATIONS TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO VESSELS IN THE INTERCOASTAL TRADE.

William Radner and *Odell Kominers* for Luckenbach Steamship Company, Inc.

Sterling F. Stoudenmire, Jr., for Waterman Steamship Corporation.

Marvin J. Coles for the Committee for Promotion of Tramp Shipping.

Willis R. Deming for American President Lines, Ltd.

Harry Ross, Jr., and *Charles D. Turner* for the United States Department of Agriculture.

S. H. Moerman for International Paper Company.

William R. Peterson for General Petroleum Company.

W. W. Balkcom for Florida Canners Association.

Harold B. Say for Portland, Oregon, Chamber of Commerce.

Paul A. Amundsen for Alabama State Docks and Terminals.

Everett T. Winter for Mississippi Valley Association.

M. K. Eckert for Port of Houston, Texas.

George C. Whitney for Port of New Orleans Board of Harbor Commissioners.

Chester McMullen for Port of Tampa and Florida Canners Association.

Paul D. Page, Jr., and *Max E. Halpern* for the Board.

REPORT OF THE BOARD

This proceeding was originally instituted by order of the Board (Federal Register November 21, 1950) pursuant to Public Law 591, 81st Congress, for the purpose of considering the application of American-Hawaiian Steamship Company and the cross application of Luckenbach Steamship Company, Inc., for the bareboat charter of Government-owned, war-built, dry-cargo vessels in the intercoastal trade.

The Board rendered its decision on January 24, 1951, with respect to the Atlantic-Pacific intercoastal operation of American-Hawaiian Steamship Company and Luckenbach Steamship Company, Inc., but

remanded to the examiner the application of Luckenbach Steamship Company for the bareboat charter of four AP–2 Victory-type vessels for its Gulf intercoastal service for the receipt of additional evidence. The examiner on February 15, 1951, filed his decision with the recommendation that the Board should find and so certify to the Secretary of Commerce that the Gulf intercoastal service, in which Luckenbach Steamship Company, Inc., proposes to bareboat charter four Government-owned, war-built, dry-cargo AP–2 Victory-type vessels, is in the public interest, that such service would not be adequately served without the use therein of such vessels, and that privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service. Exceptions were filed by Waterman Steamship Corporation but oral argument was not requested.

Luckenbach's application is for permission to bareboat charter four war-built, dry-cargo AP–2 Victory-type vessels for operation in its Gulf intercoastal service at a bareboat charter hire rate of 5% of the statutory sales price or 100% of the earnings, whichever is higher. Luckenbach now has under charter from the Government in this service two AP–2 Victory-type vessels and is also operating two of its privately-owned C–2 vessels.

Luckenbach's witness testified that the company can no longer operate its two privately-owned C–2 vessels in the Gulf intercoastal service in view of financial results of the past and prospective financial results in the future, and that if its charter application is entirely denied the company will be obliged to terminate its Gulf service. The company believes that release of its two privately-owned C–2 vessels would enable those vessels to earn enough in offshore employment to overcome most of the company's anticipated Gulf intercoastal loss with chartered vessels.

Luckenbach's witness further testified that the company might continue with only two chartered AP–2's by eliminating some ports and effecting shorter turnarounds. Although it is stated a minimum of four AP–2 vessels is necessary to carry the Gulf cargo, the record is bare of the probable outcome of operating four vessels, either all owned, all chartered, or a combination of owned and chartered, on a revised schedule, eliminating minor ports and concentrating on the major sources of traffic. The service now covers the Gulf ports of Tampa, Mobile, New Orleans, Houston, Beaumont, Corpus Christi, Panama City, and Havana, Cuba. The West coast ports are Los Angeles, San Francisco Bay Area, Portland, and Seattle. Isthmian Steamship Lines is the only other certificated carrier on this route at present, but has furnished practically no service for the past year. In 1950 Luckenbach made 20

Gulf intercoastal voyages eastbound, running about 97% full, and 21 voyages westbound, running about 88% full, having an overall average of slightly more than 92%. The result of these operations has shown losses. Except for paying 15% charter hire on the Havana portion of the voyages, the current charter hire is payable on the basis of 15%, of which 8½% is payable unconditionally and the remaining 6½% payable if earned.

Luckenbach's policy as stated is to maintain freight rates as far as it is deemed possible, consistent with rail rate structure and the rate relationships between the Gulf and intercoastal trades and other factors that must be taken account of in sound rate-making practice. The railroads now have an application before the Interstate Commerce Commission for a 6% increase, and, if granted, the company has indicated that it will effect corresponding increases in water rates. Even with this increase in rates and with a 5% charter hire rate, the Company claims its Gulf operations would not be on a profitable basis, principally because of increased costs since October 1950 for labor, supplies, fuel, etc., amounting to approximately 7½% exclusive of increased overhead.

Many shipper witnesses testified that the Gulf intercoastal service is extremely important due to a large extent to the shortage of rail freight cars. Government representatives testified that the railroads, because of shortage of freight cars, are not prepared to assume the burden of additional freight tonnage except at the expense of other important movements.

Luckenbach's application for a 5% charter rate or 100% of the earnings, whichever is higher, is the first application of its kind which has been made. Waterman Steamship Corporation opposes the application on the basis of its position that chartering of Government-owned vessels for use in the intercoastal trade should not be sanctioned as long as privately-owned vessels are operating in the trade. Waterman further states, "If Luckenbach is to be permitted to withdraw its privately-owned vessels for operation in the more lucrative foreign trades, and at the same time be permitted to continue its service in the Gulf intercoastal trade with chartered Government-owned vessels at the extremely low rate of 5%, it would be a rank discrimination to deny other operators the right to also operate their intercoastal services with Government-owned chartered vessels." While Waterman Steamship Corporation is not certificated for the Gulf intercoastal operation, the Luckenbach Gulf operation is competitive with Waterman's South Atlantic intercoastal service to the extent 10% to 15% of Gulf intercoastal traffic could move optionally via South Atlantic ports. The Merchant Ship Sales Act of 1946, as amended, may be sufficiently broad to permit the proposed

charter rate. We do not, however, concern ourselves at this time with the legality of the proposed charter rate as it is our opinion such is not warranted under the present circumstances.

CONCLUSION

In our decision of October 17, 1950, in Docket No. M-13, *American-Hawaiian Steamship Company et al.—Applications for Extension of Bareboat Charter, etc.*, we set forth fully our view that the intercoastal service is required in the public interest. This applies with equal force to the Gulf intercoastal service, and it is clear on the record that the applicant has met the first condition of Public Law 591, 81st Congress, section 3(e)(1), that the Gulf intercoastal service is required in the public interest. It is also clear that the trade will not be adequately served without the four vessels now serving it, or their equivalent. Luckenbach proposes removing their two owned vessels from this trade and placing them in the more lucrative foreign trade and desires in substitution thereof to bareboat charter two additional Government-owned vessels to round out the operation with four Government-owned vessels. There has been no dispute over the fact that four vessels are needed for this particular service at this time, but it does not follow that there is sufficient justification for the bareboat charter of Government-owned vessels to an operator in substitution for his own privately-owned vessels now in operation in the service under consideration, and we recommend against it. As to the remaining statutory condition as to whether other privately-owned American-flag vessels are available for charter by private operators on reasonable conditions and at reasonable rates for use in such service, the record is sufficiently clear to justify the finding that such vessels are not available at reasonable rates and on reasonable conditions.

FINDINGS AND CERTIFICATION TO THE SECRETARY OF COMMERCE

On the record adduced in this case, the Board accordingly finds and hereby certifies to the Secretary of Commerce that the Gulf intercoastal service operated by applicant is required in the public interest; that such service would not be adequately served without a further charter of Government-owned, war-built, dry-cargo AP–2 vessels; and that suitable privately-owned vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

RECOMMENDATION

The Board recommends the continued charter of only two Government-owned, war-built, dry-cargo vessels, and that the basic charter rate be fixed at 15% of the statutory sales price of the vessel or of the

floor price, whichever is higher, of which 8½% is payable unconditionally and the remainder of 6½% payable if earned, under the same general conditions as now prevail.

By the Board.

March 1, 1951. (Sgd.) A. J. WILLIAMS,
Secretary.

3 F.M.B.

FEDERAL MARITIME BOARD

No. M–20

AMERICAN PRESIDENT LINES, LTD.—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO VESSELS FOR EMPLOYMENT IN ITS ATLANTIC/STRAITS SERVICE (C–2, TRADE ROUTE No. 17)

Willis R. Deming for American President Lines, Ltd.

William Radner for American-Hawaiian Steamship Company, Luckenbach Steamship Company, Inc., and Pacific Far East Line.

Marvin J. Coles for the Committee for Promotion of Tramp Shipping.

Sterling F. Stoudenmire, Jr., for Waterman Steamship Corporation.

L. W. Hartman for American Mail Line.

Max E. Halpern and *Joseph A. Klausner* for the Board.

FINDINGS AND CERTIFICATION OF THE FEDERAL MARITIME BOARD TO THE SECRETARY OF COMMERCE

This proceeding was instituted under Public Law 591, 81st Congress, upon the application of American President Lines, Ltd., for the bareboat charter of two Government-owned, war-built, dry-cargo AP–2 vessels (Victory-type vessels) for use in the company's Atlantic/Straits service (Service C–2 of Trade Route No. 17). It was heard by an examiner who has recommended that "The Board should find and so certify to the Secretary of Commerce that the application of American President Lines, Ltd., to bareboat charter two Government-owned, war-built, dry-cargo AP–2 vessels for employment in applicant's Atlantic/Straits service (Service C–2 of Trade Route No. 17) should be denied. In the alternative, if the Board should find that applicant has satisfied the requirements of Public Law 591, the Board should recommend to the Secretary of Commerce that the charter should be limited to one vessel for one voyage unless applicant has two sailings in March, in which case the charter should be for two vessels but for one voyage for each vessel."

Exceptions to the recommended decision of the examiner were filed by the applicant; Pacific Far East Line (partly excepting to, but primarily in support of, the recommended decision); Luckenbach Steamship Company (partly excepting to, but primarily in support of, the recommended decision); American-Hawaiian Steamship Company (partly excepting to, but primarily in support of, the recommended decision); Waterman Steamship Corporation (supporting the recommended decision); and counsel for the Board.

Our conclusions differ from the examiner's recommended decision.

The American President Lines, Ltd., is engaged in the operation on Trade Route No. 17 Service C–2 Atlantic/Straits Service pursuant to the authority of the Board and Maritime Administrator. Docket No. S–17, *Application of American President Lines, Ltd., to Continue Operation After December 31, 1949, of Atlantic-Straits Freight Service C–2, Trade Route No. 17, Without Operating-Differential Subsidy,* decided January 24, 1951.

In the operation of its several services the company in addition to its owned vessels had under bareboat charter from the Maritime Administration two war-built, dry-cargo C–4 type vessels which were required to be redelivered to the Administration at the completion of current voyages, these vessels having been sold to another steamship company pursuant to the Merchant Ship Sales Act 1946, as amended. The company has stated that the two AP–2 Victory-type vessels are to be used in place of the C–4s.

