

State on account of death by wrongful act, neglect, or default occurring upon the high seas, such right may be maintained in an appropriate action in admiralty in the courts of the United States without abatement in respect to the amount for which recovery is authorized, any statute of the United States to the contrary notwithstanding. (Mar. 30, 1920, c. 111, § 4, 41 Stat. 537.)

765. Death of plaintiff pending action.—If a person die as the result of such wrongful act, neglect, or default as is mentioned in section 761 during the pendency in a court of admiralty of the United States of a suit to recover damages for personal injuries in respect of such act, neglect, or default, the personal representative of the decedent may be substituted as a party and the suit may proceed as a suit under this chapter for the recovery of the compensation provided in section 732. (Mar. 30, 1920, c. 111, § 5, 41 Stat. 537.)

766. Contributory negligence.—In suits under this chapter the fact that the decedent has been guilty of contributory negligence shall not bar recovery, but the court shall take into consideration the degree of negligence attributable to the decedent and reduce the recovery accordingly. (Mar. 30, 1920, c. 111, § 6, 41 Stat. 537.)

767. Exceptions from operation of chapter.—The provisions of any State statute giving or regulating rights of action or remedies for death shall not be affected by this chapter. Nor shall this chapter apply to the Great Lakes or to any waters within the territorial limit of any State, or to any navigable waters in the Panama Canal Zone. (Mar. 30, 1920, c. 111, § 7, 41 Stat. 538.)

768. Pending suits.—This chapter shall not affect any pending suit, action, or proceeding. (Mar. 30, 1920, c. 111, § 8, 41 Stat. 538.)

Chapter 22.—SUITS IN ADMIRALTY AGAINST UNITED STATES FOR DAMAGES CAUSED BY OR FOR TOWAGE OR SALVAGE SERVICES.

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Section 781. Libel in admiralty against or impleader of United States.—A libel in personam in admiralty may be brought against the United States, or a petition impleading the United States, for damages caused by a public vessel of the United States, and for compensation for towage and salvage services, including contract salvage, rendered to a public vessel of the United States: *Provided*, That the cause of action arose after the 6th day of April, 1920. (Mar. 3, 1925, c. 428, § 1, 43 Stat. 1112.)

782. Venue of suit; application of provisions of chapter 20.—Such suit shall be brought in the district court of the United States for the district in which the vessel or cargo charged with creating the liability is found within the United States, or if such vessel or cargo be outside the territorial waters of the United States, then in the district court of the United States for the district in which the parties so suing, or any of them, reside or have an office for the transaction of business in the United States; or in case none of such parties reside or have an office for the transaction of business in the United States, and such vessel or cargo be outside the territorial waters of the United States, then in any district court of the United States. Such suits shall be subject to and proceed in accordance with the provisions of

chapter 20 or any amendment thereof, in so far as the same are not inconsistent herewith, except that no interest shall be allowed on any claim up to the time of the rendition of judgment unless upon a contract expressly stipulating for the payment of interest. (Mar. 3, 1925, c. 428, § 2, 43 Stat. 1112.)

783. Cross libel or set-off or counterclaim where United States sues.—In the event of the United States filing a libel in rem or in personam in admiralty for damages caused by a privately owned vessel, the owner of such vessel, or his successors in interest, may file a cross libel in personam or claim a set-off or counterclaim against the United States in such suit for and on account of any damages arising out of the same subject matter or cause of action: *Provided*, That whenever a cross libel is filed for any cause of action for which the original libel is filed by authority of this chapter, the respondent in the cross libel shall give security in the usual amount and form to respond to the claim set forth in said cross libel unless the court, for cause shown, shall otherwise direct; and all proceedings on the original libel shall be stayed until such security shall be given. (Mar. 3, 1925, c. 428, § 3, 43 Stat. 1112.)

784. Subpoenas to officers or members of crews.—No officer or member of the crew of any public vessel of the United States may be subpoenaed in connection with any suit authorized under this chapter without the consent of the Secretary of the department or the head of any independent establishment of the Government having control of the vessel at the time the cause of action arose, or of the master or commanding officer of such vessel at the time of the issuance of such subpoena. (Mar. 3, 1925, c. 428, § 4, 43 Stat. 1112.)

785. Suits by nationals of foreign governments.—No suit may be brought under this chapter by a national of any foreign government unless it shall appear to the satisfaction of the court in which suit is brought that said government, under similar circumstances, allows nationals of the United States to sue in its courts. (Mar. 3, 1925, c. 428, § 5, 43 Stat. 1113.)

786. Arbitration, compromise, or settlement.—The Attorney General of the United States is authorized to arbitrate, compromise, or settle any claim on which a libel or cross libel would lie under the provisions of this chapter, and for which a libel or cross libel has actually been filed. (Mar. 3, 1925, c. 428, § 6, 43 Stat. 1113.)

787. Payment of judgments or settlements.—Any final judgment rendered on any libel or cross libel herein authorized, and any settlement had and agreed to under the provisions of section 786 of this chapter, shall, upon presentation of a duly authenticated copy thereof, be paid by the proper accounting officer of the United States out of any moneys in the Treasury of the United States appropriated therefor by Congress. (Mar. 3, 1925, c. 428, § 7, 43 Stat. 1113.)

788. Lien not created against public vessels.—Nothing contained in this chapter shall be construed to recognize the existence of or as creating a lien against any public vessel of the United States. (Mar. 3, 1925, c. 428, § 8, 43 Stat. 1113.)

