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A REVIEW OF THE JONES ACT AND RECOMMENDATIONS FOR A RENEWED MERCHANT MARINE

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ABSTRACT

The purpose of this thesis is to examine the Jones Act and the U.S. merchant fleet to determine if changes to the act are necessary and offer recommendations that could improve the act. The Jones Act, which specifically refers to Section 27 of the "Merchant Marine Act of 1920", sets the requirements for ships to be United States flagged and eligible to transport goods and people between two United States ports. The Jones Act has remained untouched since it was passed in 1920 after the negative experiences the United States maritime industry faced during World War I. Many papers and debates have been had regarding the Jones Act over the years with the debate heating up more recently. Thus, it appeared to be an important time to gain a greater understanding of the act and its effects on the United States.

The research of this thesis began with a literature review of the history of cabotage laws and the Jones Act to gain a historical context of the act. Afterwards, the debate and arguments around the act were examined to understand the positions of those who support and disagree with the act. From the literature review of papers focused on the Jones Act, the arguments against outweighed the arguments for the Jones Act.

Following the literature review, an analysis was done by examining the cabotage laws and merchant fleets of comparable nations to determine if the Jones Act was causing more problems than it was solving. From this analysis it was determined the U.S. merchant fleet is suffering due to the Jones Act. The U.S. flagged fleet is abnormally small compared to other nations and based on examinations of cabotage laws, the Jones Act is the likeliest cause of the current status of the U.S. merchant marine.

Based on the literature review and analysis, three recommendations were provided to improve the Jones Act in order to improve the status of the U.S. flagged fleet and benefit the economy of the United States. The first recommendation is the elimination of the U.S. build requirement of the Jones Act. The U.S. shipbuilding industry lacks any competitive advantage for the production of ships leading to a lack of ships being produced for domestic use. The second recommendation is the permanent exemption for Hawaii, Alaska, and U.S. territories from the Jones Act. These states and territories, which are not landlocked with the continental United States, face the greatest burden from the Jones Act and are unable to take full advantage of international shipping. The third recommendation is a limited-time exemption for non-compliant ships to engage in domestic shipping until the merchant fleet improves to an adequate status to provide for the needs of the United States and its defense.

TABLE OF CONTENTS

LIST OF FIGURES iv

LIST OF TABLES v

ACKNOWLEDGEMENTS vi

Chapter 1 Introduction 1

Chapter 2 History of Cabotage and the Jones Act 4

Chapter 3 The Debate 13

Chapter 4 Analysis 24

Chapter 5 Recommendations 33

Chapter 6 Conclusion 36

Bibliography 38

LIST OF FIGURES

Figure 1 29

Figure 2 31

LIST OF TABLES

Table 1 25

Table 2 26

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Chapter 1

Introduction

On June 5th, 1920 “The Merchant Marine Act of 1920” was signed into effect by President Woodrow Wilson. A key section of this act was section 27 known as the Jones Act, named after Senator Wesley L. Jones of Washington. This section set the requirements for ships that transported goods between two United States’ ports. The goal of the Jones Act was to protect maritime commerce. However, with the hundredth anniversary of the Jones Act approaching, the act is receiving greater scrutiny again. It appears now that the Jones Act may have failed to achieve its intended purpose to the detriment of U.S. maritime commerce and the shipping industry.

When “The Merchant Marine Act of 1920” was passed, the goal was to “lay the foundation of a policy that will build up and maintain an adequate American merchant marine in competition with the shipping of the world,” as described by Senator Wesley L. Jones in the Proceedings of the Academy of Political Science in the City of New York volume IX (Jones, 1920). The cause of this act seems noble. After World War I many countries were scrapping treaties and agreements they felt were burdensome or put them at a disadvantage in a rapidly changing world situation. It was also apparent that the United States was ill equipped for the seas at the start of World War I. According to Senator Jones, at the beginning of World War I, America had been in a terrible situation. He stated, “Our shipping could be done more cheaply by others, and so we had none. When the war came this lack of shipping cost us hundreds of millions of dollars in higher freight rates or business losses and hundreds of millions of waste in

the hasty building of ships to meet the emergency that threatened the overthrow of civilization…" (Jones, 1920). "The Merchant Marine Act of 1920" was thus proposed and approved in an effort to avoid the situation the United States faced at the beginning of World War I and to avoid a terrible situation in the changing environment following the war.

The section of the "Merchant Marine Act of 1920" that is of the most consequence is section 27, also known as the Jones Act. This section is so prominent in the nature of U.S. maritime commerce that the name of the act is often interchangeable with the Jones Act. Many interpret the Jones Act as the full act rather than just section 27. This section lays out the requirements of a ship that can transport commerce between two U.S. ports. The section states, "No merchandise… shall be transported by water, or by land and water… between points in the United States… in any other vessel than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States" (The Merchant Marine Act of 1920). Additionally, seventy-five percent of the crew must be American citizens (Transportation Institute, 2019). When the "Merchant Marine Act of 1920" was signed into law, these requirements were considered a necessity to protect the U.S. maritime industry against foreign competition. The United States wanted to avoid the difficulties it had faced in the past and have a fleet that could answer the nation's needs when required. Now, however, when looking at the current status of the U.S. merchant marine fleet this solution could actually be the problem.

Since 1950, the number of ships and deadweight tonnage cargo capacity of the U.S. merchant marine fleet has steadily declined (Congressional Research Service, 2019). In 1967, Secretary of Transportation Alan Boyd testified to Congress that the U.S. merchant marine fleet, "was too small, too old, and too unproductive" (Congressional Research Service, 2019). This

statement was made over fifty years ago and the problem has only gotten worse. Many ships are older than would be desired and needed ship designs are missing from the current fleet. This means that in some instances the United States government has been required to issue waivers to allow foreign flagged ships to perform needed tasks in domestic waters. Other concerns are higher shipping costs, a lagging shipbuilding industry, and more land traffic congestion. With problems mounting, a review of the Jones Act is greatly needed. Changes could potentially need to be made to the existing law to course correct the U.S. maritime industry.

This paper will take multiple approaches to understand the Jones Act and achieve its goal of proposing achievable recommendations. Most research will take place through literature review. This will include examining federal legislature to understand the Jones Act and its intent when written and enacted. There will also be reviews of other articles and journal sources to supplement the analysis. Available shipping information including types of ships and country registration will be gathered to be used in comparison to the U.S. maritime fleet. Additionally, available information on foreign cabotage laws will be reviewed to compare with the Jones Act.

Chapter two of this thesis will review the history of cabotage laws and the Jones Act to offer context for the act. Chapter three will review the debate surrounding the Jones Act and the arguments made for and against. Chapter four will provide an analysis of the U.S. fleet compared to fleets of foreign nations. Chapter five will offer recommendations to improve the current status of the Jones Act fleet and waterborne domestic shipping of the United States. Finally, chapter six will provide a conclusion of the paper.

Chapter 2

History of Cabotage and the Jones Act

The "Merchant Marine Act of 1920", also known as the Jones Act, is what is known as a cabotage law. These laws place restrictions on what is eligible to transport goods between two places of a country often in an effort to protect a nation's maritime shipping trade. The origins of cabotage laws are somewhat obscure but they have a long history that can be traced back several hundred years. The Jones Act is just one more cabotage law in this world, albeit maybe unique in how restrictive it is in comparison to the others that have come before it or are currently active.