Predicated upon the decision in Docket No. S–17 (supra) and the testimony offered in this case, we have no difficulty in finding that the service is required in the public interest. The substantial question involved in this case is whether or not the service would be adequately served without the charter of the two vessels applied for. The testimony of the applicant's witnesses as to a shortage of space is disputed by other witnesses and there is some doubt from the record whether there is an actual shortage of space. It is admitted that the greatest need for westbound space is to the North transpacific area which is not covered by the applicant on its S–2 service. The record is not clear on the exact situation with respect to the requirement for space in the eastbound movement to Atlantic coast ports. Applicant's witness testified that their vessels in the C–2 service were substantially full in both directions for the past six months. It was testified that during February and March there would not be enough space to handle inbound and outbound cargo. On the other hand, it was conceded that the existing lines can handle all anticipated cargo eastbound to the Pacific coast. There was no substantial disagreement on this phase of the applicant's testimony. While there were some statements as to the heavy movement of rubber and tin from Malaya-Indonesia, this testimony was disputed. One witness stated that movement homeward to Pacific coast ports was relatively light and that any additional cargo which might come out of Malaya-Indonesia could be handled by his company. However, this company did not indicate that it has, or is contemplating, a regular service to or from Malaya-Indonesia to Pacific ports.

The testimony offered by the Chief, Trade Analysis Branch, Maritime Administration, who has the responsibility for supervising the sail-

ings for applicant's vessels, indicates that the applicant needs one vessel to meet its early March sailing on the C–2 service. He predicated this testimony upon the Board's decision in Docket S–17 (supra) and pointed out that one of the requirements of that decision is that the company may make not to exceed 13 sailings a year, or approximately one every four weeks. While admitting that this requirement is a limitation as to maximum sailings per annum, it was his view that in a berth service such as this, regularity as well as a reasonably frequent service is important. Adequacy of service cannot be measured in terms of spot availability of cargo alone. In the case of a berth service operation there must be taken into account regularity and frequency of the service, continuity of that service, its schedules, speed, and other factors which give assurances to shippers to enable them to meet their commitments in a businesslike manner.

The record is sufficiently clear that without another vessel applicant's schedule for a reasonable berth service cannot now or in the immediate future be maintained. It further does not appear that applicant is presently in a position to adjust its round-the-world or transpacific service to make available another owned vessel for the C–2 service without serious dislocations. This matter, in any event, is under constant surveillance of the Administrator and, should changed conditions warrant, there is authority for his prompt adjustment.

In the light of the foregoing testimony, we are of the opinion that the applicant has met the requirement of Public Law 591 as to adequacy of service.

As respects the availability of American-flag vessels for charter in this trade, the evidence is uncontradicted that the applicant unsuccessfully endeavored through brokers and otherwise to charter privately-owned vessels suitable to its needs. The evidence is sufficient that there are no suitable vessels available to the applicant to meet its sailing schedule for early March.

FINDINGS AND CERTIFICATION

On the basis of the facts adduced of record the Board finds and hereby certifies to the Secretary of Commerce (1) that the service considered is required in the public interest; (2) that such service will not be adequately served without one additional vessel; and (3) that privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

By the Board.

[SEAL]

A. J. WILLIAMS,
Secretary.

March 1, 1951.

FEDERAL MARITIME BOARD

No. M–22

DEPARTMENT OF THE NAVY, MILITARY SEA TRANSPORTATION SERVICE—APPLICATION TO MAKE AVAILABLE NECESSARY GOVERNMENT-OWNED, WAR-BUILT, DRY-CARGO VESSELS TO PRIVATE OPERATORS UNDER BAREBOAT CHARTER FOR TIME CHARTER USE OF THE MILITARY SEA TRANSPORTATION SERVICE OF THE DEPARTMENT OF THE NAVY TO MEET ITS IMMEDIATE AND PROJECTED WORLD-WIDE REQUIREMENTS

REPORT OF THE BOARD

This is an informal proceeding instituted by the Board pursuant to Public Law 591, 81st Congress, which requires the Board to hold public hearings on applications for bareboat charters of Government-owned, war-built, dry-cargo vessels, and to make certain findings with appropriate certification thereof to the Secretary of Commerce. In accordance with such law, notice of this hearing was published in the Federal Register of February 24, 1951, and hearing was held by the Board on March 2, 1951. The usual notice of 15 days was not given because of the urgency of the matter.

STATEMENT OF FACTS

The private operators whose applications are under consideration are listed in Appendix A. Such applications are to bareboat charter Government-owned, war-built, dry-cargo vessels for use in world-wide trades under time charter by such applicants to the Military Sea Transportation Service of the Department of the Navy.

The representative of Military Sea Transportation Service testified that due to the loss of privately-owned ships plus several highly classified moves which involve trade routes in different areas of the world, Military Sea Transportation Service requests that there be made available from the Government's reserve fleet to private operators Victory-type vessels to be time chartered to the Military Sea Transportation Service for the support of its military forces world-wide; that all vessels taken from the reserve fleet and time chartered to the Military Sea Transportation Service will be used in transporting Government-owned

or controlled cargo and will be utilized in the support of military operations for international security; and that sufficient privately-owned American-flag vessels cannot be obtained. No opposition to the applications was made and testimony was offered showing that no privately-owned American-flag vessels are available.

FINDINGS AND CERTIFICATION TO THE SECRETARY OF COMMERCE

On the basis of the facts adduced of record, the Board finds and hereby certifies to the Secretary of Commerce:

1. That the services considered are required in the public interest;
2. That such services are not adequately served; and
3. That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such services.

RECOMMENDATIONS

The Board recommends that the following restrictions and conditions be included in the charters as it deems them necessary and appropriate to protect the public interest and to protect privately-owned vessels against competition from vessels so chartered:

(*a*) Provision that the bareboat-chartered vessels be promptly time chartered to Military Sea Transportation Service for transportation of military and other government-controlled cargo.

(*b*) Provision that such bareboat charters shall be terminated upon termination of such time charters to Military Sea Transportation Service.

The Board further recommends that as suitable privately-owned American-flag tonnage becomes available under reasonable conditions and at reasonable rates, it be substituted when practicable for equivalent Government-owned tonnage under such charter arrangements.

By the order of the Board.

A. J. WILLIAMS,
Secretary.

March 6, 1951.

APPENDIX A

Actium Shipping Corp.
Admanthos Ship Operating Co., Inc.
Agwilines Inc. (New York and Cuba Mail)
Alaska Steamship Co.
Albatross Steamship Co., Inc.
American Export Lines, Inc.
American Foreign Steamship Corp.
American-Hawaiian Steamship Co.
American Mail Line, Ltd.

American & Overseas Chartering Co.
American Pacific Steamship Co.
American President Lines, Ltd.
American Union Transport, Inc.
Atlantic Ocean Transport Corp.
Arnold Bernstein Line, Inc.
Nick Bez
W. R. Blackburn & Co.
Blidberg Rothchild Co., Inc.
A. H. Bull Steamship Co.
A. L. Burbank & Co.
Burns Steamship Co.
W. R. Chamberlin & Co.
Clifton Steamship Corp.
Coastwise Line
Cosmopolitan Shipping Co., Inc.
Cuba Mail Line
Dichmann, Wright & Pugh, Inc.
Dolphin Steamship Corp.
Drytrans, Inc.
Eastern Steamship Lines
Eastport Steamship Corp.
El Dia Steamship Corp.
John S. Emery & Co., Inc.
Fall River Navigation Co.
Federal Motorship Corp.
Firth Steamship Corp.
Flomarcy Lines, Inc.
Flanigan, Loveland, Inc.
Fribourg Steamship Co., Inc.
Garrett-Williams & Co. Inc.
Grace Line Inc.
James Griffiths & Sons
Gulf Range Steamship Corp.
Intercontinental SS Corp.
Isbrandtsen Co., Inc.
A. Willard Ivers, Inc.
W. P. Iverson & Co., Inc.
J. Lasry & Sons, Inc.
Luckenbach Steamship Co., Inc.
Lykes Bros. SS Co.
Maine SS Corp.

Allen Cameron Transportation, Inc.
American Steamship Company, Inc.
Amerocean Steamship Co., Inc.
Blackchester Lines, Inc.
Luckenbach Gulf Steamship Company
Neptune Shipping, Inc.
Shepherd Steamship Lines
Southern Seas Steamship Co., Inc.
Transportation Inc.
Marine Navigation Co., Inc.
Marine Transport Lines, Inc.
Marine SS Co.
Mariner Steamship Co., Inc.
Matson Navigation Company
Mississippi Shipping Co., Inc.
Moore-McCormack Lines, Inc.
Wm. H. Muller Shipping Corp.
Naess Mejlaender & Co. Inc.
Nautilus Shipping Co.
Newtex Steamship Corp.
North American Shipping & Trading
North Atlantic & Gulf Steamship Co.
Ocean Freighting & Brokerage Corp.
Ocean Tramp Carriers, Inc.
Olympic Steamship Co., Inc.
Omnium Freighting Corp.
Orion Shipping & Trading Co., Inc.
Pacific-Atlantic Steamship Co.
Pacific Far East Line, Inc.
Pacific Transport Lines, Inc.
Palmer Shipping Corp.
Pittston Marine Corp.
Polarus Steamship Co., Inc.
Ponchelet Marine Corp.
Pope & Talbot, Inc.
Prudential Steamship Corp.
Wm. J. Rountree Co., Inc.
St. Lawrence Navigation Co., Inc.
Senior Lines
Shepard Steamship Co.
South Atlantic Steamship Line, Inc.
Standard Fruit & Steamship Corp.
States Marine Corp. of Delaware
T. J. Stevenson & Co., Inc.
Stockard Steamship Corp.
Sudden & Christenson, Inc.
Sword Line
Tankers Co., Inc.
Tramer Shipping Co., Inc.
Trans Marine Navigation Corp.
Union Sulphur & Oil Corp.
United States Lines
U. S. Navigation Co., Inc.
U. S. Petroleum Carriers, Inc.
U. S. Waterways Corp.
Wessel Duval & Co., Inc.
West Coast Trans-Oceanic Steamship Line
West India Steamship Co.
White Range Steamship Co.
Daniel F. Young, Inc.

FEDERAL MARITIME BOARD

No. M–21

LYKES BROS. STEAMSHIP CO., INC.—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO VESSELS FOR EMPLOYMENT IN THE GULF/EAST COAST OF UNITED KINGDOM, CONTINENT, AND MEDITERRANEAN SERVICES (TRADE ROUTES NOS. 21 AND 13)

William Radner for applicant.
Sterling F. Stoudenmire, Jr., for Waterman Steamship Corporation.
John Tilney Carpenter for States Marine Lines.
Paul D. Page, Jr., Solicitor, and *M. E. Halpern* for the Board.

FINDINGS AND CERTIFICATION OF THE FEDERAL MARITIME BOARD

This proceeding was instituted under Public Law 591, 81st Congress, upon the application of Lykes Bros. Steamship Co., Inc., for the bareboat charter of five Government-owned, war-built, dry-cargo vessels for use interchangeably in the company's subsidized Gulf/East Coast of United Kingdom and Continent service (Trade Route 21) and Gulf/Mediterranean service (Trade Route 13).

Hearings were held before an examiner on February 27, 1951, who has recommended that "The Board should find and so certify to the Secretary of Commerce that the Gulf/East Coast of United Kingdom, Continent, and Mediterranean services in which Lykes Bros. Steamship Co., Inc., proposes to bareboat charter five Government-owned, war-built, dry-cargo vessels is in the public interest, that such services would not be adequately served without the use therein of such vessels, and that privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such services." Exceptions were filed to the examiner's decision by Waterman Steamship Corporation. Our conclusions agree with the examiner's recommended decision, which we adopt and make a part of this decision.