789. Exemptions and limitations of liability.—The United States shall be entitled to the benefits of all exemptions and of all limitations of liability accorded by law to the owners, charterers, operators or agents of vessels. (Mar. 3, 1925, c. 428, § 9, 43 Stat. 1113.)

790. Reports by Attorney General.—The Attorney General of the United States shall report to the Congress at each session thereof all suits in which final judgment shall have been rendered and all claims which shall have been settled under this chapter. (Mar. 3, 1925, c. 428, § 10, 43 Stat. 1113.)

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Section 801. Terms defined.—When used in this chapter:

The term "common carrier by water in foreign commerce" means a common carrier, except ferryboats running on regular routes, engaged in the transportation by water of passengers or property between the United States or any of its Districts, Territories, or possessions and a foreign country, whether in the import or export trade: *Provided*, That a cargo boat commonly called an ocean tramp shall not be deemed such "common carrier by water in foreign commerce."

The term "common carrier by water in interstate commerce" means a common carrier engaged in the transportation by water of passengers or property on the high seas or the Great Lakes on regular routes from port to port between one State, Territory, District, or possession of the United States and any other State, Territory, District, or possession of the United States, or between places in the same Territory, District, or possession.

The term "common carrier by water" means a common carrier by water in foreign commerce or a common carrier by water in interstate commerce on the high seas or the Great Lakes on regular routes from port to port.

The term "other person subject to this Act" means any person not included in the term "common carrier by water," carrying on the business of forwarding or furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier by water.

The term "person" includes corporations, partnerships, and associations, existing under or authorized by the laws of the

United States, or any State, Territory, District, or possession thereof, or of any foreign country.

The term "vessel" includes all water craft and other artificial contrivances of whatever description and at whatever stage of construction, whether on the stocks or launched, which are used or are capable of being or are intended to be used as a means of transportation on water.

The term "documented under the laws of the United States," means "registered, enrolled, or licensed under the laws of the United States." (Sept. 7, 1916, c. 451, § 1, 39 Stat. 728; July 15, 1918, c. 152, § 1, 40 Stat. 900.)

802. Corporation, partnership, or association as citizen.—(a) Within the meaning of this chapter no corporation, partnership, or association shall be deemed a citizen of the United States unless the controlling interest therein is owned by citizens of the United States, and, in the case of a corporation, unless its president and managing directors are citizens of the United States and the corporation itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof, but in the case of a corporation, association, or partnership operating any vessel in the coastwise trade the amount of interest required to be owned by citizens of the United States shall be 75 per centum.

(b) The controlling interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (c) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or, (d) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

(c) Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States; or (c) if, through any contract or understanding, it is so arranged that more than 25 per centum of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or (d) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States. (Sept. 7, 1916, c. 451, § 2, 39 Stat. 729; July 15, 1918, c. 152, § 2, 40 Stat. 900; June 5, 1920, c. 250, § 38, 41 Stat. 1008.)

803. Applicability of chapter to receivers and trustees.—The provisions of this chapter shall apply to receivers and trustees of all persons to whom the chapter applies, and to the successors or assignees of such persons. (Sept. 7, 1916, c. 451, § 2, 39 Stat. 729; July 15, 1918, c. 152, § 2, 40 Stat. 900; June 5, 1920, c. 250, § 38, 41 Stat. 1008.)

804. Shipping Board; establishment; commissioners; duties; seal; rules and regulations.—A board is hereby created to be known as the United States Shipping Board and hereinafter referred to as the board. The board shall be composed of seven commissioners, to be appointed by the President, by and with the advice and consent of the Senate; and the President shall designate the member to act as chairman of the board, and the board may elect one of its members as vice chairman. Such commissioners shall be appointed as soon as practicable after June 5, 1920, and shall continue in office two for a term

of one year, and the remaining five for terms of two, three, four, five, and six years, respectively, from the date of their appointment, the term of each to be designated by the President, but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he succeeds.

The commissioners shall be appointed with due regard to their fitness for the efficient discharge of the duties imposed on them by this chapter, and two shall be appointed from the States touching the Pacific Ocean, two from the States touching the Atlantic Ocean, one from the States touching the Gulf of Mexico, one from the States touching the Great Lakes and one from the interior, but not more than one shall be appointed from the same State. Not more than four of the commissioners shall be appointed from the same political party. A vacancy in the board shall be filled in the same manner as the original appointments. No commissioner shall take any part in the consideration or decision of any claim or particular controversy in which he has a pecuniary interest.

Each commissioner shall devote his time to the duties of his office, and shall not be in the employ of or hold any official relation to any common carrier or other person subject to this chapter, nor while holding such office acquire any stock or bonds thereof or become pecuniarily interested in any such carrier.

The duties of the board may be so divided that under its supervision the directorship of various activities may be assigned to one or more commissioners. Any commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. A vacancy in the board shall not impair the right of the remaining members of the board to exercise all its powers. The board shall have an official seal, which shall be judicially noticed.

The board may adopt rules and regulations in regard to its procedure and the conduct of its business. The board may employ within the limits of appropriations made therefor by Congress such attorneys as it finds necessary for proper legal service to the board in the conduct of its work, or for proper representation of the public interest in investigations made by it or proceedings pending before it whether at the board's own instance or upon complaint, or to appear for or represent the board in any case in court or other tribunal. The board shall have such other rights and perform such other duties not inconsistent with the following chapter, the Merchant Marine Act, 1920, as were conferred by existing law upon the board in existence on June 5, 1920.

The commissioners in office on June 5, 1920, shall hold office until all the commissioners provided for in this section are appointed and qualify. (Sept. 7, 1916, c. 451, § 3, 39 Stat. 729; June 5, 1920, c. 250, § 3, 41 Stat. 989.)