The term "cabotage" is believed to be derived from the French term "caboter" which translates to sail "by the capes" (Agama & Alisigwe, 2018). The origin of cabotage laws are still in doubt though. Some believe the principle of cabotage laws can be traced back to sixteenth century France when laws were enacted to restrict the navigation between two French ports to French vessels (Agama & Alisigwe, 2018). There are others who believe the origins can be traced back even further to fourteenth century England. In 1381, King Richard II of England and the English Parliament enacted the "Confirmation of Liberties, Charters and Statutes, Exportation of Gold, Silver, Leaving the Realm, etc. Act" which required that the shipping of goods and people going or coming from England be transported on English vessels (Seafarer's Rights International, 2018). Any vessel caught transporting such goods or people who did not hold allegiance to the King of England would have their goods seized or forced to pay the value of their cargo (Seafarer's Rights International, 2018). It is believed this law was enacted when the English fleet had been greatly diminished by war and needed to be bolstered and rebuilt.

Based on the timeline, the reasoning seems to stand up as the English had been fighting many wars during this period against other kingdoms such as France and Castile.

Following this law, there were a series of laws which would become known as the Navigation Acts that were enacted between the mid-seventeenth century up until the 1770s that were designed to limit trade between the English colonies and Europe to English vessels (Seafarer's Rights International, 2018). This is similar to what France did when they extended the privilege to ship products between France and its colonies solely to French vessels during the eighteenth century (Agama & Alisigwe, 2018). In 1651, the first of the Navigation Acts was passed, titled "An Act for increase of Shipping, and Encouragement of the Navigation of this Nation" (Seafarer's Rights International, 2018). This act explicitly stated that the shipping of goods between the English colonies in Asia, Africa, or America and England would only be legal on vessels belonging to England and her people (Seafarer's Rights International, 2018). Based on these laws, it is clear that cabotage laws have held a place in affecting maritime trade for several hundred years.

There are many other examples of cabotage laws from around the world. Sweden can date its cabotage laws back to 1724 with the passage of an ordinance titled "Foreign Shipping to Sweden and Finland" (Seafarer's Rights International, 2018). Germany passed its first cabotage law "Law Concerning Coastal Freight" in 1881 giving German vessels exclusive right to ship goods between German ports unless foreign vessels were given the right by a treaty or ordinance (Seafarer's Rights International, 2018). In Brazil, cabotage laws are even part of their constitution, "Constitution of the Republic of the United States of Brazil", which gave the government the right to decide what vessels could ship goods both domestic and foreign waters. (Seafarer's Rights International, 2018). In Japan, their cabotage laws originated from the "The

Shipping Act 1899" which forbade the transportation of passengers or goods between Japanese ports unless given special provision by a law or treaty (Seafarer's Rights International, 2018). As a final example, Portugal's cabotage laws date to 1905 but reference another decree dating to 1863 (Seafarer's Rights International, 2018). The 1863 decree states that a vessel is not considered Portuguese if it is not entirely owned by Portuguese nationals even if it was constructed in Portugal (Seafarer's Right International, 2018). From these examples, there is clear evidence that cabotage laws have existed in various countries around the world for many years. Some have been updated and amended over time and others have stood unchanged for several hundred years.

They have even had significance to the United States of America since its founding and before. The first cabotage principles placed into law in the U.S. were passed as "An Act for Registering and Clearing Vessels, Regulating the Coasting Trade, and for other purposes" (Seafarer's Rights International, 2018). It was passed on the first session of Congress on September 1st, 1789 (Seafarer's Rights International, 2018). The law levied a tax on foreign vessels shipping goods between U.S. ports that was high enough to make it impractical for shipping to be done by foreign-flagged vessels (McGeorge, 1990). Essentially, while the law did not exclude foreign-flagged vessels from shipping goods between domestic ports, as most cabotage laws do, it made the cost to do so much more expensive than using American vessels. By limiting the competition, Congress was able to make it more advantageous to use American vessels and thus was able to protect America's burgeoning merchant marine fleet. Interestingly enough, Congress may have not felt the need to truly exclude foreign vessels at this time due to the overall health of the United States of America's merchant marine fleet.

During the eighteenth century, the Thirteen Colonies and later the U.S. had an advantage in shipbuilding due to the ease of access of suitable lumber by major ports (McGeorge, 1990). The Thirteen Colonies had become a naval power by their own right before becoming independent which created a more than adequate fleet for both defense and mercantile purposes. During the start of the nineteenth century, the merchant fleet was further advantaged by lower costs because of its neutral status during a period of European wars when Napoléon Bonaparte was Emperor of France (McGeorge, 1990). This status made American vessels more ideal for the shipping of goods to European markets over European vessels that could be attacked by vessels of enemy nations at any point. It would appear likely that from the start, the U.S. government identified the strength of the merchant fleet as important to the success of the United States by placing cabotage principles into effect even when the merchant fleet appeared to have numerous advantages already.

Three decades later, cabotage laws were truly enacted with the passage of the "Act Concerning the Navigation of the United States" (Seafarer's Rights International, 2018). With the passage of this law, foreign-flagged vessels were by law prohibited from transporting goods between two U.S. ports rather than the original policy of merely taxing the goods they shipped (McGeorge, 1990). Any wholly or partially owned foreign vessel caught transporting goods between two domestic ports of the U.S. would face the penalty of forfeiture of the goods it was transporting (Seafarer's Right International, 2018). This was later applied to passengers with the passage of the "Passenger Vessel Service Act" in 1886 (Seafarer's Right International, 2018). This law was adjusted in 1866 in light of foreign-flagged vessels attempting to avoid the law by transshipping goods in nearby Canadian ports before heading back to a U.S. port (McGeorge, 1990). The act would be challenged in the United States Court of Appeals for the Ninth Circuit

case United States v. Two Hundred and Fifty Kegs of Nails (McGeorge, 1990). In this case, a hardware merchant decided to test the limits of the law by shipping kegs of nails from New York City to Antwerp on a Belgian-flagged vessel. In Antwerp, the kegs were transferred from the Belgian vessel onto a British-flagged vessel and then shipped to California where a Collector of Customs brought a forfeiture action against the hardware merchant for violating the cabotage laws of the United States. The Ninth Circuit ruled the law was not applicable to the prescribed situation because the kegs were not shipped in one continuous voyage but two separate voyages (McGeorge, 1990). In response to the Ninth Circuit's ruling, Congress amended the law in 1893 to prohibit the transportation of goods and passengers by foreign-flagged vessels both directly between two U.S. ports and indirectly by a foreign port (McGeorge, 1990). That would be the state of U.S. cabotage laws until 1920.