Our comments relate to Waterman's exceptions and the request of counsel for the Board for the inclusion of certain restrictive clauses in the Board's decision. Waterman Steamship Corporation, which operates vessels in the subject trade areas of the applicant on an unsub-

sidized basis, argues that the applicant has failed to meet the burden of proof required under Public Law 591 to establish that the vessels proposed to be chartered are necessary to meet a specific emergency, pointing out that in their opinion it was the intention of Congress under Public Law 591 that chartering of Government-owned vessels should only be approved in specific emergencies. The law, however, contains no such limitation.

Insofar as the burden of proof is concerned, the law is clear that the applicant must affirmatively show that the service in which the ships are desired to be chartered is in the public interest; that such service is not otherwise adequately served; and that privately-owned vessels are not available on reasonable conditions and at reasonable rates for use in such service. The applicant has met the burden of proof with respect to these requirements of the statute.

The record conclusively shows that the present volume of traffic out of the Gulf is so great that not only the applicant but all of the other carriers combined are unable to move it, and that, as late as January 1, 1951, thousands of tons of cargo have been refused because of the lack of vessel space. Much of this cargo is the result of the increased Government aid furnished to countries served by applicant's trade routes 21 and 13.

In its second exception, Waterman argues that if the application is approved the vessels should be restricted to a particular trade route or service, pointing out that the word "service" as used in Public Law 591 does not permit interchangeability from one trade route to the other. The applicant maintains that no such restriction should be imposed and that the company be permitted to operate these vessels interchangeably according to the requirements of each service. The examiner has stated that in view of the short time contemplated for use of the vessels no such restriction would appear necessary. The company now has authority under the terms of its operating-subsidy agreement with the Board to use its owned subsidized vessels interchangeably in these two trade routes. In view of the limited period contemplated for charter operation, we see no reason to place any such restriction on these vessels.

In its next exception, Waterman points out that the cargo required to be moved on the trade routes involved could or should be moved by vessels operated by the Government through General Agents rather than by charter of Government-owned vessels to a subsidized operator. This exception apparently is not predicated upon any requirement of the statute but simply involves a policy matter within the discretion of the Maritime Administrator. We do not therefore pass upon this point.

Counsel for the Board has suggested that certain limitations might

be imposed to prevent chartered vessels from competing with the company's subsidized vessels. This point is well taken, but, since the company's subsidized operation is controlled by the terms of its operating-differential subsidy agreement, the Maritime Administrator under Reorganization Plan 21 of 1950 is fully clothed with authority to impose such restrictions as may be necessary under the subsidy agreement, as had been done in other similar cases.

FINDINGS AND CERTIFICATION

On the basis of the facts adduced of record, the Board finds and hereby certifies to the Maritime Administrator (1) that the services considered are required in the public interest; (2) that such services will not be adequately served without five additional vessels; and (3) that privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

RECOMMENDATION

The Board recommends that adequate provision be made to protect the interest of the Government under its operating-differential subsidy contracts with applicant.

By the Board.

(Sgd.) R. L. McDONALD,
Assistant Secretary.

MARCH 19, 1951.

3 F.M.B.

FEDERAL MARITIME BOARD

No. M–21

LYKES BROS. STEAMSHIP CO., INC.—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO VESSELS FOR EMPLOYMENT IN THE GULF/EAST COAST OF UNITED KINGDOM, CONTINENT, AND MEDITERRANEAN SERVICES (TRADE ROUTES NOS. 21 AND 13)

The Board should find and so certify to the Secretary of Commerce that the Gulf/East Coast of United Kingdom, Continent, and Mediterranean services in which Lykes Bros. Steamship Co., Inc., proposes to bareboat charter five Government-owned, war-built, dry-cargo vessels is in the public interest, that such services would not be adequately served without the use therein of such vessels, and that privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such services.

William Radner for applicant.
Sterling F. Stoudenmire, Jr., for Waterman Steamship Corporation.
John Tilney Carpenter for States Marine Lines.
Paul D. Page, Jr., Solicitor, and *M. E. Halpern* for the Board.

RECOMMENDED DECISION OF ROBERT FURNESS, EXAMINER

This is a proceeding under Public Law 591, 81st Congress, on an application of Lykes Bros. Steamship Co., Inc., to bareboat charter five Government-owned, war-built, dry-cargo vessels for employment in its subsidized Gulf/East Coast of United Kingdom, Continent, and Mediterranean services on Trade Routes Nos. 21 and 13 respectively. The vessels are requested to accommodate cargo in excess of the present berth capacity of applicant's owned vessels. It estimates that the present backlog of cargo offering on the Gulf of Mexico will be relieved within about 120 days if the application is approved.

Hearing on the application was had February 27, 1951. The only testimony of record is that of the vice-president in charge of traffic of Lykes Bros. Counsel for Waterman Steamship Corporation, States Marine Lines, and the Board participated in examination of the witness.

Lykes now owns 54 vessels and has been operating on these routes for many years. The routes have been determined to be essential

under section 211 of the Merchant Marine Act, 1936, and, as pointed out by applicant's witness, form important arteries for the movement of cotton, foodstuff and other commodities originating in southern and central areas of the United States. Recently the volume of movement has increased due to expanded Government aid to such countries as Greece, Italy, western Germany, France, and Yugoslavia. The testimony is uncontradicted that at present the volume is so great that not only Lykes but all of the other carriers combined are unable to move it. Figures are produced showing that thousands of tons of cargo have been refused since January 1, 1951, because of lack of vessel space. The testimony is also convincing that Lykes has no other vessels available and none can be secured from private sources at any rate. The factual data presented in support of the testimony above is not challenged.

Waterman operates unsubsidized services in these trade areas and opposes the application. Its counsel argues that no special emergency has been proven by Lykes and urges that if the application is approved, the vessels should be restricted to a particular route rather than allow them to be shifted at will from one route to another.

Counsel for the Board suggests that certain limitations might be imposed to prevent the chartered vessels from competing with subsidized vessels.

In view of the short time contemplated for use of the vessels, no such restrictions would appear necessary.

CONCLUSIONS AND RECOMMENDATIONS

The Board should find and so certify to the Secretary of Commerce that the Gulf/East Coast of United Kingdom, Continent, and Mediterranean services in which Lykes Bros. Steamship Co., Inc., proposes to bareboat charter five Government-owned, war-built, dry-cargo vessels is in the public interest, that such services would not be adequately served without the use therein of such vessels, and that privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such services.

FEDERAL MARITIME BOARD

No. M–24

Coastwise Line—Application to Bareboat Charter War-built Dry-cargo Vessels for Use in the Pacific Coast-Alaska Service

Report of the Board

This is an informal proceeding instituted by the Board pursuant to Public Law 591, 81st Congress, which requires the Board to hold public hearings on applications for bareboat charters of Government-owned, war-built, dry-cargo vessels, and to make certain findings with appropriate certification thereof to the Secretary of Commerce. In accordance with such law, notice of this hearing was published in the Federal Register of March 13, 1951. The usual notice of 15 days was not given because of the urgency of the matter.

STATEMENT OF FACTS

Applicant requests bareboat charter of two Government-owned, war-built, dry-cargo Liberty-type vessels for use in its combined Pacific coastwise, Pacific coast/Alaska, Pacific coast /British Columbia and intra-Alaskan service. Its witness testified that the two vessels applied for are urgently required to supplement its regular berth service now maintained by two privately-owned and three privately-owned chartered vessels, and are required to accommodate cargo being offered for movement beginning approximately April 1, 1951, which cannot be handled by its existing vessels, and that such cargo as moves in the Pacific coast/Alaska and intra-Alaskan segments of their combined service is principally for use by the military or by contractors in connection with the national defense program.

Applicant requests that one vessel be made available to it in time to commence loading April 1, 1951, and the other in time to commence loading approximately April 15, 1951. Applicant states that it is unable to charter privately-owned American-flag vessels on reasonable conditions and at reasonable rates for use in this service, and represents that the service is required in the public interest and is not adequately served.

Applicant requests charter for indefinite period subject to termination by either party on such notice as may be agreed and subject to annual review by the Board.

A representative of the Interior Department appeared in support of the application and testified that augmentation of applicant's Pacific coast/Alaska and intra-Alaska service is needed for the national defense and the economy of Alaska, and that construction and other materials will move in this trade in greater quantities this year than ever before.

A letter dated March 15, 1951, was received in evidence from the Corps of Engineers, U. S. Army (Office of the Division Engineer, North Pacific Division, Portland, Oregon) addressed to applicant advising that the Army Engineers have a large scale construction program for the Army Air Force in Alaska in 1951 and 1952 many times greater than it had in 1949 and 1950, that the construction material is to be shipped by the contractors from Pacific coast domestic ports, and that in addition there is a large military procurement of lumber in southeast Alaska for delivery to southwest Alaska.

A traffic representative of the Crown Zellerbach Company, a principal manufacturer and distributor of paper products on the Pacific coast, appeared in support of the application and testified that the shortage of box cars is seriously affecting their production capacity and that there is an urgent need for additional coastwise transportation facility. This witness testified that in 1950 Zellerbach shipped from Oregon to California alone over 48,000 tons via vessels of the applicant and that if additional vessels were provided they could more than double this movement. They anticipate additional vessels would also enable them to increase the movement from their Port Townsend, Washington, plant to California, which has been averaging around 30,000 tons per year.

Alaska Steamship Company, a competitor of applicant in the Alaska trade, serves Alaska only from Puget Sound ports and, as does the applicant, maintains an intra-Alaska service. Alaska Steamship Company opposed the application on the ground that there had been no showing of inadequacy of service since Alaska Steamship Company had not had to refuse any dry-cargo offerings in the competitive services; and it would be able to accommodate present and anticipated shipping requirements. Alaska Steamship now operates nine privately-owned and nine vessels bareboat chartered from the Government under Public Law 591.

Counsel for the Board pointed out that in measuring adequacy or inadequacy of service, factors in addition to the spot condition of cargo offerings or the space utilization of vessels on particular voyages should be considered in connection with a regular service. He urged that

proper emphasis should be given to whether or not there is need for vessels to insure greater regularity of sailings, reasonable continuity, promptness, and other factors which make a berth service valuable to shippers.

FINDINGS AND CERTIFICATION TO THE SECRETARY OF COMMERCE

On the basis of the facts adduced of record, the Board finds and hereby certifies to the Secretary of Commerce:

1. That the service considered is required in the public interest;
2. That such service is not adequately served; and
3. That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

By order of the Board.

(Sgd.) R. L. McDONALD,
Assistant Secretary.

MARCH 26, 1951.
3 F. M. B.

FEDERAL MARITIME BOARD

No. M–27

AMERICAN PRESIDENT LINES, LTD., AND PACIFIC FAR EAST LINE, INC.—APPLICATIONS TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO REFRIGERATED VESSELS FOR USE IN THE TRANSPACIFIC TRADE

FINDINGS, CERTIFICATION, AND RECOMMENDATION OF THE FEDERAL MARITIME BOARD TO THE SECRETARY OF COMMERCE

This is an informal proceeding instituted by the Board pursuant to Public Law 591, 81st Congress, which requires the Board to hold public hearings on applications for bareboat charter of Government-owned, war-built, dry-cargo vessels, and to make certain findings with appropriate certification thereof and recommendations thereon to the Secretary of Commerce. In accordance with such law, notice of this hearing was published in the Federal Register of March 27, 1951, and hearing held before an examiner on April 2, 1951. The usual notice of 15 days was not given because of the urgency of the matter.