805. Salaries of commissioners and employees; detail of officers of military, naval, or other services; civil service rules.—Each member of the board shall receive a salary of \$12,000 per annum. The board shall appoint a secretary, at a salary of \$5,000 per annum, and employ and fix the compensation of such attorneys, officers, naval architects, special experts, examiners, clerks, and other employees as it may find necessary for the proper performance of its duties and as may be appropriated for by the Congress. The President, upon the request of the board, may authorize the detail of officers of the military, naval, or other services of the United States for such duties as the board may deem necessary in connection with its business.

With the exception of the secretary, a clerk to each commissioner, the attorneys, naval architects, and such special experts and examiners as the board may from time to time find necessary to employ for the conduct of its work, all em-

ployees of the board shall be appointed from lists of eligibles to be supplied by the Civil Service Commission and in accordance with the civil service law.

The expenses of the board, including necessary expenses for transportation, incurred by the members of the board or by its employees under its orders, in making any investigation, or upon official business in any other place than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the chairman of the board.

Until otherwise provided by law the board may rent suitable offices for its use.

The General Accounting Office shall receive and examine all accounts of expenditures of the board. (Sept. 7, 1916, c. 451, § 4, 39 Stat. 729; June 5, 1920, c. 250, § 3, 41 Stat. 990; June 10, 1921, c. 18, § 301, 42 Stat. 21.)

806. Transfer of vessels to board by President.—The President may transfer either permanently or for limited periods to the board such vessels belonging to the War or Navy Department as are suitable for commercial uses and not required for military or naval use in time of peace, and cause to be transferred to the board vessels owned by the Panama Railroad Company and not required in its business. (Sept. 7, 1916, c. 451, § 6, 39 Stat. 730.)

807. Limitation on salaries.—No officer or employee of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation shall be paid a salary or compensation at a rate per annum in excess of \$10,000 except the following: One at not to exceed \$25,000 and seven at not to exceed \$18,000 each. (June 12, 1922, c. 218, 42 Stat. 648; Feb. 13, 1923, c. 72, 42 Stat. 1212; June 7, 1924, c. 202, § 1, 43 Stat. 531; Mar. 3, 1925, c. 468, § 1, 43 Stat. 1209.)

808. Registration, enrollment, and licensing of vessels purchased, chartered, or leased; regulations; coastwise trade.—Any vessel purchased, chartered, or leased from the board, by persons who are citizens of the United States, may be registered or enrolled and licensed, or both registered and enrolled and licensed, as a vessel of the United States and entitled to the benefits and privileges appertaining thereto: *Provided*, That foreign-built vessels admitted to American registry or enrollment and license under this chapter, and vessels owned by any corporation in which the United States is a stockholder, and vessels sold, leased, or chartered by the board to any person a citizen of the United States, as provided in this chapter, may engage in the coastwise trade of the United States while owned, leased, or chartered by such a person.

Every vessel purchased, chartered, or leased from the board shall, unless otherwise authorized by the board, be operated only under such registry or enrollment and license. Such vessels while employed solely as merchant vessels shall be subject to all laws, regulations, and liabilities governing merchant vessels, whether the United States be interested therein as owner, in whole or in part, or hold any mortgage, lien, or other interest therein.

It shall be unlawful to sell, transfer or mortgage, or, except under regulations prescribed by the board, to charter, any vessel purchased from the board or documented under the laws of the United States to any person not a citizen of the United States, or to put the same under a foreign registry or flag, without first obtaining the board's approval.

Any vessel chartered, sold, transferred or mortgaged to a person not a citizen of the United States or placed under a foreign registry or flag, or operated, in violation of any provision of this section shall be forfeited to the United States, and whoever violates any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more

than \$5,000, or to imprisonment for not more than five years, or both. (Sept. 7, 1916, c. 451, § 9, 39 Stat. 730; July 15, 1918, c. 152, § 3, 40 Stat. 900; June 5, 1920, c. 250, § 18, 41 Stat. 991.)

809. Taking vessels for naval or military purposes.—The President, upon giving to the person interested such reasonable notice in writing as in his judgment the circumstances permit, may take possession, absolutely or temporarily, for any naval or military purpose, of any vessel purchased, leased, or chartered from the board: *Provided*, That if, in the judgment of the President, an emergency exists requiring such action he may take possession of any such vessel without notice.

Thereafter, upon ascertainment by agreement or otherwise, the United States shall pay the person interested the fair actual value based upon normal conditions at the time of taking of the interest of such person in every vessel taken absolutely, or if taken for a limited period, the fair charter value under normal conditions for such period. In case of disagreement as to such fair value it shall be determined by appraisers, one to be appointed by the board, one by the person interested, and a third by the two so appointed. The finding of such appraisers shall be final and binding upon both parties. (Sept. 7, 1916, c. 451, § 10, 39 Stat. 731.)

810. Corporations for purchase, construction, equipment, maintenance, and operation of merchant vessels.—The board, if in its judgment such action is necessary to carry out the purposes of this chapter, may form under the laws of the District of Columbia one or more corporations for the purchase, construction, equipment, lease, charter, maintenance, and operation of merchant vessels in the commerce of the United States. The total capital stock thereof shall not exceed \$50,000,000. The board may, for and on behalf of the United States, subscribe to, purchase, and vote not less than a majority of the capital stock of any such corporation, and do all other things in regard thereto necessary to protect the interests of the United States and to carry out the purposes of this chapter. The board, with the approval of the President, may sell any or all of the stock of the United States in such corporation, but at no time shall it be a minority stockholder therein: *Provided*, That no corporation in which the United States is a stockholder, formed under the authority of this section, shall engage in the operation of any vessel constructed, purchased, leased, chartered, or transferred under the authority of this chapter unless the board shall be unable, after a bona fide effort, to contract with any person a citizen of the United States for the purchase, lease, or charter of such vessel under such terms and conditions as may be prescribed by the board.