In 1920, the Jones Act or officially the "Merchant Marine Act of 1920" was enacted. This act has been the ruling document of U.S. cabotage laws since that date and is widely considered the strictest in existence. There are several factors that may have driven the desire for a new cabotage law. Three likely factors that influenced this decision were the introduction of metal and steam-powered vessels, increasing U.S. labor and flagging costs, and the dramatic demand for shipping during World War I (Hoxie and Smith, 2019). While the eighteenth century had been an era of U.S. shipbuilding dominance, the nineteenth century had seen those advantages diminish or totally disappear. While the U.S. had the advantage in producing vessels made of timber, new technological advantages resulted in the introduction and demand for vessels made of steel (Hoxie and Smith, 2019). This led to dominance by European nations, particularly the United Kingdom, which by tonnage built approximately five times more vessels than the United States (Hoxie and Smith, 2019). In the United States, labor costs were higher, operating costs

were higher, and the cost of steel was higher with the cost of steel plates being approximately sixty-two percent higher in the United States than the United Kingdom in 1903 (Hoxie and Smith, 2019). At the start of the twentieth century, rising costs at every level of the U.S. shipping industry were becoming of grave concern for those in the industry that were struggling to compete with foreign-flagged vessels and alternative transportation services such as rail being more frequently used (Hoxie and Smith, 2019). Then World War I came and demand for vessels and services rose drastically. In preparation for the war, Congress passed the "Shipping Act of 1916" which established the United States Shipping Board which was given the responsibilities of requisitioning vessels for the war, as well as expanding infrastructure to build more vessels and contract with firms to build more vessels (Hoxie and Smith, 2019). Of course, while the war transformed the merchant fleet it also left a domestic shipping shortage that the U.S. Shipping Board had to react to. The U.S. Shipping Board formed a corporation called the Emergency Fleet Corporation which signed about 1,460 steel ship contracts by the end of World War I in 1918 (Hoxie and Smith, 2019). However, only five percent of these contracts had been started or completed by that time and the costs were more than double the costs of building ships in the United Kingdom at $200 per deadweight ton compared to $75 in the U.K. (Hoxie and Smith, 2019). The true problem hadn't changed after the war. The United States still suffered from drastically higher shipbuilding and operating costs compared to European nations (Hoxie and Smith, 2019). This set the stage for the Jones Act in 1920.

Senator Wesley L. Jones was a U.S. Senator from Washington and Chairman of the Commerce Committee and was the primary force behind the Jones Act. He claimed, "'The Merchant Marine Act of 1920' is an earnest effort to lay the foundation of a policy that will build

up and maintain an adequate American merchant marine in competition with the shipping of the world" (Jones, 1920). Section 1 of the act even states,

> "It is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States; and it is declared to be the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of such a merchant marine…" (Merchant Marine Act of 1920).

The Jones Act drastically increased the involvement of the government in both shipbuilding and shipping in the hopes of achieving the goal of having an adequate merchant marine fleet. In order to do this, the act authorized subsidies, adjusted flag requirements and employment mandates, and changed or expanded various regulations involved in U.S. cabotage laws (Hoxie and Smith, 2019). Most of the provisions in the act were associated with the power and functions of the U.S. Shipping Board which would be the primary driver in obtaining the goals set out in the act (Hoxie and Smith, 2019). The U.S. Shipping Board would administer the funds for the subsidies, maintain maritime insurance programs and mortgage programs, sell vessels and facilities from the war, make rules and regulations to carry out the provisions of the act, and was tasked with developing and operating steamship lines (Merchant Marine Act of 1920). The act also extended the laws to island territories and other territorial possessions of the United States and allowed for the termination of treaties with foreign nations that were viewed as detrimental to the United States (Merchant Marine Act of 1920). According to Jones, "[The

Merchant Marine Act of 1920] is necessary for our commercial growth, our national defense and national independence, and it is necessary for the world's peace and safety. If one nation dominates the shipping of the world it holds the destinies of all peoples in its grasp." The Jones Act was a call to arms of the American people to secure and promote America's welfare and according to Jones' it was designed in the best interests of the American people (Jones, 1920).

Little change has been made to the Jones Act since its passage in 1920. Most of the related change has been clarifications. "Merchandise" is one such example. The U.S. Customs and Border Protection has held the view since 1938 that any good that is processed by a foreign entity breaks the continuity of a voyage (Hoxie and Smith, 2019). This was tested in the 1978 District of Columbia Court case American Maritime Association v. Blumenthal when oil was shipped from Alaska to St. Croix, Virgin Islands to be processed at a refinery then shipped back to the Atlantic Coast on a vessel not eligible for coastwise trade. The court agreed that the oil was sufficiently altered by the refining process to not be considered as coastwise trade (McGeorge, 1990). Additionally, the U.S. Shipping Board has been replaced by the Maritime Association and the Federal Maritime Commission (Hoxie and Smith, 2019). The Maritime Association oversees the subsidies available to U.S. shipbuilders and vessel operators (Hoxie and Smith, 2019). Meanwhile, the Federal Maritime Commission has taken on the responsibility of regulating commerce (Hoxie and Smith, 2019). As of this point in time, the only part of the original Jones Act that has been untouched by some level of change is Section 27 which is the restrictions on vessels eligible for coastwise shipping between two U.S. ports (Hoxie and Smith, 2019).

Cabotage laws have had a several hundred-year history in this world. The Jones Act may be one of the most interesting, if not the most. It originates from a line of cabotage laws in the

United States and is widely considered as the most extreme cabotage law in existence. While it appears to have had noble origins it is widely debated as to its positive or negative impact on the United States. Some nations have moved away from cabotage laws and towards free trade, such as the United Kingdom. Yet, the Jones Act has stood for one-hundred years. It leads one to wonder what is in-store for the Jones Act and if its history will mirror those of other countries.

Chapter 3

The Debate

While the positive and negative effects have been debated for many years, what is clear is how controversial the Jones Act has been. There are many arguments made regarding the act, with stalemate partially driven by the great difficulty getting true numbers to put the act into context. The complexity of the situation has ultimately caused a severe standoff and little change brought to the situation. This section will detail some of the debate and arguments made regarding the Jones Act.

At the time of its ratification there were several arguments and associated evidence to support the Jones Act. As previously discussed, United States Senator Wesley L. Jones' primary purpose when pushing for ratification of the Jones Act was to "…lay the foundation of a policy that will build up and maintain an adequate American merchant marine in competition with the shipping of the world" (Jones, 1920). He believed that an adequate merchant marine was necessary for both defense and growth of commerce (Jones, 1920). At the beginning of the twentieth century, the United States had been at a comparative disadvantage to European nations with the rise of iron and steel ship technologies. The United Kingdom was outproducing the United States by almost five times based on ship tonnage (Hoxie and Smith, 2019). Additionally, higher labor costs, material costs, and operating costs made producing ships less attractive in the United States than other countries. Jones made this claim about this situation,

> "…at the beginning of the world war as the result of such a policy. Our shipping could be done more cheaply by others so we had none. When the war came this lack of shipping

> cost us hundreds of millions of dollars in higher freight rates or business losses and hundreds of millions of waste in the hasty building of ships…" (Jones, 1920).

Therefore, the United States took a protective stance after World War I in an effort to grow its shipping industry to an adequate level. According to Jones, the U.S. had been lacking fast passenger and combination freight and passenger ships (Jones, 1920). Additionally, Jones claimed the U.S. was paying approximately two and a half million dollars to foreign ships to deliver mail (Jones, 1920). By including subsidies, insurance, and loan authorizations in the Jones Act, the United States would make an effort to reduce the need of foreign vessels to perform services for the American people.

Today, many of the subsidies and programs that were established or continued by the Jones Act are no longer active or have been replaced (Hoxie and Smith, 2019). This was largely done through the "Merchant Marine Act of 1936" which reorganized the various construction subsidies, operating subsidies, and tax incentives put into place by "The Merchant Marine Act of 1920" (Hoxie and Smith, 2019). The differential operating subsidies were then discontinued by both President Reagan's and President George W. Bush's administrations (Hoxie and Smith, 2019). Supporters of the Jones Act have cited these significant changes to be responsible for much of the decline of the U.S. merchant marine since World War II (Hoxie and Smith, 2019).