The examiner's decision was handed down on April 4, 1951, and, by stipulation of the parties, the time for filing exceptions expired April 5, 1951, at the close of business. No exceptions were filed,[1] and a memorandum in support of the recommended decision of the examiner was filed by one of the applicants, American President Lines, Ltd.

The examiner has recommended that both applicants have qualified under the provisions of Public Law 591, 81st Congress, and that the Board should make the required statutory findings to the Secretary of Commerce. We agree with the conclusions of the examiner and adopt his findings and conclusions as our own.

FINDINGS, CERTIFICATION, AND RECOMMENDATION

On the basis of the facts adduced of record, the Board finds and hereby certifies to the Secretary of Commerce:

[1] On April 6, 1951 (after time for filing exceptions had expired), a letter was filed by Pacific Transport Lines, Inc., requesting that certain restrictions be included in the charter.

1. That the service under consideration is required in the public interest;

2. That such service is not adequately served; and

3. That privately-owned American-flag vessels are not available for charter from private operators on reasonable conditions and at reasonable rates for use in such service.

The Board recommends that adequate provision be made to protect the interest of the Government under its operating-differential subsidy contracts with the applicant, American President Lines, Ltd.

Board Member Williams, being absent from the city, took no part in this decision.

By the board.

(Sgd.) A. J. WILLIAMS,
Secretary.

APRIL 9, 1951.
3 F.M.B.

FEDERAL MARITIME BOARD

No. M–27

AMERICAN PRESIDENT LINES, LTD., AND PACIFIC FAR EAST LINE, INC.—APPLICATIONS TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO REFRIGERATED VESSELS FOR USE IN THE TRANSPACIFIC TRADE

The Board should find and so certify to the Secretary of Commerce that the transpacific service in which American President Lines, Ltd., and Pacific Far East Line, Inc., propose to bareboat charter two Government-owned, war-built, dry-cargo refrigerated vessels is in the public interest, that such service would not be adequately served without the use therein of such vessels, and that privately-owned American-flag refrigerated vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

Noah M. Brinson and *A. B. Luckey, Jr.*, for American President Lines, Ltd.

William Radner for Pacific Far East Line, Inc.

L. W. Hartman for American Mail Line.

Hans S. Ericksen for Pacific Transport Lines, Inc.

Paul D. Page, Jr., and *Max E. Halpern* for the Board.

RECOMMENDED DECISION OF A. L. JORDAN, EXAMINER

Hearing on these applications was held April 2, 1951, in accordance with Public Law 591, 81st Congress, pursuant to notice in the Federal Register of March 27, 1951.

The questions to be determined are whether applicants have shown that the transpacific service for which the vessels here involved are proposed to be chartered is required in the public interest, whether such service would be adequately served without the use therein of such vessels, and whether privately-owned American-flag vessels are available for charter on reasonable conditions and at reasonable rates for use in such service.

The applications under consideration are for permission to charter the C–2 type refrigerated vessels *Sea Serpent* and the *Lightning*, laid up on the West coast, and stated to be the only two reefer vessels presently available. Both applicants request allocation of these vessels. Each applicant opposes the allocation of both vessels to the other ap-

plicant, and each takes the position that it is entitled to and will accept a minimum of one of such vessels.

PACIFIC FAR EAST LINE, INC.

By application dated March 16, 1951, this applicant states that it now operates six reefer vessels under charter from the Government in the transpacific trade; that it is advised by the Military Sea Transportation Service that there is urgent need for additional reefer capacity in this trade; that the proposed operation of the two vessels here involved will necessitate the handling of cargo from California ports and Seattle, to be discharged at transpacific destinations designated by the military authorities, and at Adak, Alaska; that scheduled operations of these vessels would be synchronized with applicant's existing fleet of six reefer vessels satisfactory to MSTS and the Maritime Administration; and that in the event requirements for reefer vessels should be reduced in the future, these vessels should be returned to the reserve fleet promptly in order to avoid undue interference with the basic six-vessel operation of applicant's present reefer fleet.

The two reefer vessels here involved are generally the same type as the six reefers now operated in the transpacific service, that is, basically the C–2 type freighter design, modified for refrigerated cargo installations. They have a capacity of approximately 325,000 cubic feet each, which is about 8,000 measurement tons of 40 cubic feet. Allowing for broken stowage, this works out to approximately 6,500 stowed tons per vessel.

Applicant has been operating the six reefer vessels referred to in the transpacific trade since 1946. This service operates primarily out of California ports. The vessels do not call at Portland, Oregon, but have called at Puget Sound ports at the request of military authorities to load military cargo both to Alaska and to Oriental destinations. Applicant does not load commercial cargo, either dry or reefer, to the Orient out of Puget Sound, nor does it discharge such cargo from the Orient into Puget Sound. Applicant's witness states that there is no intention to depart from this practice unless it appears that the existing lines find themselves in a position where they are unable to handle the movement of traffic, and the movement is cleared by applicant with the existing lines. This, applicant assures, will continue to be its policy with one or both of the ships here involved if the application is granted.

The destination points served with applicant's six reefer vessels are Adak, Alaska, Japan, Okinawa, Guam, and Hong Kong. The two vessels here applied for are to be integrated into this service. Military cargo receives preference, and non-military cargo space is made available only after all military requirements have been provided for. Ap-

plicant's present fleet of six reefer vessels are making about three sailings per month, and providing about 1,000,000 cubic feet of reefer space per month. Without this capacity there would be a serious inadequacy of reefer space in the areas served. Approximately 90 per cent of the cargo handled is military and less than 10 per cent commercial. The vessels sail substantially full, and there is a growing need by the military for additional refrigerated space. The service is primarily an outbound one, but small amounts of reefer and non-reefer cargo have been secured homebound to California ports.

With applicant's presently operated six reefers in this service its frequency spread of sailings is eight to nine days, and with two additional reefers the spread would be six to seven days. In connection with integrating additional vessels it would be easier, the witness states for one company to synchronize the scheduling, but he sees no difficulty if it is handled by two companies.

Applicant's witness further testified that he has investigated the availability of privately-owned American-flag refrigerated cargo vessels and finds none suitable for transpacific operation other than the ships of the United Fruit fleet, which obviously are not available for charter for such operation; and there is not at this time, he states, privately-owned reefer tonnage in the transpacific trade adequate to handle the current additional military requirements.

With respect to charter period of time, applicant requests charter for the duration of military requirements.

AMERICAN PRESIDENT LINES

By application dated March 17, 1951, this applicant states that it is informed by the MSTS that two vessels of the type here involved are needed as promptly as possible for use in the transpacific service; and that predicated upon this need applicant requests at least one of the two C–2 type refrigerated vessels named.

This applicant's witness testified that his company is substantially in agreement with the testimony of Pacific Far East Line. His company believes it is entitled to allocation of one of the reefer-type vessels involved and offers no objection to a similar allocation to Pacific Far East Line, but would strongly object to the allocation of both vessels to Pacific Far East Line. American President Lines' application for one or both of the vessels for employment in the Pacific is based primarily on military needs for additional refrigerated space to supply American forces in Alaska and the Far East. Allocation of at least one of the vessels will, it is stated, afford this applicant increased reefer space to meet its obligations to MSTS under its existing reefer-space contract.

Both applicants, the witness states, pursuant to understanding with MSTS, have formulated plans and schedules for the complete integration of the two additional vessels with the six now under bareboat charter to Pacific Far East Line, and realize that they must operate as a unit under the control of MSTS.

With respect to calling the additional vessels at Pacific Northwest ports (Oregon and Washington) to lift or discharge commercial reefer and dry cargo, the position of American President Lines is the same as that hereinbefore stated by Pacific Far East Line.

The witness also states that there are no privately-owned American-flag refrigerated vessels available for charter in the service under consideration.

A representative of Military Sea Transportation Service testified in support of releasing two reefer vessels from the Maritime laid up fleet to commercial operators for implementing the present berth schedule of commercial reefers operating from the West coast area to the Far East. He further testified that in order to meet the needs of the armed forces both vessels must have the option to receive cargo at San Francisco, Seattle, or both; that due to the Korean requirements, the present six reefer vessels in this trade will be inadequate to support the Army's increased reefer need; and that already for the month of April a full reefer cargo remains unbooked, and it is desirous that the two vessels involved be ready for cargo April 10 and April 20, 1951, respectively.

This witness also testified that he is familiar with the fact that the American Mail Line maintains partial reefer service on five of its nine vessels that serve Yokahoma, among other destinations, and he states that the use in the Northwest of the two vessels applied for, if released, is not to eliminate utilization by MSTS of the reefer space American Mail Line operates or has available. The witness further testified that it is of no interest to MSTS whether one or more of the vessels applied for is assigned to either or both applicants, and that the only interest of MSTS in this respect is that the schedule must be integrated with the other reefers, synchronized as a unit, which both applicants assure. MSTS desires the ships for military cargo out of Seattle but has no objection to their receiving commercial cargo out of Los Angeles and San Francisco on any occasion when military cargo would be insufficient to fill the ship.

Pacific Transport Lines, Inc., through its Washington, D. C., representative, takes the position that while it in no way opposes these applications for military requirements, it feels that to the extent reefer service carries commercial dry cargo out of California ports the charters should contain suitable restrictions to protect privately-owned tonnage operating in the same trade routes. The representative of Pacific

Transport did not testify or offer any evidence on his stated position, or outline any type of restriction.

American Mail Line, through counsel, states that it has no objection to the applications in view of the assured policy (reflected in this report) of both applicants limiting utilization of chartered reefer vessels to military reefer cargo out of the Northwest.

CONCLUSIONS AND RECOMMENDATIONS

The two C–2 type refrigerated vessels *Sea Serpent* and *Lightning* applied for are requested for use primarily to provide military requirements in the Far East. The applications are predicated upon and supported by military necessity. No testimony was adduced at the hearing in opposition to granting the applications. Testimony was offered showing that no privately-owned American-flag reefer vessels are available for charter by private operators. Applicants have met the statutory requirements of Public Law 591, 81st Congress.

The Board should find and so certify to the Secretary of Commerce that the transpacific service in which American President Lines, Ltd., and Pacific Far East Line, Inc., propose to bareboat charter two Government-owned, war-built, dry-cargo refrigerated vessels is in the public interest, that such service would not be adequately served without the use therein of such vessels, and that privately-owned American-flag refrigerated vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

FEDERAL MARITIME BOARD

No. M–16

PACIFIC-ATLANTIC STEAMSHIP CO.—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO VESSELS FOR EMPLOYMENT IN THE INTERCOASTAL TRADE

No. M–17

POPE & TALBOT, INC.—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO VESSELS FOR EMPLOYMENT IN THE INTERCOASTAL TRADE

No. M–28

LUCKENBACH STEAMSHIP COMPANY, INC.—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO VESSELS FOR EMPLOYMENT IN THE INTERCOASTAL TRADE

REPORT OF THE BOARD

This proceeding was instituted pursuant to Public Law 591, 81st Congress, upon applications of Pacific-Atlantic Steamship Company and Pope & Talbot, Inc., to bareboat charter Government-owned, war-built, dry-cargo vessels for use in the intercoastal trade.