The board shall give public notice of the fact that vessels are offered and the terms and conditions upon which a contract will be made, and shall invite competitive offerings. In the event the board shall, after full compliance with the terms of this proviso, determine that it is unable to enter into a contract with such private parties for the purchase, lease, or charter of such vessel, it shall make a full report to the President, who shall examine such report, and if he shall approve the same he shall make an order declaring that the conditions have been found to exist which justify the operation of such vessel by a corporation formed under the provisions of this section.

The board may sell, lease, or charter such vessels and shall dispose of the property other than vessels on the best available terms and, after payment of all debts and obligations, deposit the proceeds thereof in the Treasury to its credit. All stock in such corporations owned by others than the United States at the time of dissolution shall be taken over by the board at a fair and reasonable value and paid for with funds to the credit of the board. In case of disagreement, such value shall be determined in the manner provided in the preceding section. (Sept. 7, 1916, c. 451, § 11, 39 Stat. 731.)

811. Investigations as to cost of merchant vessels.—The board shall investigate the relative cost of building merchant vessels in the United States and in foreign maritime countries, and the relative cost, advantages, and disadvantages of operating in the foreign trade vessels under United States registry and under foreign registry. It shall examine the rules under which vessels are constructed abroad and in the United States, and the methods of classifying and rating same, and it shall examine into the subject of marine insurance, the number of companies in the United States, domestic and foreign, engaging in marine insurance, the extent of the insurance on hulls and cargoes placed or written in the United States, and the extent of reinsurance of American maritime risks in foreign companies, and ascertain what steps may be necessary to develop an ample marine insurance system as an aid in the development of an American merchant marine. It shall examine the navigation laws of the United States and the rules and regulations thereunder, and make such recommendations to the Congress as it deems proper for the amendment, improvement, and revision of such laws, and for the development of the American merchant marine.

It shall, on or before the 1st day of December in each year, make a report to the Congress, which shall include its recommendations and the results of its investigations, a summary of its transactions, and a statement of all expenditures and receipts under this chapter, and of the operations of any corporation in which the United States is a stockholder, and the names and compensation of all persons employed by the board. (Sept. 7, 1916, c. 451, § 12, 39 Stat. 732.)

812. Rebates and discriminations by carriers by water prohibited; use of "fighting ship."—No common carrier by water shall, directly or indirectly, in respect to the transportation by water of passengers or property between a port of a State, Territory, District, or possession of the United States and any other such port or a port of a foreign country—

First. Pay, or allow, or enter into any combination, agreement, or understanding, express or implied, to pay or allow, a deferred rebate to any shipper. The term "deferred rebate" in this chapter means a return of any portion of the freight money by a carrier to any shipper as a consideration for the giving of all or any portion of his shipments to the same or any other carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement.

Second. Use a fighting ship either separately or in conjunction with any other carrier, through agreement or otherwise. The term "fighting ship" in this chapter means a vessel used in a particular trade by a carrier or group of carriers for the purpose of excluding, preventing, or reducing competition by driving another carrier out of said trade.

Third. Retaliate against any shipper by refusing, or threatening to refuse, space accommodations when such are available, or resort to other discriminating or unfair methods, because such shipper has patronized any other carrier or has filed a complaint charging unfair treatment, or for any other reason.

Fourth. Make any unfair or unjustly discriminatory contract with any shipper based on the volume of freight offered, or unfairly treat or unjustly discriminate against any shipper in the matter of (a) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage; (b) the loading and lading of freight in proper condition; or (c) the adjustment and settlement of claims.

Any carrier who violates any provision of this section shall be guilty of a misdemeanor punishable by a fine of not more

than \$25,000 for each offense. (Sept. 7, 1916, c. 451, § 14, 39 Stat. 733; June 5, 1920, c. 250, § 20, 41 Stat. 996.)

813. Determination by board as to violations.—The board upon its own initiative may, or upon complaint shall, after due notice to all parties in interest and hearing, determine whether any person, not a citizen of the United States and engaged in transportation by water of passengers or property—

(1) Has violated any provision of the preceding section, or

(2) Is a party to any combination, agreement, or understanding express or implied, that involves in respect to transportation of passengers or property between foreign ports, deferred rebates or any other unfair practice designated in the preceding section, and that excludes from admission upon equal terms with all other parties thereto, a common carrier by water which is a citizen of the United States and which has applied for such admission.

If the board determines that any such person has violated any such provision or is a party to any such combination, agreement, or understanding, the board shall thereupon certify such fact to the Secretary of Commerce. The Secretary shall thereafter refuse such person the right of entry for any ship owned or operated by him or by any carrier directly or indirectly controlled by him, into any port of the United States, or any Territory, District, or possession thereof, until the board certifies that the violation has ceased or such combination, agreement, or understanding has been terminated. (Sept. 7, 1916, c. 451, § 14a; June 5, 1920, c. 250, § 20, 41 Stat. 996.)

814. Contracts between carriers filed with board.—Every common carrier by water, or other person subject to this chapter, shall file immediately with the board a true copy, or, if oral, a true and complete memorandum, of every agreement, with another such carrier or other person subject to this chapter, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement. The term "agreement" in this section includes understandings, conferences, and other arrangements.