The criticism of the Jones Act has appeared to grow as the act has aged. While the supporting arguments for the act seem to have remained constant dating back to 1920, the arguments against appear to be more recent and reference the current situation the merchant marine happens to find itself in. According to a report by the Congressional Research Service, "As of March 2018, there were ninety-nine oceangoing ships in the Jones Act-compliant fleet, employing about 3,380 mariners" (Congressional Research Service, 2019). In 1950 after World

War II, there were over 400 ships that were Jones Act compliant (Congressional Research Service, 2019). There was a pretty drastic decline until 1965 and then a steady decline to present day (Congressional Research Service, 2019). Though, perhaps that is not completely troublesome if the overall size of ships has increased? Of course, looking at deadweight tonnage of Jones Act compliant ships shows a similar decline. While deadweight tonnage increased until almost 1980, it has declined substantially since (Congressional Research Service, 2019). In essence, the Jones Act complaint fleet of the U.S. has declined in both number of ships and deadweight tonnage since World War II. Why might this be? Is the Jones Act to blame? Critics of the act seem to believe so.

Alongside the decline of the fleet are issues with age and the lack of certain types of vessels, and thus the merchant fleet is unable to fulfill the defense and mercantile needs of the United States. Typically, the useful life of a vessel is twenty years (Grabow, Manak, & Ikenson, 2018). However, around 2007 three-fourths of U.S. container ships were twenty years old and sixty-five percent were more than thirty years old (Grabow et al., 2018). The number of vessels over the age of twenty-one years old has declined recently to one-third due to new shipbuilding of vessels that can comply with emissions requirements in order to handle the increase in shale oil production and the recent lifting of the oil export ban (Congressional Research Service, 2019). Many vessels are still being used beyond their expected useful lifetime rather than being replaced. This would bring into question the capability of these vessels and risks of accidents. One such incident was the sinking of the El Faro in 2015 (Congressional Research Service, 2019). The ship was nearly forty years old as it had been built in 1975 and was lacking new safety features such as closed lifeboats with auto launchers (Congressional Research Service, 2019). The Coast Guard even forbade its sister ship of the same age from sailing and noted at a

congressional testimony that other ships in the U.S. merchant fleet were of substandard condition (Congressional Research Service, 2019). Assistant Commandant Nadeau of the Coast Guard reported to Congress, "…our fleet is almost three times older than the average fleet sailing around the world today. Just like your old car, those are the ones likely to break down" (Congressional Research Service, 2019).

While age is of concern, the merchant marine fleet is missing necessary vessels for our nation's success as well. "Project cargo" or "heavy-lift" vessels which are used for carrying oversized cargo and equipment or smaller vessels have been absent from the merchant marine fleet for decades (Congressional Research Service, 2019). In order to compensate for this, the Department of Defense has been forced to issue waivers on several occasions so foreign-flagged vessels could perform needed services (Congressional Research Service, 2019). Additionally, there are only two dry bulk vessels that are nearly forty years old, one chemical tanker that was built in 1968, and no LNG tankers that are Jones Act compliant (Congressional Research Service, 2019). Essentially, the United States has an aging fleet that is not being replaced and a lack of vessel types that are considered vital to the nation's defense and economy. When U.S. forces deployed to Saudi Arabia in 1990-1991 for Operation Desert Shield and Operation Desert Storm, approximately twenty-seven percent of equipment and supplies of the U.S. military were carried by foreign-flagged vessels compared to almost thirteen percent that were carried by U.S.-flagged vessels (Grabow et al., 2018). Vice Admiral Paul Butcher of U.S. Transportation Command claimed that without the assistance of foreign-flagged vessels, it would have taken three more months to transport the necessary equipment and supplies to Saudi Arabia (Grabow et al., 2018). This is a substantial concern considering one of the primary goals of the Jones Act was the defense and national security of the United States. Meanwhile, the current ability to react

to disaster appears lackluster as well. President Trump issued a Jones Act waiver after Hurricane Maria hit Puerto Rico in 2017 so the island could receive needed supplies (Grabow et al., 2018).

Another argument made against the Jones Act is over how restrictive it truly is. Most sources consider the Jones Act to be a strict cabotage law and many consider it to be the strictest in the world. According to both the Organization for Economic Cooperation and Development (OECD) and World Economic Forum, the Jones Act is the world's most restrictive cabotage law (Olney, 2019; Grabow et al., 2018). Other OECD countries that fully exclude foreign-flagged vessels from cabotage activities include Belgium, China, Colombia, Estonia, Greece, Indonesia, Italy, Lithuania, Sweden, and Turkey (Grabow et al., 2018). Based on this information it might not be surprising that only two percent of U.S. freight travels by sea compared to forty percent in the European Union (Grabow et al., 2018). From this information, the assumption could be made that railways and roadways are thereby carrying more of this cargo than they might otherwise if U.S. cabotage laws were not as restrictive. Additionally, in a survey done by the U.S. Maritime Administration of fifty-six countries that were surveyed only six had any level of domestic-build requirements: Brazil, Egypt, Indonesia, Peru, Spain, and the United States (Grabow et al., 2018). When viewed in this context, it becomes clear how restrictive the Jones Act is compared to other countries around that world that have cabotage laws.

One argument against the Jones Act has been the effect on shipyards in the United States. As vessels must be produced in the United States to be Jones Act compliant, companies are forced to produce vessels in the U.S. to meet their needs. However, this proposition is costly. The cost to build a vessel in the U.S. is between $190 million and $250 million when the same vessel could be made in other countries for $30 million (Grabow et al., 2018). The dramatic costs have resulted in fewer ships being produced in the U.S., less work for shipyards, and less work

for merchant mariners. Based on information from the U.S. Maritime Administration, there were eighty-nine shipyards in the U.S. with only four being public, nine that were active, and fifteen that had build positions which had not produced a vessel in two years (Grabow et al., 2018). The United States only has seven major shipbuilding yards that are active of which four produce vessels for the military (Grabow et al., 2018). Nearly seventy percent of revenues of the shipbuilding industry came from the military in 2014 and 2015 (Grabow et al., 2018). That leaves three major shipyards that produce for the public and potentially one, Philly Shipyard, may shutdown in the near future (Grabow et al., 2018). In comparison, Japan has approximately one thousand shipyards and Europe has approximately sixty major shipyards (Grabow et al., 2018).

The global shipbuilding industry has changed as Asian countries have become the dominant force, particularly Japan, South Korea, and China. Meanwhile, Europe has been forced to change focus to specializing and has adapted well to current conditions producing cruise vessels, offshore vessels, and luxury yachts (Grabow et al., 2018). Meanwhile, the United States has not invested into upgrading shipyards nor has it found a competitive advantage. The U.S. has failed to specialize in any specific vessel design and there are no competitive advantages that give a reason for companies to produce vessels in the United States (Grabow et al., 2018). Additionally, if the mass production of vessels was ever needed in a time of war, it appears unlikely that shipyards in the U.S. would be capable of ramping up production to meet those needs. Shipyards in the U.S. appear to be in a terrible position currently. While the merchant fleet and shipbuilding has declined in the United States, so has capable mariners. Congressional testimony has been delivered stating that capable mariners is at a critical level and any protracted

need for their services would place too much stress on the available labor pool (Grabow et al., 2018).