Luckenbach Steamship Company, Inc., by telegram of March 22, 1951, made certain objections and observations concerning these applications and applied for a charter of an unnamed number of vessels in proportion to its owned vessels.

The examiner served his recommended decision on April 11, 1951, and no exceptions were filed within the two-day period provided for in the notices of the hearing published in the Federal Register on March 27, 1951, and March 30, 1951. Pacific-Atlantic filed a memorandum in support of the examiner's recommended decision.

The examiner has recommended that the statutory findings be made to the Secretary of Commerce with respect to the intercoastal service involving Pacific-Atlantic Steamship Company and Pope & Talbot,

Inc., and further recommends that the record be held open for such further hearings or consideration as may be deemed necessary by any party or by the Board in the light of conditions existing at the time the voyages are about to be terminated.

By agreement between counsel the applications of Pacific-Atlantic Steamship Company and Pope & Talbot, Inc., were limited to one and a half voyages for each of the three vessels operated by these two applicants, and the applicants agreeing that delivery of such vessels shall be made on the Atlantic coast and all expenses incident thereto shall be absorbed by such applicants. After agreement had been reached by the parties limiting the charters to one and one-half voyages for each vessel, Luckenbach thereupon agreed that consideration of its application and objections should be deferred.

The facts adduced in this record and the record in other proceedings firmly establishes that the intercoastal service is in the public interest. This record is equally clear that such service would not be adequately served without the continued use of the three vessels each now being operated by applicants.

Testimony offered by witnesses of the applicants, Pacific-Atlantic Steamship Company and Pope & Talbot, Inc., clearly indicates that suitable privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

FINDINGS AND CERTIFICATION TO THE SECRETARY OF COMMERCE

On the basis of the record in this proceeding, the Board finds and hereby certifies to the Secretary of Commerce;

1. That the intercoastal service is required in the public interest;
2. That such service, beginning after April 15, 1951, will not be adequately served without the use therein of vessels of the type applied for; and
3. That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

It is recommended that the charters be limited to one and one-half voyages for each vessel applied for, such voyages to terminate on the Atlantic coast, with a requirement that the charterers shall assume all expenses incident thereto and that the charter hire payable thereunder shall continue to be not less than 15% of the statutory sales price of the vessels chartered, as provided by section 5(b) of the Ship Sales Act of 1946, as amended.

The record will be held open for such further hearing or consideration

as may be deemed necessary by any party or by the Board in the light of conditions existing at or about the time the voyages are to be terminated.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

APRIL 17, 1951.

FEDERAL MARITIME BOARD

No. M–25

ISTHMIAN STEAMSHIP COMPANY—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE GULF INTERCOASTAL TRADE

FINDINGS, CERTIFICATION, AND RECOMMENDATION OF THE FEDERAL MARITIME BOARD TO THE SECRETARY OF COMMERCE

This proceeding was instituted by order of the Board pursuant to Public Law 591, 81st Congress, for the purpose of considering the application of Isthmian Steamship Company for the bareboat charter of Government-owned, war-built, dry-cargo vessels in the Gulf intercoastal trade.

The examiner, on April 13, 1951, filed his decision recommending that the Board find and certify to the Secretary of Commerce that the applicant has met the statutory requirements of Public Law 591.

Time for filing exceptions expired on April 20, 1951, and no exceptions were filed.

We agree with the recommendations of the examiner and adopt his findings and recommendation as our own.

The Isthmian application was originally for the charter of two AP–2 Victory-type vessels at charter hire of 5 percent of the statutory sales price of the vessel, but during the hearing before the examiner the applicant offered an amendment to the application to accept the vessels on the same terms and conditions as were granted to Luckenbach Gulf Steamship Company pursuant to the Board's decision in Docket M–14, decided March 14, 1951, covering charter of vessels in the same trade. In that decision the Board made all of the required findings under Public Law 591, including a finding "that the trade will not be adequately served without the four vessels now serving it, or their equivalent." Pursuant to the Board's decision in that case, the Maritime Administrator authorized a charter to Luckenbach Gulf Steamship Company of two AP–2 Victory-type vessels, there being in service at that time two Luckenbach privately-owned vessels subsequently withdrawn and placed in the company's North Atlantic intercoastal service.

Isthmian proposes a synchronization of its operation with Luckenbach's operation, and, while the details of the proposed coordinated sailings and ports have not been worked out, a coverage of all principal ports on the Pacific coast and ports in the Gulf of Mexico is contemplated.

Isthmian is a certificated common carrier in the Gulf intercoastal trade and has operated before and since World War II in the Gulf intercoastal trade with its own and chartered vessels. It discontinued operations in that trade about August 23, 1950. Its owned fleet is principally engaged in offshore operations.

There has been no substantial change in the Gulf intercoastal trade since our decision in Docket M–14. The record in this case fully substantiates this fact. Much of the testimony adduced in Docket M–14 was by stipulation incorporated in the record in this case.

FINDINGS AND CERTIFICATION TO THE SECRETARY OF COMMERCE

On the record adduced in this case, the Board accordingly finds and hereby certifies to the Secretary of Commerce that the Gulf intercoastal service is in the public interest; that such service will not be adequately served without the use therein of two additional Government-owned, war-built, dry-cargo vessels; and that suitable privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

RECOMMENDATION

The Board recommends that the basic charter rate be fixed at 15 percent of the statutory sales price of the vessel or of the floor price, whichever is higher, of which 8½ percent is payable unconditionally and the remainder of 6½ percent payable if earned, under the same general conditions as now prevail.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.

APRIL 23, 1951.

FEDERAL MARITIME BOARD

No. M–25

ISTHMIAN STEAMSHIP COMPANY—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO VESSELS FOR USE IN THE GULF INTERCOASTAL TRADE

The Board should find and so certify to the Secretary of Commerce that the Gulf intercoastal service in which the Isthmian Steamship Company proposes to bareboat charter two Government-owned, war-built, dry-cargo AP–2 Victory-type vessels is in the public interest, that such service would not be adequately served without the use therein of such vessels, and that privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

Wendell W. Lang and *Thomas F. Lynch* for Isthmian Steamship Company.

William Radner for Luckenbach Gulf Steamship Company.

Willis R. Deming for American President Lines, Ltd.

Paul D. Page, Jr., and *Max E. Halpern* for the Board.

RECOMMENDED DECISION OF A. L. JORDAN, EXAMINER

Hearing on this application was held April 5, 1951, in accordance with Public Law 591, 81st Congress, pursuant to notices in the Federal Register of March 13 and 29, 1951.

The application under consideration is for permission to charter two AP–2 Victory-type vessels for operation in the Gulf intercoastal service at 5% charter hire, but applicant is willing to accept such vessels under the same terms and conditions as two AP–2 Victorys were chartered to Luckenbach pursuant to the Board's decision of March 1, 1951, in Docket No. M–14.

Isthmian desires the two vessels applied for at the earliest practicable date in order to synchronize the use of them with the two Victorys now in operation in this service by Luckenbach. Delivery is desired at a Gulf port, preferably New Orleans or Mobile.

Charter for indefinite period is requested, preferably not less than a year unless the vessels should be required for the military or other urgent national use.

Before and since World War II Isthmian has operated both its own and chartered vessels in this service. It has been in the trade since 1929. In 1937 it joined the Gulf Intercoastal Conference, and in 1939 undertook a staggering of its service with Luckenbach which continued until 1941 when, along with others, it was ordered to discontinue due to the war. Isthmian returned after the war, again operating jointly with Luckenbach, and remained until termination of general agency with the Maritime Commission. During 1948 and a part of 1949 and 1950 it operated some of its own, some bareboat, and some time chartered vessels in this service. After outbreak of the Korean situation it became impossible, it is stated, to obtain privately-owned time charters at acceptable rates for the Gulf service.

Isthmian and Luckenbach are the only certificated common carriers in the Gulf intercoastal trade. Both normally serve the principal Pacific coast and Gulf ports.

Isthmian's witness testifies that a 60-day turnaround is planned which, synchronized with Luckenbach's operation, would mean two sailings monthly in each direction. He states that while details of the proposed synchronized sailings and ports have not been worked out, they contemplate coverage of the whole range of principal ports, such as Seattle (Puget Sound), Portland (Columbia River), San Francisco (East Bay), Los Angeles (Long Beach), Houston, New Orleans, Mobile, and Tampa. He estimates that on this basis the four vessels would load to about 65% of capacity.

Isthmian owns four C–3 type and four pre-war type vessels. These are engaged in off-shore operations, some of which are supplemented with time-chartered ships. At present the company does not operate any vessel in the Gulf intercoastal service, the last sailing having been August 23, 1950. Since then, applicant states it has been unable to obtain suitable vessels at acceptable rates for this service. However, it maintains offices or agencies and docking facilities in the ports served. It is also a party to tariffs which provide for joint ocean, barge, motor, and rail carrier rates showing interior areas served through the Gulf from Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Missouri, Mississippi, Minnesota, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin. The commodities carried in the trade are steel, canned goods, petroleum products, agricultural products, and general cargo.

A summary of Isthmian's Gulf intercoastal operating and financial results for the years 1940 and 1947 through 1950 are shown in Appendix A. This shows a loss of $1,669,846 for the period covered. Expenses, the witness states, have run about 15% ahead of revenue, due principally to increased labor charges. Overhead is about 8% of gross

revenue. Freight rates, it is stated, were increased about 2% effective April 7, 1951. Freight rates are maintained in close relationship to rail rates, the latter being the ceiling. On the basis of a 60-day turnaround, sailings as to ports coordinated with Luckenbach, the operation would result, it is stated, in a substantial loss, roughly $30,000 a voyage at a charter hire of 8½%. Notwithstanding such loss applicant states that it is willing to make a further effort to rehabilitate the service.

Applicant's witness states that four Victory-type vessels are required to adequately serve the Gulf intercoastal trade; that only two such vessels are in it now; that Luckenbach's withdrawal of two of the four it had has resulted in an embargo of the entire west Gulf-Texas and Pacific Northwest ports, greatly increasing the need for additional tonnage.

Isthmian's witness further testifies that he has investigated the charter market and no privately-owned Victory-type vessel is available; that the time charter hire on such or comparable vessels would not be less than $70,000 a month. This, he states, is equivalent to about 40% bareboat, which the Gulf intercoastal service could not stand.

Limited to the questions of public interest and adequacy of service, it was stipulated into this record that certain witnesses who testified in Docket No. M–14 (Luckenbach Gulf intercoastal application) would, if called, give the same testimony in this proceeding. The witnesses were representatives of the Defense Transport Administration, the Secretary of Agriculture, and several shippers. The substance of their testimony is that reduction in steamship capacity would injure the national defense effort, and that thousands of shippers need and rely upon the service and would be greatly disadvantaged without it.

Counsel for the American President Lines, Ltd., participated in the hearing but took no position in support or opposition to the application.

Luckenbach Gulf Steamship Company states that it has no objection to the application in view of Isthmian's stated plan to properly synchronize its operation with the operation of the two vessels chartered by Luckenbach pursuant to the Board's findings of March 1, 1951, in Docket No. M–14.

The Board's counsel offered for consideration a communication from Crown-Zellerbach Corporation. By agreement of all counsel, it was received in the record with the understanding that it shall not be considered as evidence of any facts, but merely as a statement of the party sending it and for all practical purposes the equivalent of statement of counsel. The communication urges approval of Isthmian's application.