The board may by order disapprove, cancel, or modify any agreement, or any modification or cancellation thereof, whether or not previously approved by it, that it finds to be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors or to operate to the detriment of the commerce of the United States, or to be in violation of this chapter, and shall approve all other agreements, modifications, or cancellations.

Agreements existing at the time of the organization of the board shall be lawful until disapproved by the board. It shall be unlawful to carry out any agreement or any portion thereof disapproved by the board.

All agreements, modifications, or cancellations made after the organization of the board shall be lawful only when and as long as approved by the board, and before approval or after disapproval it shall be unlawful to carry out in whole or in part, directly or indirectly, any such agreement, modification, or cancellation.

Every agreement, modification, or cancellation lawful under this section shall be excepted from the provisions of sections 1 to 11, inclusive, and section 15 of chapter 1, of Title 15, COMMERCE AND TRADE, and amendments and Acts supplementary thereto.

Whoever violates any provision of this section shall be liable to a penalty of \$1,000 for each day such violation continues, to be recovered by the United States in a civil action. (Sept. 7, 1916, c. 451, § 15, 39 Stat. 733.)

815. Discriminatory acts prohibited.—It shall be unlawful for any common carrier by water, or other person subject to this chapter, either alone or in conjunction with any other person, directly or indirectly—

First. To make or give any undue or unreasonable preference or advantage to any particular person, locality, or description of traffic in any respect whatsoever, or to subject any particular person, locality, or description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Second. To allow any person to obtain transportation for property at less than the regular rates then established and enforced on the line of such carrier, by means of false billing, false classification, false weighing, false report of weight, or by any other unjust or unfair device or means.

Third. To induce, persuade, or otherwise influence any marine insurance company or underwriter, or agent thereof, not to give a competing carrier by water as favorable a rate of insurance on vessel or cargo, having due regard to the class of vessel or cargo, as is granted to such carrier or other person subject to this chapter. (Sept. 7, 1916, c. 451, § 16, 39 Stat. 734.)

816. Discriminatory rates prohibited; supervision by board.—No common carrier by water in foreign commerce shall demand, charge, or collect any rate, fare, or charge which is unjustly discriminatory between shippers or ports, or unjustly prejudicial to exporters of the United States as compared with their foreign competitors. Whenever the board finds that any such rate, fare, or charge is demanded, charged, or collected it may alter the same to the extent necessary to correct such unjust discrimination or prejudice and make an order that the carrier shall discontinue demanding, charging, or collecting any such unjustly discriminatory or prejudicial rate, fare, or charge.

Every such carrier and every other person subject to this chapter shall establish, observe, and enforce just and reasonable regulations and practices relating to or connected with the receiving, handling, storing, or delivering of property. Whenever the board finds that any such regulation or practice is unjust or unreasonable it may determine, prescribe, and order enforced a just and reasonable regulation or practice. (Sept. 7, 1916, c. 451, § 17, 39 Stat. 734.)

817. Carriers to establish, observe, and enforce reasonable rates and regulations.—Every common carrier by water in interstate commerce shall establish, observe, and enforce just and reasonable rates, fares, charges, classifications, and tariffs, and just and reasonable regulations and practices relating thereto and to the issuance, form, and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing, and delivering property for transportation, the carrying of personal, sample, and excess baggage, the facilities for transportation, and all other matters relating to or connected with the receiving, handling, transporting, storing, or delivering of property.

Every such carrier shall file with the board and keep open to public inspection, in the form and manner and within the time prescribed by the board, the maximum rates, fares, and charges for or in connection with transportation between points on its own route; and if a through route has been established, the maximum rates, fares, and charges for or in connection with transportation between points on its own route and points on the route of any other carrier by water.

No such carrier shall demand, charge, or collect a greater compensation for such transportation than the rates, fares, and charges filed in compliance with this section, except with

the approval of the board and after ten days' public notice in the form and manner prescribed by the board, stating the increase proposed to be made; but the board for good cause shown may waive such notice.

Whenever the board finds that any rate, fare, charge, classification, tariff, regulation, or practice, demanded, charged, collected, or observed by such carrier is unjust or unreasonable, it may determine, prescribe, and order enforced a just and reasonable maximum rate, fare, or charge, or a just and reasonable classification, tariff, regulation, or practice. (Sept. 7, 1916, c. 451, § 18, 39 Stat. 735.)

818. Rates reduced not to be increased without approval of board.—Whenever a common carrier by water in interstate commerce reduces its rates on the carriage of any species of freight to or from competitive points below a fair and remunerative basis with the intent of driving out or otherwise injuring a competitive carrier by water, it shall not increase such rates unless after hearing the board finds that such proposed increase rests upon changed conditions other than the elimination of said competition. (Sept. 7, 1916, c. 451, § 19, 39 Stat. 735.)

819. Disclosure of confidential information prohibited.—It shall be unlawful for any common carrier by water or other person subject to this chapter, or any officer, receiver, trustee, lessee, agent, or employee of such carrier or person, or for any other person authorized by such carrier or person to receive information, knowingly to disclose to or permit to be acquired by any person other than the shipper or consignee, without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such common carrier or other person subject to this chapter for transportation in interstate or foreign commerce, which information may be used to the detriment or prejudice of such shipper or consignee, or which may improperly disclose his business transactions to a competitor, or which may be used to the detriment or prejudice of any carrier; and it shall also be unlawful for any person to solicit or knowingly receive any such information which may be so used.