The most difficult part of the conversation though is understanding the costs. There have been many attempts to understand the effects the Jones Act has on our economy. For example, in the 1990s the U.S. International Trade Commission utilized different assumptions and had estimates ranging from $656 million to $9.8 billion in costs to the U.S. economy (Grabow et al., 2018). In their own analysis, Grabow, Manak, and Ikenson attempted to calculate various costs to the U.S. economy originating from the Jones Act. One focus is transportation costs. They claim the Jones Act has considerably inflated shipping rates in the United States resulting in a decline of waterway shipping in favor of other methods (Grabow et al., 2018). Since 1960, waterway volume has declined approximately by half while railroads have increased their volume fifty percent and intercity trucks have seen a 200 percent increase (Grabow et al., 2018). According to the Maritime Administration, congestion in the United States transportation system results in costs of $200 billion yearly (Grabow et al., 2018). Essentially, if shipping over waterways were to increase the reduction in congestion on roadways may reduce the economic costs. Meanwhile, The Society of Civil Engineers has estimated that repairing the roadways and railways of the U.S. may cost upwards of $155 billion per year as the system is currently being pushed to its limit (Grabow et al., 2018). Another issue, U.S. ports are currently incapable of hosting larger classes of ships that are being produced. The new “Post-Panamax” ships require ports that are at least forty-seven feet deep and only seven Gulf Coast and Atlantic ports meet that requirement, but the United States dredging capacity is severely limited currently (Grabow et al., 2018). Therefore, most of these new large vessels will be forced to deliver their goods on the West Coast and have them shipped eastward by rail or truck which is adding additional costs.

Recently, efforts have been made to understand more of the economic effects of the Jones Act. In his empirical analysis of the Jones Act, William Olney used an estimation and identification strategy with comprehensive shipping data to draw several interesting conclusions. First, a ten percent decline in capacity of Jones Act ships results in an approximate five percent decline in waterborne inflows (Olney, 2019). Additionally, Olney estimated the decline in Jones Act waterborne capacity resulted in a 1.35 percent increase in consumer prices in U.S. coastal states from 1997 to 2016 (Olney, 2019). Of course, this analysis faces some limitations given lack of information from one hundred years ago and the number of factors that can impact shipping. However, the conclusions, while only estimates, suggest what others have suggested for many years. The Jones Act has slowly stifled domestic American shipping leading to greater use of other forms of transportation and an increase in costs passed to consumers. Other nations faced with similar circumstances have chosen to reduce the number of limitations and move to less restrictive cabotage laws.

Australia now allows foreign vessels to perform domestic shipping as long as they are licensed. The restraint placed upon foreign vessels is they cannot qualify for licensing if they are subsidized by a foreign government (Agama and Alisigwe, 2018). Since 2009, Malaysia has followed a similar route after complaints of high rates. When there is a need that cannot be met, Malaysia's Domestic Shipping Licensing Board can grant temporary licenses for foreign vessels deliver goods between domestic ports (Agama and Alisigwe, 2018). Until 1994, New Zealand restricted foreign vessels from engaging in domestic shipping unless there was a need that New Zealand's-flagged vessels could not fill. New Zealand has since allowed foreign vessels to transport goods between domestic ports with a levy applied when traveling a continuous journey between foreign ports as of the passing of the "Maritime Transport Act of 1994" (Agama and

Alisigwe, 2018). A similar circumstance would be if the United States allowed a plane traveling from Moscow to New York to carry passengers from New York to Chicago before leaving from Chicago for Moscow. Currently, U.S. laws restrict this from happening which means the plane must travel without passengers between New York and Chicago. Essentially, New Zealand is making use of that extra available capacity to transport goods. With the relaxation of cabotage laws in Brazil, foreign ships and crew can now be chartered by Brazilian shipping companies for use when Brazilian-flagged ships are unavailable or the purpose is for the common good (Agama and Alisigwe, 2018). Even two of the leading ship building nation's in the world have relaxed their cabotage laws. Both South Korea and China relaxed their cabotage laws in 2003. China allows the shipping of empty containers by foreign-flagged vessels of nations that have signed bilateral agreements with them (Agama and Alisigwe, 2018). Meanwhile, South Korea abolished trans-shipment fees along with the reduction in their cabotage law's restrictiveness. Within a year, six foreign steamship lines began operating in South Korea which reduced shipping rates by increasing the available supply and capacity in their domestic market (Agama and Alisigwe, 2018). In 2002, the United States International Trade Commission predicted similar effects if the U.S. were to lessen the restrictiveness of the Jones Act.

In their 2002 report, the U.S. International Trade Commission utilized data from 1999 in their evaluation of the economic effects of liberalizing the Jones Act. From their evaluation, complete liberalization of the Jones Act would result in a $656 million net welfare gain for the U.S. economy (United States International Trade Commission, 2002). This estimate was the second highest gain in their findings after the liberalization of textiles and apparel import restraints. According to those same findings, lifting just the U.S. build requirement of Jones Act would result in a $261 million gain for the economy (United States International Trade

Commission, 2002). These estimates are from almost twenty-one years ago now, which implies the gain for the U.S. economy would likely be even greater now. Previous work of the U.S. International Trade Commission from 1996 estimated the economic cost of the Jones Act could be as high as $1.3 billion (United States International Trade Commission, 2002). From information the U.S. International Trade Commission had from the Maritime Administration, they estimated that foreign suppliers held a cost advantage of fifty-nine percent to domestic suppliers (United States International Trade Commission, 2002). If that number is similar today, the impact could be substantial. Of further interest are the estimated impacts of just removing the domestic build requirement. The U.S. International Trade Commission estimated from their model that if lifted in 1999, "Output of the domestic shipbuilding industry fell by four percent and imports increased by 133 percent. In the long run, decreased capital costs result in reduced operating costs for the coastwise Jones Act fleet. Output of coastwise Jones Act shipments increase by six percent. The cost savings were passed forward in an eleven percent rate reduction" (United States International Trade Commission, 2002). The eleven percent rate reduction for domestic shipping would likely have tremendous effect for U.S. consumers. This number is larger with complete liberalization with an estimated reduction of nearly twenty percent (United States International Trade Commission, 2002).

Ultimately, while the goals of the Jones Act have been noble, the practical effects one hundred years later lend credence to the belief that the Jones Act is not achieving the lofty goals it set out to achieve. Both anecdotal and estimated empirical conclusions are not in favor of the act. This suggests the Jones Act should be changed for the benefit of the United States. Further analysis of the Jones Act is needed to determine if changes are needed and if they would be beneficial. In the next chapter, that is the goal of this paper. Understanding the effects of

cabotage laws on other countries and determining which set of changes would lead to the greatest benefit and reduction of costs.

Chapter 4

Analysis

In order to examine the effects of the Jones Act on the U.S. merchant fleet, a comparison was needed to identify the state of the U.S. fleet to comparable fleets. In order to necessitate this, ten other nations were selected from a list of forty-four nations that the OECD has collected maritime data for. The nations selected were Australia, Brazil, Canada, China, Indonesia, Italy, Japan, New Zealand, South Korea, United Kingdom, and United States of America. All listed nations except the United Kingdom have exclusionary restrictions for domestic shipping. There is some variation in overall restrictiveness but many similarities.

For crewing restrictions, there are four main categories: all crew members must be nationals, majority must be nationals, officers must be nationals, and no nationality requirement. Japan and Canada require one hundred percent of ships' crews to be citizens. Some require a certain percentage such as the United States at seventy-five percent and Brazil at sixty-seven percent except for ships on a special register. Australia is unique as it has no nationality requirement for crew members (Cole, 2010). Australia merely requires all ships wishing to be involved in domestic shipping file for a general license and pay their crews established rates (Coastal Trading Act 2012).

Another common restriction placed is on ownership. For this requirement there are three main categories: no foreign ownership, majority domestic ownership, and no limitations on ownership. Japan requires that ships participating in domestic shipping are one hundred percent owned by Japanese nationals. The United States requires seventy-five percent ownership. Other nations such as Australia, Canada, and Brazil do not impose any limits on ownership by foreign entities (Cole, 2010).