CONCLUSIONS AND RECOMMENDATIONS

There are two AP–2 Victory-type vessels presently operated in the Gulf intercoastal trade. Four such or comparable vessels are required in order to provide adequate service. No testimony was adduced at the hearing in opposition to granting this application. Testimony was offered showing that no privately-owned American-flag Victory-type vessels are available for charter by private operators. Applicant has met the statutory requirements of Public Law 591, 81st Congress.

The Board should find and so certify to the Secretary of Commerce that the Gulf intercoastal service in which Isthmian Steamship Company proposes to bareboat charter two Government-owned, war-built, dry-cargo AP–2 Victory-type vessels is in the public interest, that such service would not be adequately served without the use therein of such vessels, and that privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

APPENDIX A

Isthmian's Intercoastal Operations (Gulf Service)

Year	Number of voyages [1]	Net tons	Average rate per ton of revenue	Average cost per ton of cargo	Charter hire	Gross revenue	Expenses before overhead	Net result before overhead [2]
1946	31	257,096	$10.19	$11 16	$867,871	$2,653,561	$2,778,937	—[3] $125,376
1947	17	109,709	13.65	22.72	99,474	1,495,375	2,089,499	—565,508
1948	12	93,789	15.51	24.03	111,720	1,489,356	2,064,703	—575,347
1949	10	78,565	17.23	20.59	64,415	1,303,490	1,481,708	—178,218
1950	7	13,437	20 16	37.70	197,246	231,097	456,494	—225,397
Totals	77	552,596	15.35	23.25	1,340,726	7,172,879	$8,871,341	—1,669,846

[1] Westbound, eastbound, round trip, not here separated.
[2] Vessels owned, chartered, GAA, not here separated.
[3] — Represents a loss.

FEDERAL MARITIME BOARD

No. M–26

PACIFIC FAR EAST LINE, INC.—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY-CARGO VESSELS FOR USE BETWEEN PACIFIC COAST PORTS OF THE UNITED STATES AND PORTS IN THE MEDITERRANEAN AREA.

William Radner for applicant.
John E. Andrews for States Marine Corporation.
Paul D. Page, Jr., and *Max E. Halpern* for the Board.

REPORT OF THE BOARD

This proceeding was instituted by order of the Board (Federal Register March 27, 1951) pursuant to Public Law 591, 81st Congress, for the purpose of considering the application of Pacific Far East Line, Inc., to bareboat charter four Victory- or Liberty-type vessels for operation in its service between Pacific coast ports of the United States and ports in the Mediterranean area, including, without limitation, ports in Italy, Greece, Turkey, Yugoslavia, Israel, and North Africa. The examiner's decision, served April 12, 1951, recommends that the Board make the required findings under Public Law 591. Exceptions were filed to the recommended decision by States Marine Corporation of Delaware. We accept and adopt the statutory findings of the examiner.

Pacific Far East Line, Inc., has operated a berth service on the route covered by the application for the period of more than a year and has attempted to provide monthly sailings, although according to testimony offered, such a schedule has not been met in recent months for the reason that privately-owned tonnage has not been available for charter at reasonable rates. This service is now being operated by applicant primarily with privately-chartered vessels although one of the applicant's own vessels, the *China Bear,* is scheduled to move in April 1951. The company hopes to replace this sailing of the *China Bear* with a vessel to be chartered from the Government pursuant to this application so as to permit placing the *China Bear* back in the applicant's transpacific service. The applicant owns eight C–2- and Victory-type vessels

and charters from private sources about twelve C–2, C–3-, Victory-, and Liberty-type vessels. It also charters about twelve vessels from the Government, of which seven are reefers and five are Victorys rechartered on a per diem basis to Military Sea Transportation Service.

The company has need for all its owned and chartered vessels presently operated in its transpacific service in that area, where the applicant's vessels as well as most others are now running loaded to approximately 100 percent of capacity outbound from the Pacific.

The applicant's vessels chartered from private owners which are being used in its Mediterranean service have been chartered on a voyage basis from the Pacific coast to the Mediterranean and back to the North Atlantic coast of the United States with redelivery north of Hatteras. Applicant states that these private charters cannot be renewed at reasonable rates, and that the service is therefore jeopardized. If the application is granted the applicant expects to maintain monthly sailings to the Mediterranean, using vessels chartered from the Government exclusively. In 1950 there were two foreign-flag lines and two American lines operating from Pacific coast ports to the Mediterranean, making a total of thirty-five sailings during the year, of which ten were made by the applicant and six by States Marine, the other American-flag operator. One of the foreign-flag operators making eight sailings in 1950 has now suspended operations. In the first three months of 1951 the applicant and States Marine each have had two sailings, and each plans a third sailing in April.

The record amply confirms that the service contemplated is in the public interest. The record shows that the Mediterranean countries are now more dependent than before World War II upon a number of Pacific coast products, Israel being a particularly important destination. Many of these countries are now receiving aid from the United States. What this Board has said in prior cases with regard to the importance of the service from Atlantic and Gulf ports to the Mediterranean area applies with equal force to the service here involved from the Pacific coast.

Furthermore, the record clearly shows that the route from the Pacific coast to Mediterranean destinations is not even now adequately served, and in view of the contemplated termination of the applicant's charters of privately-owned vessels now operating in this trade, the service will be even less adequate in the future unless some relief is granted. According to a survey made by the applicant, there is a minimum of 235,000 long tons of cargo, exclusive of at least 25,000 tons of military cargo, for export from the Pacific coast on this route in 1951. In view of the reduction in service in 1951, with only three carriers on the route, applicant's testimony indicates that without its service the combined

sailings would be less than half of the minimum requirement, and with the applicant's projected sailings of one sailing a month would be not over 75 percent of the minimum requirement. The testimony clearly shows that the applicant will need four vessels in order to maintain a monthly sailing, with a 120-day turnabout. The possibility of delays at Mediterranean ports indicates that even this number may not be enough. The record is likewise clear that privately-owned American-flag vessels are not now available for charter on reasonable terms and at reasonable rates for use in the service contemplated.

States Marine Corporation, appearing at the hearing, expressly stated that it did not oppose the application. However, in its exceptions to the examiner's report it modified that position, declaring that it opposed in principle any bareboat chartering of Government-owned vessels which would permit an operator to maintain a berth service exclusively with such Government vessels. The record shows that the Pacific coast/Mediterranean service of States Marine Corporation has been maintained with vessels which it either owns or charters from private source.

The point raised in the exceptions does not attack the validity of the statutory findings of fact made by the examiner, which, as previously stated, we approve. It does, however, raise a question of policy which may well be taken into consideration by the Secretary of Commerce in exercising his discretion as to whether or not charters should be made for this service as the result of the present application.

The problem is not dissimilar from that presented in the application of Luckenbach Steamship Company, which recently applied in No. M–14 to bareboat charter four vessels for its Gulf intercoastal service. The charters were asked as continuations of existing charters, and two more were asked to permit the charterer to remove an equal number of owned vessels into other trades. In that case we said on March 1, 1951:

> There has been no dispute over the fact that four vessels are needed for this particular service at this time, but it does not follow that there is sufficient justification for the bareboat charter of Government-owned vessels to an operator in substitution for his own privately-owned vessels now in operation in the service under consideration, and we recommend against it.

On similar considerations we are not satisfied that, where competition exists as in this case, there is sufficient justification for the bareboat chartering of a Government-owned vessel to replace an owned ship of the applicant. In this instance we feel that the applicant should, while using Government-chartered ships, continue to maintain in the service either the *China Bear* or one of its other owned ships.

FINDINGS AND CERTIFICATION TO THE SECRETARY OF COMMERCE

On the record adduced in this case the Board accordingly finds and hereby certifies to the Secretary of Commerce that the Pacific coast/Mediterranean service operated by applicant is required in the public interest; that such service is not now and will not, without the addition of chartered vessels, be adequately served; and that suitable privately-owned vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

By the Board.

(Sgd.) R. L. McDONALD,
Assistant Secretary.

APRIL 26, 1951.

FEDERAL MARITIME BOARD

No. M–26

PACIFIC FAR EAST LINE, INC.—APPLICATION TO BAREBOAT CHARTER GOVERNMENT-OWNED, WAR-BUILT, DRY-CARGO VESSELS FOR USE BETWEEN PACIFIC COAST PORTS OF THE UNITED STATES AND PORTS IN THE MEDITERRANEAN AREA

The Board should find and so certify to the Secretary of Commerce that the Pacific coast/Mediterranean service in which Pacific Far East Line, Inc., proposes to bareboat charter four Government-owned, war-built, dry-cargo vessels is in the public interest; that such service would not be adequately served without the use therein of such vessels; and that privately-owned American-flag vessels are not available for charter from private operators on reasonable conditions and at reasonable rates for use in such service.

William Radner for applicant.
John E. Andrews for States Marine Corporation.
Paul D. Page, Jr., and *Max E. Halpern* for the Board.

RECOMMENDED DECISION OF C. W. ROBINSON, EXAMINER

This proceeding involves the application, under Public Law 591, 81st Congress, of Pacific Far East Line, Inc., hereinafter referred to as "applicant", to bareboat charter Government-owned, war-built, dry-cargo vessels for an indefinite period for operation in applicant's service between Pacific coast ports of the United States and ports in the Mediterranean area, including, without limitation, ports in Italy, Greece, Turkey, Yugoslavia, Israel, and North Africa. Notice of hearing was published in the Federal Register of March 27, 1951, and the matter was heard on April 2, 1951. The usual notice of 15 days was not given because of the urgency of the matter. There was no opposition to the application.

Applicant has operated a berth service on the route involved for over a year, and although it has tried to furnish approximately monthly sailings this has not been possible, in applicant's opinion, because of the unavailability of privately-owned tonnage at reasonable rates. The service is the only one by American-flag vessels from the Pacific

coast exclusively, and is the only one to Israel from the Pacific coast. Israel was stated to be the most important destination because of its growing population and industrialization. According to applicant, the Mediterranean countries now are more dependent than before World War II upon such Pacific-coast products as lumber, canned goods, and cotton. The largest operator of three on the route (a fourth has had no sailings since September 1950), applicant had 10 sailings in 1950 and two during the first 3 months of 1951.

Many of the countries on the route receive financial or other form of aid from the United States. Over 100 shippers on the Pacific coast were interviewed by applicant to ascertain their prospective traffic requirements. It is applicant's belief, based upon this survey, that a minimum of 235,000 long tons of cargo, exclusive of at least 25,000 tons of military cargo, will be available for export on the route in 1951. Sailings on the route have declined about 40 percent for the first 3 months of 1951 over 1950, in spite of the growth of traffic. Applicant has been forced to refuse large quantities of cargo, and shippers generally are unable to obtain space on any of the lines. Because of the shortage of space on the Pacific coast, large quantities of Pacific-coast cargo move by rail to Atlantic and Gulf coast ports for transshipment. In February and March 1951 over 2,000 tons of military cargo moved to Mediterranean destinations through Atlantic-coast ports rather than Pacific-coast ports. Some Pacific-coast shippers have failed to bid on many large orders for Mediterranean points because of the lack of space from the Pacific coast. Furthermore, it appears that some Pacific-coast traffic has been diverted to foreign-flag vessels because of the scarcity of American-flag tonnage. Although return cargo on the route is negligible, there has been a recent development of copper concentrates in Cyprus, for transportation to Tacoma, Wash., for stockpiling and industrial purposes. It is estimated that the copper concentrates movement will not expand into more than one cargo every 90 days (it is not clear whether the vessel will handle a full cargo of that commodity or merely part thereof in conjunction with other cargo).