Nothing in this chapter shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the Government of the United States, or of any State, Territory, District, or possession thereof, in the exercise of his powers, or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crime, or to another carrier, or its duly authorized agent, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers. (Sept. 7, 1916, c. 451, § 20, 39 Stat. 735.)

820. Reports by carriers required.—The board may require any common carrier by water, or other person subject to this chapter, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report, or any account, record, rate, or charge, or any memorandum of any facts and transactions appertaining to the business of such carrier or other person subject to this chapter. Such report, account, record, rate, charge, or memorandum shall be under oath whenever the board so requires, and shall be furnished in the form and within the time prescribed by the board. Whoever fails to file any report, account, record, rate, charge, or memorandum as required by this section shall forfeit to the United States the sum of \$100 for each day of such default.

Whoever willfully falsifies, destroys, mutilates, or alters any such report, account, record, rate, charge, or memorandum, or willfully files a false report, account, record, rate, charge, or memorandum shall be guilty of a misdemeanor, and subject

upon conviction to a fine of not more than \$1,000, or imprisonment for not more than one year, or to both such fine and imprisonment. (Sept. 7, 1916, c. 451, § 21, 39 Stat. 736.)

821. Complaints to board and investigations.—Any person may file with the board a sworn complaint setting forth any violation of this chapter by a common carrier by water, or other person subject to this chapter, and asking reparation for the injury, if any, caused thereby. The board shall furnish a copy of the complaint to such carrier or other person, who shall, within a reasonable time specified by the board, satisfy the complaint or answer it in writing. If the complaint is not satisfied the board shall, except as otherwise provided in this chapter, investigate it in such manner and by such means, and make such order as it deems proper. The board, if the complaint is filed within two years after the cause of action accrued, may direct the payment, on or before a day named, of full reparation to the complainant for the injury caused by such violation.

The board, upon its own motion, may in like manner and, except as to orders for the payment of money, with the same powers, investigate any violation of this chapter. (Sept. 7, 1916, c. 451, § 22, 39 Stat. 736.)

822. Orders of board made only after full hearing.—Orders of the board relating to any violation of this chapter shall be made only after full hearing, and upon a sworn complaint or in proceedings instituted of its own motion.

All orders of the board other than for the payment of money made under this chapter shall continue in force for such time, not exceeding two years, as shall be prescribed therein by the board, unless suspended, modified, or set aside by the board or any court of competent jurisdiction. (Sept. 7, 1916, c. 451, § 23, 39 Stat. 736.)

823. Records of board; copies; publication of reports; evidence.—The board shall enter of record a written report of every investigation made under this chapter in which a hearing has been held, stating its conclusions, decision, and order, and, if reparation is awarded, the findings of fact on which the award is made, and shall furnish a copy of such report to all parties to the investigation.

The board may publish such reports in the form best adapted for public information and use, and such authorized publications shall, without further proof or authentication, be competent evidence of such reports in all courts of the United States and of the States, Territories, Districts, and possessions thereof. (Sept. 7, 1916, c. 451, § 24, 39 Stat. 736.)

824. Reversal, suspension, or modification of orders.—The board may reverse, suspend, or modify, upon such notice and in such manner as it deems proper, any order made by it. Upon application of any party to a decision or order it may grant a rehearing of the same or any matter determined therein, but no such application for or allowance of a rehearing shall, except by special order of the board, operate as a stay of such order. (Sept. 7, 1916, c. 451, § 25, 39 Stat. 736.)

825. Investigation by board as to acts of foreign governments.—The board shall have power, and it shall be its duty whenever complaint shall be made to it, to investigate the action of any foreign government with respect to the privileges afforded and burdens imposed upon vessels of the United States engaged in foreign trade whenever it shall appear that the laws, regulations, or practices of any foreign Government operate in such a manner that vessels of the United States are not accorded equal privileges in foreign trade with vessels of such foreign countries or vessels of other foreign countries, either in trade to or from the ports of such foreign country or in respect of the passage or transportation through such foreign country of passengers or goods intended for shipment or transportation in such vessels of the United States, either

to or from ports of such foreign country or to or from ports of other foreign countries. It shall be the duty of the board to report the results of its investigation to the President with its recommendations and the President is authorized and empowered to secure by diplomatic action equal privileges for vessels of the United States engaged in such foreign trade. And if by such diplomatic action the President shall be unable to secure such equal privileges then the President shall advise Congress as to the facts and his conclusions by special message, if deemed important in the public interest, in order that proper action may be taken thereon. (Sept. 7, 1916, c. 451, § 26, 39 Stat. 737.)

826. Attendance of witnesses and production of books and papers.—For the purpose of investigating alleged violations of this chapter, the board may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and other evidence from any place in the United States at any designated place of hearing. Subpoenas may be signed by any commissioner, and oaths or affirmations may be administered, witnesses examined, and evidence received by any commissioner or examiner, or, under the direction of the board, by any person authorized under the laws of the United States or of any State, Territory, District, or possession thereof to administer oaths. Persons so acting under the direction of the board and witnesses shall, unless employees of the board, be entitled to the same fees and mileage as in the courts of the United States. Obedience to any such subpoena shall, on application by the board, be enforced as are orders of the board other than for the payment of money. (Sept. 7, 1916, c. 451, § 27, 39 Stat. 737.)

827. Immunity of witnesses.—No person shall be excused, on the ground that it may tend to incriminate him or subject him to a penalty or forfeiture, from attending and testifying, or producing books, papers, documents, and other evidence, in obedience to the subpoena of the board or of any court in any proceeding based upon or growing out of any alleged violation of this chapter; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpoena and under oath, he may so testify or produce evidence, except that no person shall be exempt from prosecution and punishment for perjury committed in so testifying. (Sept. 7, 1916, c. 451, § 28, 39 Stat. 737.)