There are some uncommon restrictions as well. The United States requires that all U.S.-flagged ships be built and repaired in the United States. Japan and Brazil have minimum capital backing requirements. Some countries place restrictions on the nationalities of executives of companies operating in domestic shipping. Canada issues a twenty-five percent duty payment on the cost of imported ships participating in domestic shipping (Cole, 2010). Across these restrictions there are many similarities, but some unique restrictions that play into each nation's maritime situation. Although the laws give some significant information, examining the numbers is essential to understand how these restrictions are affecting the maritime fleets of these nations.

Table 1

Maritime Breakdown of Nations

Nation	Total Flagged Ships	Total Flagged DWT (000s)	Beneficial Ownership Total Ships	Beneficial Ownership Total DWT (000s)	OECD Maritime Transport STRI	Container Port Throughput (TEU)	Population (000s)	GDP (millions)
Australia	91	221	170	5,107	0.19	8,747,113	24,898	1,439,853
Brazil	115	4,224	401	13,668	0.33	10,312,431	209,469	1,870,048
Canada	111	2,487	373	9,098	0.18	6,663,690	37,075	1,708,412
China	3,116	85,532	6,125	206,301	0.33	225,828,900	1,427,648	13,605,253
Indonesia	3,146	18,171	2,145	22,295	0.56	12,853,000	267,671	1,041,772
Italy	293	10,823	692	17,862	0.27	10,547,112	60,627	2,071,616
Japan	2,623	34,649	3,822	225,121	0.19	22,433,824	127,202	4,983,568
New Zealand	16	137	15	195	0.23	3,328,700	4,743	204,556
South Korea	724	10,138	1,647	76,701	0.29	28,945,400	51,172	1,619,928
United Kingdom	513	38,758	1,336	49,172	0.20	11,695,222	67,396	2,816,775
United States	237	9,138	1,978	58,382	0.35	54,688,353	330,241	20,600,253

Sources: UNCTADstat and OECD.STAT

Notes: U.S. total flagged ship value includes U.S. Reserve Fleet and Great Lakes Fleet. "Beneficial Ownership" refers to the nation in which the enterprise that has the principal commercial responsibility is located. The "OECD Maritime Transport STRI" refers to the OECD's restrictiveness index that rates nations from 0 (least restrictive) to 1 (most restrictive) based on the restrictiveness of an industry.

Table 2

Number of Flagged Ships by Type					
Nation	Total Flagged Ships	Bulk Carriers	Container Ships	General Cargo	Oil Tankers
Australia	91	4	0	80	7
Brazil	115	12	17	45	41
Canada	111	18	1	76	16
China	3116	1231	262	846	777
Indonesia	3146	109	217	2198	622
Italy	293	48	9	116	120
Japan	2623	158	37	1767	661
New Zealand	16	0	0	12	4
South Korea	724	83	86	368	187
United Kingdom	513	143	108	125	137
United States	237	5	60	104	68

Source: UNCTADstat

From the data seen in Table 1 it is apparent the United States has an abnormally small merchant fleet with only 237 flagged vessels. That figure includes the U.S. Reserve Fleet and Great Lakes Fleet as well. Table 2 breaks down the distribution of those 237 ships by type in comparison to the other selected nations. Of the total 237 ships of the United States, only ninety-nine are considered to be Jones Act ships. The closest nation for population in the table is Indonesia with a population of nearly 268 million. Indonesia has 3,146 flagged vessels and is considered to have a more restrictive maritime regulation than the United States. For nations of comparable size, the number of flagged ships is substantially different. If the average population of the example set were taken over the average number of ships or a trendline was used, the United States should have nearly 1300-1400 flagged ships based on the size of the nation. That figure is nearly six times the current figure. It appears as though the U.S. merchant fleet is indeed being crippled and the likeliest reason is the Jones Act.

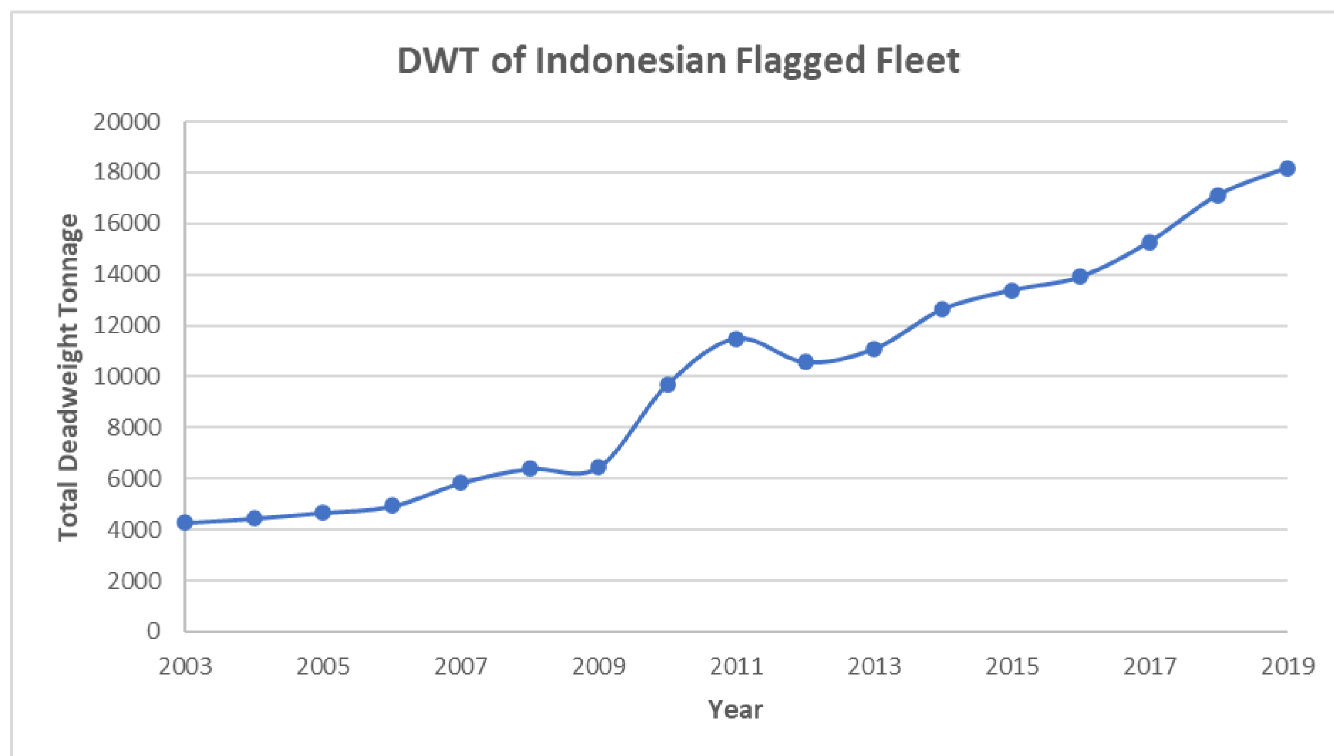
The difference between beneficial ownership and flagged ships for the United States is striking as well. The figure for "Beneficial Ownership Total Ships" of the United States is 1,978 ships. This figure gives the number of ships owned by entities of a nation. Essentially, 1,978 ships are owned by U.S. individuals or companies, the fourth largest value of the selected nations. However, the U.S. is seventh for flagged vessels. The average percentage of flagged ships to beneficially owned ships is fifty-six percent. For the United States, that value is twelve percent. In order for ships to be U.S. flagged, they must be owned by citizens or documented entities of the United States, U.S. built, registered in the U.S., and seventy-five percent of the crew must be U.S. citizens. These 1,978 vessels are owned by U.S. entities, so either U.S. shipbuilding costs or labor costs is likely resulting in these entities more often than not choosing to flag their vessels under the flag of other nations. Both labor and shipbuilding costs in the U.S. are substantially higher than other nations. For example, the cost to build a vessel in the U.S. is between $190 million and $250 million compared to $30 million to build the same vessel in other nations (Grabow et al., 2018).