The type of cargo (including lumber and military) moving on the route measures about 80 cubic feet per long ton, and after allowing for broken stowage, stows 90–100 cubic feet to the ton. On this basis, applicant estimates that about four sailings a month of Liberty vessels are needed to provide sufficient capacity to handle the volume of traffic with reasonable regularity, frequency, and dependability. Applicant prefers Victory vessels since speed is essential in a liner service, but Liberty vessels would be acceptable if the former are not available. Even if an average 120-day turnaround is possible with four Liberty

vessels (some voyages have been substantially longer), applicant is doubtful whether the service will be sufficient on the basis of the traffic projections. Since only three carriers serve the route, applicant is of the opinion that without its service the combined sailings would be less than half of the minimum requirement, and that even with applicant's vessels the service may be only 75 percent of the minimum. Furthermore, the deficiency will be increased if the other carriers reserve space for cargo out of Atlantic or Gulf ports.

The time-charter rate for privately-owned Liberty vessels has risen from about $30,000 per month prior to the commencement of hostilities in Korea to about $60,000 at the present time. Applicant's witness testified that owners of such vessels generally prefer full cargoes on a tramp basis because of high profits. Although Liberty vessels occasionally have been available in the past several months, the witness stated that any attempt on applicant's part to compete with bulk-cargo shippers would result in further increasing the inflationary pressure on rates. Applicant's eight owned vessels were said to be urgently required for service in the transpacific and Persian Gulf services. All American-flag vessels in the former trade have been running approximately 100 percent full out-bound because of the military situation in the Far East. Applicant's Mediterranean service is maintained almost entirely with chartered tonnage, and although one owned vessel is scheduled for that trade in April, it is hoped to put her back in the transpacific service if the present application is granted. It was testified that applicant is faced in the near future with the loss of its chartered tonnage in trades other than the one under consideration, and that applicant has not been able so far to work out any plans for its replacement.

Current charter rates of privately-owned vessels, according to applicant, make it impossible to operate a Mediterranean service because the trade is not profitable, the turnaround is extremely long, port conditions are poor, particularly in Israel, and, as already noted, homeward cargoes are negligible. In some instances there have been substantial out-of-pocket losses. Losses as high as $40,000–$50,000 per voyage are anticipated from operation under current charter rates and, on a basis of the Government rate of 15 percent, there probably will not be an appreciable profit after overhead, even under favorable conditions. For the past many months, applicant has chartered vessels on the Pacific coast for a single trip to the Mediterranean, with redelivery on the Atlantic coast. It was testified that efforts have been made to obtain privately-owned vessels and that inquiries have been made of brokers, but inasmuch as the market is so far out of reach

there is no use discussing the matter. Applicant points out that it receives no subsidy on any of its routes.

Conclusions and Recommendations

The Board should find and so certify to the Secretary of Commerce that the Pacific coast/Mediterranean service in which Pacific Far East Line, Inc., proposes to bareboat charter four Government-owned, war-built, dry-cargo vessels is in the public interest; that such service would not be adequately served without the use therein of such vessels; and that privately-owned American-flag vessels are not available for charter from private operators on reasonable conditions and at reasonable rates for use in such service.

FEDERAL MARITIME BOARD

No. M–23

ISBRANDTSEN CO., INC.—APPLICATION TO BAREBOAT CHARTER A WAR-BUILT DRY-CARGO VESSEL FOR USE AS ANIMAL CARRIER TO EUROPE

John J. O'Connor for Isbrandtsen Co., Inc.
Paul D. Page, Jr., and *Max E. Halpern* for the Board.

REPORT OF THE BOARD

This is a proceeding under Public Law 591, 81st Congress, upon an application of Isbrandtsen Co., Inc., made to the Maritime Administration, to bareboat charter the S. S. *Pass Christian Victory* for use as an animal carrier from ports in the United States to European ports. This report is on a motion by counsel for the Board to dismiss the application with prejudice for lack of prosecution.

An application to bareboat charter the *Pass Christian Victory* was first made by Isbrandtsen under date of November 10, 1950. After reference to the Board, hearing thereon was scheduled to be held on December 4, 1950, but, prior to the date of hearing, the application was withdrawn.

Isbrandtsen renewed the application in February 1951, and a hearing thereon was called, after due notice, on March 20, 1951, but Isbrandtsen did not appear at the hearing.

A hearing was then set for March 30, 1951. This was postponed upon Isbrandtsen's request until April 23, 1951, on which date Isbrandtsen again failed to appear, whereupon the above-mentioned motion was made.

Directed to show cause why the motion to dismiss with prejudice should not be granted, Isbrandtsen, appearing by counsel on May 10, 1951, made apology and stated that it still wished to charter the vessel in question. Its only excuse for its failure to appear at the hearings called in this proceeding was that the matter was forgotten.[1]

The Board is unable to make the statutory findings. There is as much to warrant dismissal of the application with prejudice here as existed for dismissal of the complaint with prejudice in *Weis-Fricker Mahogany Company* v. *M/V "F. V. Hill" and/or Peter Paul, Inc.*, 2 U. S. M. C. 705. Accordingly, the record is returned to the Maritime Administrator with recommendation that the application of Isbrandtsen Co., Inc., be dismissed with prejudice.

By order of the Board.

May 16, 1951.

(Sgd.) A. J. WILLIAMS,
Secretary.

[1] Applicant's counsel, during the oral argument on May 10, 1951, said: "I might state that while the company has been most regretful, and their forgetfulness, at the same time there has been a question whether or not within the company itself they had an immediate use for this specialized boat. On several occasions I had heard that conversation between representatives of the company, one feeling that they could use it; at the moment there was demand for it, and another doubtful about the availability of the business."

FEDERAL MARITIME BOARD

No. M–30

COASTWISE LINE—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY CARGO VESSELS FOR USE IN THE PACIFIC COAST-ALASKA SERVICE

No. M–31

ALASKA STEAMSHIP COMPANY—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY CARGO VESSELS FOR USE IN THE PACIFIC COAST-ALASKA SERVICE

REPORT OF THE BOARD

This is an informal proceeding instituted by the Board pursuant to Public Law 591, 81st Congress, to consider the application of Coastwise Line and of Alaska Steamship Company for the bareboat charter of war-built vessels and to make certain findings with appropriate certification thereof to the Secretary of Commerce. Notice of the hearing was published in the Federal Register on May 15, 1951, and the case was heard by an examiner, who has recommended that the Board make the findings required by Public Law 591. No exceptions were filed to the examiner's recommended findings, and we adopt such findings of fact and conclusions as our own.

Coastwise Line's application is for three war-built dry-cargo vessels to be operated in the Pacific coastwise-Alaska trade, including calls at Canadian ports, to supplement its present fleet of seven vessels, all of the Liberty type. Two of the seven vessels now operating are owned by Coastwise, three are privately chartered, and two are under charter from the Maritime Administration pursuant to the Board's decision in Docket M–24, decided March 26, 1951.

Alaska Steamship Company operates between Puget Sound ports and Alaska and between ports in Alaska. It employs in this service about twenty vessels, nine of which are bareboat chartered from the Government.

Testimony by witnesses of both companies indicates a substantial increase in the volume of Alaska traffic during the year 1951. Most

of this traffic is directly or indirectly connected with the national defense effort.

In the Pacific coastwise trade operated by Coastwise Line there has been a substantial increase in the southbound movement of lumber, aluminum bars, plywood, and other commodities, and due to the rail car shortage there is urgent need for additional vessels to carry this traffic.

Both applications are supported by the Department of the Interior, the Territory of Alaska, the military, and by private shippers.

In prior decisions of the Board it has been held that the Alaska service is required in the public interest. The record in this case substantially corroborates this finding.

Testimony offered by witnesses for both applicants indicates that efforts have been made to charter privately suitable vessels and that none are available on reasonable conditions and at reasonable rates for use in such service. Testimony likewise indicates that without the vessels applied for the service would not be adequately served. No opposition was offered to the application of either company.

FINDINGS AND CERTIFICATION TO THE SECRETARY OF COMMERCE

On the basis of the facts adduced of record, the Board finds and hereby certifies to the Secretary of Commerce:

1. That the service considered is required in the public interest;
2. That such service is not adequately served; and
3. That privately-owned American-flag vessels are not available for charter by private operators on reasonable conditions and at reasonable rates for use in such service.

By the order of the Board

(Sgd.) A. J. WILLIAMS,
Secretary.

JUNE 4, 1951.

FEDERAL MARITIME BOARD

No. M–30

COASTWISE LINE—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY CARGO VESSELS FOR USE IN THE PACIFIC COAST-ALASKA SERVICE

No. M–31

ALASKA STEAMSHIP COMPANY—APPLICATION TO BAREBOAT CHARTER WAR-BUILT DRY CARGO VESSELS FOR USE IN THE PACIFIC COAST-ALASKA SERVICE

The Board should find and certify to the Secretary of Commerce that the services for which applicants propose to bareboat charter Government-owned, war-built, dry-cargo vessels are required in the public interest; that such services are not adequately served, and that privately-owned American-flag vessels are not available for charter on reasonable conditions and at reasonable rates for use in such services.

William Radner and *Odell Kominers* for Coastwise Line.
Ira L. Evers for Alaska Steamship Company.
Irwin W. Silverman for Department of the Interior.
Max E. Halpern for the Board.

RECOMMENDED DECISION OF F. J. HORAN, EXAMINER

This is a proceeding under Public Law 591, 81st Congress, concerning an application of Coastwise Line to bareboat charter three Liberty-type vessels for operation in the Pacific coastwise-Alaska trade and an application of Alaska Steamship Company to bareboat charter three Liberty-type vessels or three C1–M–AV1's for operation in the Alaska trade.

Coastwise Line, which, prior to World War II, operated six vessels in the Pacific coastwise trade, is the only regular common carrier operating in this trade. It holds a certificate from the Interstate Commerce Commission authorizing such operation. With the exception of occasional calls made by Alaska Steamship Company's vessels at California ports, it also is the only common carrier operating

between ports in California, Oregon, and southwest Washington [1] and ports in Alaska, and it is the only common carrier that has a contract with the Military Sea Transportation Service for transportation from Los Angeles, San Francisco, and Portland to Alaska. In addition, it provides service between Seattle and Alaskan ports and from southeast to southwest Alaska. Its operations also embrace the trade between the United States, Alaska, and British Columbia. It is estimated that about 60 to 70 percent of its total traffic is carried between ports that are not served by other American-flag carriers. During the 1950 shipping season, it operated from five to seven vessels. It is now operating seven vessels, all of the Liberty type, two of which it owns, three of which it chartered on a long-term-contract basis from private owners, and two of which it chartered from the Maritime Administration.

Alaska Steamship Company has been operating in the Alaska trade for over fifty years. It serves the entire Alaskan territory, operating between Puget Sound ports and Alaska, between ports in Alaska, and occasionally between California and Gulf ports and Alaska. It employs in this service about twenty vessels, nine of which are bareboat chartered from the government.

The major portion of the traffic to Alaska is directly or indirectly connected with the national-defense effort. The volume in which this traffic is moving greatly exceeds the 1950 level, and the indications are that it will increase still further.