828. Enforcement of orders of board.—In case of violation of any order of the board, other than an order for the payment of money, the board, or any party injured by such violation, or the Attorney General, may apply to a district court having jurisdiction of the parties; and if, after hearing, the court determines that the order was regularly made and duly issued, it shall enforce obedience thereto by a writ of injunction or other proper process, mandatory or otherwise. (Sept. 7, 1916, c. 451, § 29, 39 Stat. 737.)

829. Violation of orders of board for payment of money.—In case of violation of any order of the board for the payment of money the person to whom such award was made may file in the district court for the district in which such person resides, or in which is located any office of the carrier or other person to whom the order was directed, or in which is located any point of call on a regular route operated by the carrier, or in any court of general jurisdiction of a State, Territory, District, or possession of the United States having jurisdiction of the parties, a petition or suit setting forth briefly the causes for which he claims damages and the order of the board in the premises.

In the district court the findings and order of the board shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs, nor shall he be liable for costs at any subsequent stage of the proceedings unless they accrue upon his appeal. If a petitioner in a district court

finally prevails, he shall be allowed a reasonable attorney's fee, to be taxed and collected as part of the costs of the suit.

All parties in whose favor the board has made an award of reparation by a single order may be joined as plaintiffs, and all other parties to such order may be joined as defendants, in a single suit in any district in which any one such plaintiff could maintain a suit against any one such defendant. Service of process against any such defendant not found in that district may be made in any district in which is located any office of, or point of call on a regular route operated by, such defendant. Judgment may be entered in favor of any plaintiff against the defendant liable to that plaintiff.

No petition or suit for the enforcement of an order for the payment of money shall be maintained unless filed within one year from the date of the order. (Sept. 7, 1916, c. 451, § 30, 39 Stat. 737.)

830. Venue and procedure in suits to enforce, suspend, or set aside orders.—The venue and procedure in the courts of the United States in suits brought to enforce, suspend, or set aside, in whole or in part, any order of the board shall, except as otherwise provided, be the same as in similar suits in regard to orders of the Interstate Commerce Commission, but such suits may also be maintained in any district court having jurisdiction of the parties. (Sept. 7, 1916, c. 451, § 31, 39 Stat. 738.)

831. Penalty for violation of chapter.—Whoever violates any provision of this chapter, except where a different penalty is provided, shall be guilty of a misdemeanor, punishable by fine of not to exceed \$5,000. (Sept. 7, 1916, c. 451, § 32, 39 Stat. 738.)

832. Powers of Interstate Commerce Commission not affected; intrastate commerce.—This chapter shall not be construed to affect the power or jurisdiction of the Interstate Commerce Commission, nor to confer upon the board concurrent power or jurisdiction over any matter within the power or jurisdiction of such commission; nor shall this chapter be construed to apply to intrastate commerce. (Sept. 7, 1916, c. 451, § 33, 39 Stat. 738.)

833. Partial invalidity of chapter as not affecting remainder.—If any provision of this chapter, or the application of such provision to certain circumstance, is held unconstitutional, the remainder of the chapter, and the application of such provision to circumstances other than those as to which it is held unconstitutional, shall not be affected thereby. (Sept. 7, 1916, c. 451, § 34, 39 Stat. 738.)

834. Refusal of clearance to vessel refusing to accept trade.—The Secretary of the Treasury is authorized to refuse a clearance to any vessel or other vehicle laden with merchandise destined for a foreign or domestic port whenever he shall have satisfactory reason to believe that the master, owner, or other officer of such vessel or other vehicle refuses or declines to accept or receive freight or cargo in good condition tendered for such port of destination or for some intermediate port of call, together with the proper freight or transportation charges therefor, by any citizen of the United States, unless the same is fully laden and has no space accommodations for the freight or cargo so tendered, due regard being had for the proper loading of such vessel or vehicle, or unless such freight or cargo consists of merchandise for which such vessel or vehicle is not adaptable. (Sept. 7, 1916, c. 451, § 36, 39 Stat. 738.)

835. Restrictions on transfer of shipping facilities during war or national emergency.—When the United States is at war or during any national emergency, the existence of which is declared by proclamation of the President, it shall be unlawful, without first obtaining the approval of the board:

(a) To transfer to or place under any foreign registry or flag any vessel owned in whole or in part by any person a citizen of the United States or by a corporation organized under

the laws of the United States, or of any State, Territory, District, or possession thereof; or

(b) To sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to any person not a citizen of the United States, (1) any such vessel or any interest therein, or (2) any vessel documented under the laws of the United States, or any interest therein, or (3) any shipyard, dry dock, shipbuilding or ship repairing plant or facilities, or any interest therein; or

(c) To enter into any contract, agreement, or understanding to construct a vessel within the United States for or to be delivered to any person not a citizen of the United States, without expressly stipulating that such construction shall not begin until after the war or emergency proclaimed by the President has ended; or

(d) To make any agreement or effect any understanding whereby there is vested in or for the benefit of any person not a citizen of the United States, the controlling interest or a majority of the voting power in a corporation which is organized under the laws of the United States, or of any State, Territory, District, or possession thereof, and which owns any vessel, shipyard, dry dock, or shipbuilding or ship repairing plant or facilities; or

(e) To cause or procure any vessel constructed in whole or in part within the United States, which has never cleared for any foreign port, to depart from a port of the United States before it has been documented under the laws of the United States.