By examining the current cabotage laws and fleet statuses of other nations, understanding the underlying issue could be more easily determined. Indonesia passed its current cabotage law, "Law of the Republic of Indonesia number 17 of 2008 on Shipping", in 2008 and the law went into force in May 2011 (Watson, Farley & Williams, 2016). Before this, much of Indonesian shipping had been dominated by foreign-flagged vessels. Shipping Lines could use foreign-flagged vessels and foreign shares in joint ventures could be as high as ninety-five percent (Cole, 2010).

Under the new law, domestic transportation is limited to Indonesian-flagged vessels. In order to be considered for the Indonesian flag, a vessel must have a gross register tonnage of

seven and be owned by an Indonesian citizen or by a company that is at least fifty-one percent owned by Indonesian citizens (Watson, Farley & Williams, 2016). Additionally, all maritime assets operating in Indonesian waters must obtain a marine transport business permit known as Surat Izin Usaha Perusahaan Angkutan Lau or SIUPAL (Watson, Farley & Williams, 2016). Some exemptions have existed, particularly for vessels operating in some oil and gas activities. Crews must be operated by Indonesian nationals except for some exemptions for Master and Chief Engineers (Watson, Farley & Williams, 2016). Indonesia does not require vessels to be built in Indonesia and allows reflagging as well. Even without a domestic shipbuilding requirement, Indonesia's shipbuilding industry appears to be in a decent position. Indonesia has 250 shipbuilding industries with a production capacity of 900,000 deadweight tonnage and contributes .034 percent to the nation's GDP (Firmansyah, Nurkhalida & Gurning, 2018). Compared to the leading shipbuilding nations of South Korea, Japan, and China; Indonesia has a labor cost advantage but lacks in expert resources and productivity (Firmansyah et al., 2018).

Figure 1



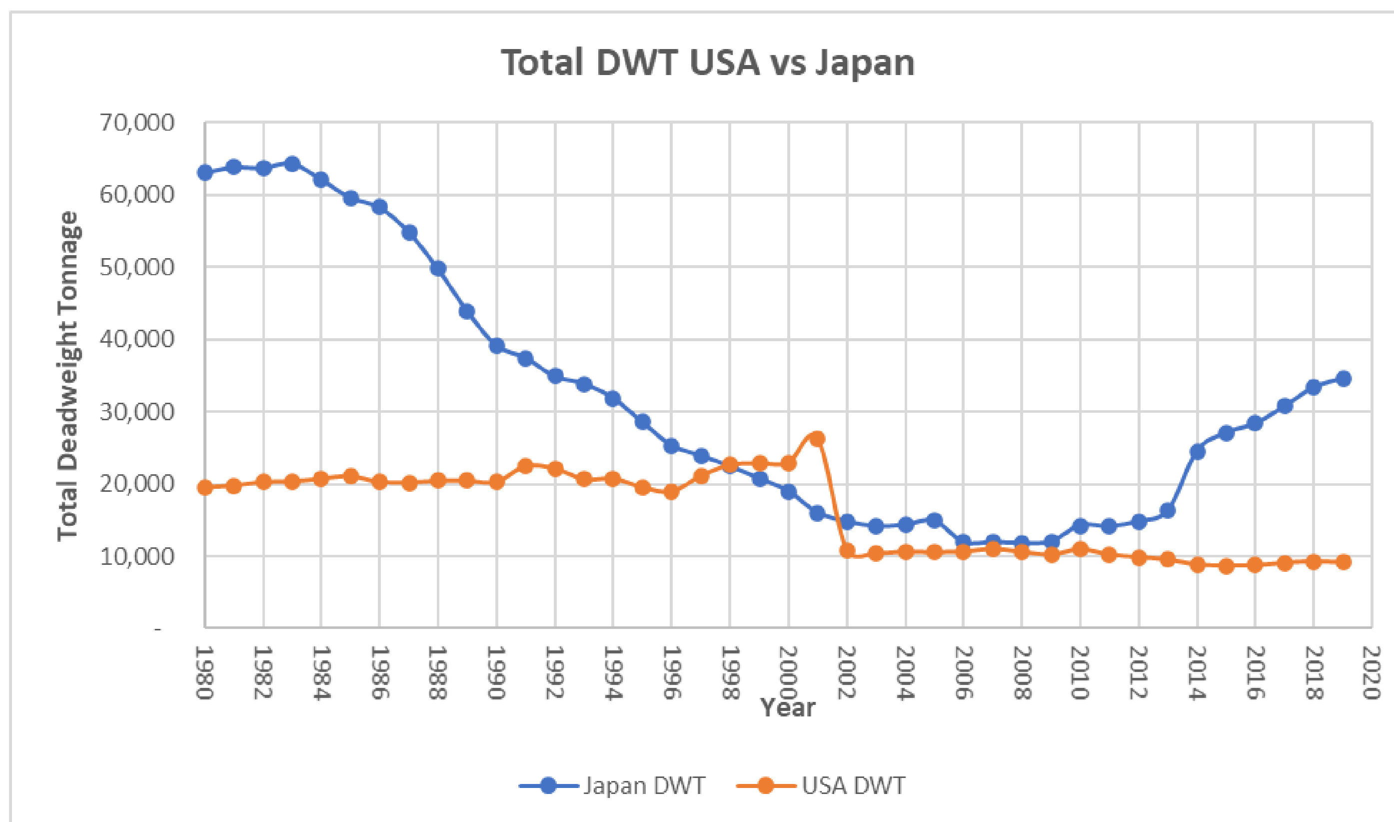
Source: UNCTADstat

The passage of Indonesia's cabotage laws appear to have had an opposite effect of the Jones Act on the United States. As seen in Figure 1, Law No. 17/2008 going into effect in May of 2011 coincided with a large increase in the deadweight tonnage of Indonesia's flagged fleet with a growth of 50.3 percent in 2010. Before the passage of its cabotage laws, much of Indonesia's shipping was done by foreign-flagged vessels. Thus, a large growth happened as a result of No.17/2008 restricting domestic shipping to Indonesian-flagged vessels. The reasoning behind the passage of the "Merchant Marine Act of 1920" was similar as there was great concern over foreign shipping competing with the U.S. shipping industry. Two glaring differences exist between Indonesia and the United States though. The first is the cost difference of shipbuilding and labor. The second difference is the lack of a shipbuilding requirement in Indonesia. The

domestic build requirement appears to be the largest detriment to the United States as it lacks any competitive advantage in the shipbuilding industry. Faced with competition from China, South Korea, and Japan, many entities appear to have chosen shipbuilding abroad as those nations combined produce nearly 198 times the gross tonnage of the United States (Grabow, Manak & Ikenson, 2018).