In the Pacific coastwise trade, there has been a substantial increase in the southbound movement of lumber, aluminum bars, plywood, and other commodities. Due to the rail-car shortage, there is an urgent need for vessels to carry this traffic.

All of Alaska Steamship Company's vessels are operating to Alaska substantially full. This applicant has received requests for space for over 14,000 tons which it has been unable to assign, and other requests are coming in daily from contractors with the Army District Engineer in Alaska, and from the Alaska Railroad, the Alaska Railroad Commission, and private shippers. In addition, it has a total of 380 automobiles, trucks and house trailers waiting for space, and it is receiving requests for space for about 75 to 100 additional units per week.

Likewise, Coastwise Line's vessels are operating at full capacity and are unable to handle all cargoes offered.

The peak of the shipping season in the Alaska trade is reached during June, July, and August, and, in the opinion of the executive vice president of Coastwise Line, even with the addition of six vessels

[1] The Washington ports are primarily lumber ports on the Columbia River and the Pacific Ocean.

to the trade, freight space will be tight during those three months of this year. This also is the opinion of the Chief of the Alaska Division of the Office of Territories of the Interior Department, who indicated that more than the six vessels involved in the two applications under consideration may be needed to move the traffic in the trade during the coming season. Military and Government programs contemplate an enormous increase in the volume of traffic during the next three months. In the view of the witness last mentioned, the winter movement, also, "is going to be far greater than we have ever had before, because we have let the contracts."

Applicants' witnesses testified to the effect that privately-owned American-flag vessels are not available for charter on reasonable conditions and at reasonable rates for use in the trades in question. No evidence indicating the contrary was presented.

Findings and Certification

The Board should find and certify to the Secretary of Commerce—

(1) That the service for which Coastwise Line proposes to bareboat charter three Liberty-type vessels and the service for which Alaska Steamship Company proposes to bareboat charter three Liberty-type vessels or three C1–M–AV1's are required in the public interest;

(2) That privately owned American-flag vessels are not available for charter on reasonable conditions and at reasonable rates for use in such services; and

(3) That such services are not adequately served.

FEDERAL MARITIME BOARD

No. M–29

PONCE CEMENT CORPORATION—APPLICATION TO BAREBOAT CHARTER A DRY-CARGO VESSEL FOR OPERATION FROM PUERTO RICO TO FLORIDA, CARIBBEAN AREA, AND NORTH ATLANTIC COAST OF SOUTH AMERICA

REPORT OF THE BOARD

This is an infomal proceeding instituted by the Board pursuant to Public Law 591, 81st Congress, to consider application of Ponce Cement Corporation for the bareboat charter of a war-built dry-cargo vessel, and to make certain findings with appropriate certification thereof to the Secretary of Commerce. Notice of the hearing was published in the Federal Register on May 8, 1951, and the case was heard by an examiner, who has recommended, among other things, that the Board should find and certify to the Secretary of Commerce, "(3) That there is no showing that such service is not adequately served." Exceptions were filed to the examiner's recommended decision by the applicant, and a memorandum in support of the recommended decision has been filed by Lykes Bros. Steamship Co., Inc. Oral argument was not requested.

Ponce Cement Corporation is a Puerto Rican corporation which manufactures at its own or controlled plants in Puerto Rico approximately 2,200 tons of cement per day. About 60 percent of the output is sold on the island and the balance, amounting to something over 200,000 tons per year, is exported to ports in Florida and also to ports in the Caribbean area and on the North Atlantic coast of South America. Of the applicant's exports it is estimated that better than 50 percent will be shipped to Florida in 1951. Applicant points out that availability of an export market for its product permits continuous operation of its plants and is essential to economical operation. Continuous operation also insures continuous employment of labor.

Applicant is applying to use the vessel sought to be charted solely to transport its own cargoes of cement and not to make the vessel available as a common carrier. It now owns and operates the Motor Vessel *Ponce*, having a deadweight capacity of 4,500 tons, and has charted a Honduran-flag Liberty-type vessel of about 10,000 tons deadweight capacity. This charter is renewable to September 3, 1951,

at the present charter rate which is deemed reasonable, but any further renewals of this or a similar type foreign- or American-flag vessel are not possible in the present market at rates deemed reasonable by the applicant. The *Ponce* is able to make deliveries to Florida ports every 10 to 14 days, and in the course of a year could probably lift 130,000 to 150,000 tons. Recently, applicant's Florida exports have not required the entire use of the *Ponce*, which has operated also as a carrier for others, carrying sulphur, phosphate, fertilizer, or other shipments that have been available.

Applicant has made unsuccessful attempts to charter privately-owned American-flag vessels to carry cement from Puerto Rico to Florida on a voyage-charter basis, and in addition has ascertained that American-flag vessels are not available for term charter at reasonable rates. There are common carriers operating from Puerto Rico to Venezuela and also from Puerto Rico to various ports in Florida. Applicant points out that it sells its product in Florida, Venezuela, Honduras, and over the Caribbean area wherever it finds a market, and its owned or chartered vessels in the past have criss-crossed the existing services which touch at Puerto Rico. Lykes Bros. Steamship Co., Inc., operates a service from Puerto Rico both to Tampa and Venezuela, and Waterman Steamship Corporation and Bull Insular Line operate from Puerto Rico to Florida east coast ports. Except for one or two shipments recently made by applicant to Tampa on Lykes vessels, the record fails to indicate that applicant has used the common carrier services calling at Puerto Rico. Applicant's witness also testified that some small craft lift cement at Puerto Rico for various markets. Applicant claims that berth operators have shown only occasional interest in the movement of cement, and space would only be offered when these operators were unable to obtain other cargoes. Therefore, applicant concludes that these services are irregular and undependable and not adequate to serve applicant's interest. The record fails to show that applicant offered any shipments to common carriers which were refused.

The service for which the application is made in this case is to cover the area of applicant's general export business. Applicant's own vessel, the *Ponce*, is apparently able to lift applicant's export cement except for 50,000 to 70,000 tons a year. Common carriers and small craft should be able to handle this balance. Whether the evidence in this case justifies a finding that the public interest requires the chartering of a Government-owned vessel for service of the type indicated (limited to a single product of a single exporter), and whether privately-owned American-flag vessels are available for charter on reasonable conditions and at reasonable rates need not be decided

at this time, since the record supports the examiner's finding that there is no showing that the service is inadequately served.

The Board is unable to make the statutory findings required by Public Law 591.

By order of the Board.

JUNE 8, 1951.

(Sgd.) A. J. WILLIAMS,
Secretary.

3 F. M. B.

FEDERAL MARITIME BOARD

No. S–25

AMERICAN PRESIDENT LINES, LTD.—INTERCOASTAL OPERATIONS, ROUND-THE-WORLD SERVICE

Decided June 13, 1951

Applicant or its predecessor in interest shown to have been in bona-fide operation as a common carrier by water in the intercoastal trade in 1935, and has so operated since that time except as to interruptions of service over which it had no control.

Reginald S. Laughlin for applicant.

William Radner, Odell Kominers, Sterling S. Stoudenmire, William I. Denning, and *Earl C. Walck* for interveners.

George F. Galland for the Board.

REPORT OF THE BOARD

This is a proceeding on an application filed by American President Lines, Ltd., for resumption of subsidized operations effective January 1, 1947, as to operations in its round-the-world service which were interrupted as a result of World War II.

The United States Maritime Commission executed an operating-differential subsidy agreement with applicant on October 6, 1938, covering operations of passenger vessels in the transpacific service and combination vessels in the round-the-world service, including intercoastal operations westbound. Applicant operated under this agreement and amendments thereto until prevented by war conditions in 1942. Operations were resumed as of January 1, 1947, with the approval of the Maritime Commission, subject, however, to the necessary findings, supplemental actions, and determinations required to be made by law.

In 1949 the Maritime Commission made some modifications in applicant's round-the-world service and provided for 24 to 26 sailings a year. In July 1950 Luckenbach Steamship Company, Inc., one of the interveners in these proceedings, protested applicant's intercoastal operation.

It appears that applicant has operated the intercoastal leg of its round-the-world service with the approval of the Maritime Commission, in each year since 1938, except for the war period, and received subsidy payments up to 1942. In order to meet the requirements of section 805(a) with respect to subsidy payments to applicant on its round-the-world service, including the intercoastal leg, accruing subsequent to January 1, 1947, we held a hearing on May 29, 1951, on the sole question whether, within the meaning of that section, applicant or its predecessor in interest was in bona fide operation as a common carrier by water in the domestic intercoastal trade in 1935 in connection with its round-the-world service, and whether it has so operated since that time except as to interruptions of service over which it had no control.

American-Hawaiian Steamship Company, Luckenbach Steamship Company, Inc., Waterman Steamship Corporation, and Pacific-Atlantic Steamship Company intervened but offered no testimony. Only the last-named intervener now asserts that applicant has not operated in the intercoastal trade since 1935.

Applicant's round-the-world service, including westbound domestic intercoastal via the Panamá Canal, was inaugurated in 1924 by applicant's predecessor in interest. In 1935, 26 voyages were made, transporting in the aggregate 73,103 revenue tons of freight and 1,563 passengers on the intercoastal leg. Applicant's witness testified that during that year and ever since, with the exception of the interruption of World War II, it has held itself out as ready, able, and willing to transport passengers and commodities in the intercoastal trade on its round-the-world vessels, and that it has done so as to all business offering, subject to availability of space. There would be no question to determine were it not for reductions in service at the end of 1936 and the beginning of 1937 and in 1938. The record shows that in 1936 there were in all 22 sailings, including two every month up to November, except April and October, when there were three sailings. In 1937 there were 24 sailings, including two every month, beginning with February, except that in May, October, and December there were three sailings, and in November, only one sailing.

Counsel for intervener Pacific-Atlantic Steamship Company state that there was a complete cessation of operation of service for the duration of 3 months and 7 days between October 29, 1936, and February 5, 1937, but it is pointed out by counsel for applicant that during the period in question the West coast long-

shoremen and crews declared a strike. The records of the former Maritime Commission show that this strike extended from October 30, 1936, until February 4, 1937. Applicant's testimony shows that one round-the-world voyage carrying intercoastal cargo was commenced on October 29, 1936, and another round-the world voyage carrying intercoastal cargo was commenced on February 5, 1937, the day after the strike ended.

Between December 31, 1937, and June 18, 1938, there were six sailings, in no case with an interval of as much as 60 days, and in both November and December of 1938 there were two sailings. As to the interval between June 18, 1938, and November 4, 1938, witness for applicant states that this reduction in service was caused by the strengthening of the company's financial position and management and by extensive repairs and improvement of vessels. He shows that during that year nine sailings were made, and although no voyages were begun during the period between June 19 and November 3, there was no time when at least one vessel was not in operation on the route. Throughout the year the company maintained its various intercoastal staff functions, continued to solicit intercoastal business, maintained its membership in the Intercoastal Steamship Freight Association, and remained party to westbound intercoastal rate schedules.

The record is convincing that the reductions in service above mentioned did not amount to a cessation or interruption of service.

We find that applicant or its predecessor in interest is shown to have been in bona-fide operation as a common carrier by water in the intercoastal trade in 1935 and has so operated since that time, except as to interruptions of service over which it had no control.

By order of the Board.

(Sgd.) A. J. WILLIAMS,
Secretary.