Whoever violates, or attempts or conspires to violate, any of the provisions of this section shall be guilty of a misdemeanor, punishable by a fine of not more than \$5,000 or by imprisonment for not more than five years, or both.

Any vessel, shipyard, dry dock, shipbuilding or ship-repairing plant or facilities, or interest therein, sold, mortgaged, leased, chartered, delivered, transferred, or documented, or agreed to be sold, mortgaged, leased, chartered, delivered, transferred, or documented, in violation of any of the provisions of this section, and any stocks, bonds, or other securities sold or transferred, or agreed to be sold or transferred, in violation of any of such provisions, or any vessel departing in violation of the provisions of subdivision (e), shall be forfeited to the United States.

Any such sale, mortgage, lease, charter, delivery, transfer, documentation, or agreement therefor shall be void, whether made within or without the United States, and any consideration paid therefor or deposited in connection therewith shall be recoverable at the suit of the person who has paid or deposited the same, or of his successors or assigns, after the tender of such vessel, shipyard, dry dock, shipbuilding or ship-repairing plant or facilities, or interest therein, or of such stocks, bonds, or other securities, to the person entitled thereto, or after forfeiture thereof to the United States, unless the person to whom the consideration was paid, or in whose interest it was deposited, entered into the transaction in the honest belief that the person who paid or deposited such consideration was a citizen of the United States. (Sept. 7, 1916, c. 451, § 37, 39 Stat. 728; July 15, 1918, c. 152, § 4, 40 Stat. 901.)

836. Forfeitures.—All forfeitures incurred under the provisions of this chapter may be prosecuted in the same court, and may be disposed of in the same manner, as forfeitures incurred for offenses against the law relating to the collection of duties. (Sept. 7, 1916, c. 451, § 38, 39 Stat. 728; July 15, 1918, c. 152, § 4, 40 Stat. 902.)

837. Prima facie evidence.—In any action or proceeding under the provisions of this chapter to enforce a forfeiture the conviction in a court of criminal jurisdiction of any person for a violation thereof with respect to the subject of the forfeiture

shall constitute prima facie evidence of such violation against the person so convicted. (Sept. 7, 1916, c. 451, § 39, 39 Stat. 728; July 15, 1918, c. 152, § 4, 40 Stat. 902.)

838. Record of sale or other disposition of vessels.—Whenever any bill of sale, mortgage, hypothecation, or conveyance of any vessel, or part thereof, or interest therein, is presented to any collector of the customs to be recorded, the vendee, mortgagee, or transferee shall file therewith a written declaration in such form as the board may by regulation prescribe, setting forth the facts relating to his citizenship, and such other facts as the board requires, showing that the transaction does not involve a violation of any of the provisions of section 808 or 835. Unless the board, before such presentation, has failed to prescribe such form, no such bill of sale, mortgage, hypothecation, or conveyance shall be valid against any person whatsoever until such declaration has been filed. Any declaration filed by or in behalf of a corporation shall be signed by the president, secretary, or treasurer thereof.

Whoever knowingly makes any false statement of a material fact in any such declaration shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000, or to imprisonment for not more than five years, or both. (Sept. 7, 1916, c. 451, § 40, 39 Stat. 728; July 15, 1918, c. 152, § 4, 40 Stat. 902.)

839. Approvals by board.—Whenever by section 808 or 835 the approval of the board is required to render any act or transaction lawful, such approval may be accorded either absolutely or upon such conditions as the board prescribes. Whenever the approval of the board is accorded upon any condition a statement of such condition shall be entered upon its records and incorporated in the same document or paper which notifies the applicant of such approval. A violation of such condition so incorporated shall constitute a misdemeanor and shall be punishable by fine and imprisonment in the same manner, and shall subject the vessel, stocks, bonds, or other subject matter of the application conditionally approved to forfeiture in the same manner, as though the act conditionally approved had been done without the approval of the board, but the offense shall be deemed to have been committed at the time of the violation of the condition.

Whenever by this chapter the approval of the board is required to render any act or transaction lawful, whoever knowingly makes any false statement of a material fact to the board, or to any member thereof, or to any officer, attorney, or agent thereof, for the purpose of securing such approval, shall be guilty of a misdemeanor and subject to a fine of not more than \$5,000 or to imprisonment for not more than five years, or both. (Sept. 7, 1916, c. 451, § 41, 39 Stat. 728; July 15, 1918, c. 152, § 4, 40 Stat. 902.)

840. Documented vessels.—Any vessel registered, enrolled, or licensed under the laws of the United States shall be deemed to continue to be documented under the laws of the United States within the meaning of subdivision (b) of section 835, until such registry, enrollment, or license is surrendered with the approval of the board, the provisions of any other Act of Congress to the contrary notwithstanding. (Sept. 7, 1916, c. 451, § 42, 39 Stat. 728; July 15, 1918, c. 152, § 4, 40 Stat. 903.)

841. End of war emergency.—The fact that a war or emergency has ended shall, for the purposes of this chapter, be evidenced by a proclamation of the President. (Sept. 7, 1916, c. 451, § 43, 39 Stat. 728; July 15, 1918, c. 152, § 4, 40 Stat. 903.)

812. "Shipping Act."—The Act of September 7, 1916, chapter 451, may be cited as "Shipping Act, 1916." (Sept. 7, 1916, c. 451, § 44, 39 Stat. 728; July 15, 1918, c. 152, § 4, 40 Stat. 903.)

Chapter 24.—MERCHANT MARINE ACT.

Sec.

861. Purpose and policy of United States.

862. Acts repealed; limitations; settlement of matters arising out of exercise of powers conferred by repealed acts.