Japan's cabotage laws originate from "The Shipping Act 1899." Both Japan and the United States have closely related cabotage systems that are strictly enforced, closed, and integrated with national policies and goals. Both nations completely restrict foreign-flagged ships from engaging in domestic shipping. As stated previously, Japan requires ships' crews be one hundred percent Japanese nationals and ownership is one hundred percent Japanese. Foreign capital is prohibited and the nation limits reciprocal agreements (Cole, 2010). In some sense, the United States is slightly less restrictive requiring only seventy-five percent of the crew and ownership of a ship to be American. A stark difference again is the domestic built requirement of the U.S. Although without this requirement, Japan is still the third largest ship producing nation in the world. It has eleven times the number of flagged ships and only thirty-nine percent of the population. Japan is an island nation though that is more reliant on its maritime industry than the United States must be.

Figure 2



Source: UNCTADstat

For many years now, Japan has greatly focused on maritime safety, market orderliness, and optimization of ship volumes (Cole, 2010). For nearly thirty years, Japan operated a scrap and build program to avoid overproduction and overcapacity of its shipbuilding and maritime industry until the program ended in 1998 (Cole, 2010). According to an OECD report, in 2003 the Japanese Ministry of Land, Infrastructure, Transport and Tourism (MLIT) developed guidelines with the goal of gaining a competitive advantage in the shipbuilding industry by 2010. By focusing on R&D, economies of scale, and technical capabilities, Japan hoped to develop the building capacity of one third of the market demand (OECD, 2016). In 2011, the "New Comprehensive Policy on the Shipbuilding Industry" was released with recommendations for

improving international competitiveness and to achieve greater growth (OECD, 2016). This aligns with a resurgence in the deadweight tonnage of the Japanese merchant fleet as seen in Figure 2.

Japan introduced a new strategy for their maritime industry and focused on changing policies in order to achieve that goal. As part of this policy change, Japan introduced home credits to finance their maritime transportation and distribution network. These funds were for vessels, terminals, warehouses, and various other types of facilities. While Japan lacks the cost advantage of a nation like China, they have managed to overcome that by leading through technology and upgrading their facilities. In comparison, the United States shipbuilding industry has been greatly lagging behind in these developments. Without a cost or technological advantage, there seems no way forward for the U.S. merchant fleet without the support of the shipbuilding industry.

Based on both analysis of the laws and information of the current merchant fleets, it appears the Jones Act is indeed the facilitator of the large decline of the U.S. merchant fleet. The United States is the only nation that requires flagged vessels be built domestically. In its current state, the U.S. shipbuilding industry is unable to compete in any way that suggests a resurgence in the merchant fleet any time soon. The U.S. shipbuilding industry lacks a cost or technological advantage. Meanwhile, Europe has already established itself as the place for specialized shipbuilding in the wake of competition from China, Japan, and South Korea. With 1,978 beneficially owned vessels, it is apparent U.S. companies are opting to produce their vessels elsewhere. This is severely limiting the potential number of flagged vessels eligible to ship goods between U.S. ports. Without change, it appears likely the United States will continue to see a steady decline of its merchant fleet.

Chapter 5

Recommendations

In order for the U.S. merchant fleet to return to a healthier status, there are necessary changes to be made to the Jones Act. There are three primary recommendations determined from the examination of outside literature and analysis done within this paper.

The first recommendation is the elimination of the United States build requirement. The United States is unique in having a requirement that ships must be built domestically in order to be flagged. At one point in history, the United States did have a competitive advantage for shipbuilding, but this has not been the case since the beginning of the 19th century when most ships were still made from timber. As it stands, the United States has no cost or technological advantage. There is little reason for a ship to be produced in the United States except for military purposes or to be eligible for domestic shipping. The result has been a steady decline in the number of operating shipyards in the United States. Essentially, the U.S. shipbuilding industry faces little to no competition for the production of ships for the purpose of domestic shipping. Without this competition there appears to be little reason to develop state-of-the-art facilities to compete against other shipbuilding leaders such as Japan. With these compounding factors the U.S. maritime fleet and shipbuilding industry have fallen behind much of the world.

By eliminating this requirement, it is likely the United States will see a slow increase in the number of flagged ships and the replacement of aging and obsolete ships currently being operated. United States entities are already having ships produced and flagged around the world, with the increase in ships being eligible for the U.S. flag, the number of flagged ships will rise.

With more ships to carry goods between ports, there would be a reduction in shipping by truck and rail. Ultimately, this will reduce road congestion, costs, and prices for consumers. Additionally, a larger number of ships to staff would result in more work for mariners and thus more trained mariners.

The second recommendation is the permanent exemption of Hawaii, Alaska, and U.S. territories from the Jones Act. Currently, these areas face the hardest burden from the Jones Act. As most of these locations are not connected by land to the continental United States, they are reliant on shipping by sea and air. With the Jones Act in place, they are unable to take full advantage of international shipping. A ship carrying goods from Asia to California is unable to stop in Hawaii to deliver goods. The state is reliant on U.S.-flagged vessels to make another trip to do so. Thus, residents of Hawaii and other territories face higher transportation costs, prices, and greater inconvenience than is necessary. An exemption would reduce the burden faced by these locations and offer greater access to international trade.

The third recommendation is a limited-time exemption for non-compliant ships to participate in the domestic shipping of goods and people while the merchant fleet grows. Currently, the U.S. merchant fleet is the smallest it has been in nearly a century with the country relying on only ninety-nine Jones Act complaint ships. A limited exemption for other U.S. owned and crewed ships to participate in domestic shipping would bolster the fleet while new ships are produced. This would temporarily alleviate the additional pressure placed on the United States truck and rail transportation while the changes to the Jones Act take place.

With these recommendations, the United States would recover from the decline it has steadily faced since the end of World War II. A stronger merchant fleet would bolster the

economy, more adequately fulfill national security and defense needs, and bring the United States closer in line with the flagged fleets of nations around the world.

Chapter 6

Conclusion

Cabotage laws have existed for several hundred years around the world. In the United States, the Jones Act has been in effect for a hundred years now since it was passed in 1920. The law was passed in an effort to combat the pressure faced from foreign competition in the maritime shipping industry. The act had a noble goal of maintaining an adequate merchant fleet to compete with the shipping industries of the world and ensuring the defense of the nation. As Senator Wesley L. Jones stated, "lay the foundation of a policy that will build up and maintain an adequate American merchant marine in competition with the shipping of the world" (Jones, 1920).

One hundred years have passed and the Jones Act appears to have failed at its goal. The United States merchant fleet and shipbuilding industry have faced a steady decline for nearly seventy years. While the main argument for the Jones Act is still national security and the defense of the nation, the ninety-nine ships with a combined total of approximately ten million deadweight tonnage cargo capacity tells a different tale. The arguments against the act have gained ground in the light of this decline and the effects it has had on the United States. Both anecdotal and empirical conclusions have not been in favor of the Jones Act.

The arguments against the act gained further support from the analysis of this paper. The merchant fleet of the United States is abnormally small for a nation of its size. From examining the cabotage laws of other nations, there are available alternatives and changes that could produce the desired outcome originally planned for in 1920. Liberalization of the Jones Act

would be beneficial for the United States by restoring the merchant fleet to a better position and benefitting the American people.

The leading recommendations are the elimination of the U.S. build requirement of the Jones Act to open up options for production around the world for U.S. entities desiring to engage in domestic shipping, the permanent exemption for Hawaii, Alaska, and U.S. territories from the Jones Act, and a limited time exemption for non-compliant ships. By putting these recommendations into effect, the United States would be a step closer to achieving the goals that Senator Wesley L. Jones set when he began the cause for a stronger U.S. merchant fleet after World War I. The Jones Act has been in effect for a century, now appears to be the time for some change.

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