

**871. Repair and operation of vessels until sale.—**

The title "United States Shipping Board Emergency Fleet Corporation" was changed to "United States Shipping Board Merchant Fleet Corporation" by Act Feb. 11, 1927, c. 104, § 1, 44 Stat. 1083, constituting § 810a of this title in the Supplement.

**879. Exemption from income taxes on sales of documented vessels.**—During the period of ten years from June 5, 1920, any person, a citizen of the United States, who may sell a vessel documented under the laws of the United States and built prior to January 1, 1914, shall be exempt from all income taxes that would be payable upon any of the proceeds of such sale under the Revenue Act of 1918, or under any subsequent Revenue Act in force during such ten-year period, if the entire proceeds thereof shall be invested in the building of new ships in American shipyards, such ships to be documented under the laws of the United States and to be of a type approved by the board. The basis of any such new ship shall be reduced by the amount of the gain from such sale exempt from taxation under this section. (As amended May 20, 1928, 8:00 a. m., c. 852, § 707, 45 Stat. 881.)

The above amendment becomes effective as of June 5, 1920.

**880. United States mails carried on American-built documented vessels.**—All mails of the United States shipped or carried on vessels shall, if practicable, be shipped or carried on American-built vessels documented under the laws of the United States. No contract hereafter made with the Postmaster General for carrying mails on vessels so built and documented shall be assigned or sublet, and no mails covered by such contract shall be carried on any vessel not so built and documented. No money shall be paid out of the Treasury of the United States on or in relation to any such contract for carrying mails on vessels so built and documented when such contract has been assigned or sublet or when mails covered by such contract are in violation of the terms thereof carried on any vessel not so built and documented. This section shall not be applicable in the case of contracts made under sections 801e to 801q of this title. (As amended May 22, 1928, c. 675, § 414 (a), 45 Stat. 696.)

For title of Act see note to § 809.

**★ 883. Transportation of merchandise between points in United States in other than domestic built and documented vessels.—**

The Commissioner of Navigation, commenting on this section, says: "The word 'sections' in line 12, which is in the statute, should be 'section' to be grammatical."

**886. Powers of board; how exercised.—**

The title "United States Shipping Board Emergency Fleet Corporation" was changed to "United States Shipping Board Merchant Fleet Corporation" by Act Feb. 11, 1927, c. 104, § 1, 44 Stat. 1083, constituting § 810a of this title.

**Chapter 24A.—MERCHANT MARINE ACT, 1928.**

**Section 891. Declaration of policy.**—The policy and the primary purpose declared in section 801 of this title are hereby confirmed. (May 22, 1928, c. 675, § 1, 45 Stat. 680.)

The Act cited to the text was entitled "An Act to further develop an American merchant marine, to assure its permanence in the transportation of the foreign trade of the United States, and for other purposes."

**891a. Shipping Board vessels; sales by board.**—The United States Shipping Board shall not sell any vessel or any line of vessels except when in its judgment the building up and maintenance of an adequate merchant marine can be best served thereby, and then only upon the affirmative vote of five members of the board duly recorded. (May 22, 1928, c. 675, § 201, 45 Stat. 690.)

For title of Act see note to § 891.

**891b. Same; remodeling and improving.**—In addition to its power to recondition and repair vessels under section 871 of this title, the board may remodel and improve vessels owned

by the United States and in its possession or under its control, so as to equip them adequately for competition in the foreign trade of the United States. Any vessel so remodeled or improved shall be documented under the laws of the United States and shall remain documented under such laws for not less than five years from the date of the completion of the remodeling or improving and so long as there remains due the United States any money or interest on account of such vessel, and during such period it shall be operated only on voyages which are not exclusively coastwise. (May 22, 1928, c. 675, § 202, 45 Stat. 690.)

For title of Act see note § 891.

**891c. Same; replacements.**—The necessity for the replacement of vessels owned by the United States and in the possession or under the control of the board and the construction for the board of additional up-to-date cargo, combination cargo and passenger, and passenger ships, to give the United States an adequate merchant marine, is hereby recognized, and the board is authorized and directed to present to Congress from time to time, recommendations setting forth what new vessels are required for permanent operation under the United States flag in foreign trade, and the estimated cost thereof, to the end that Congress may, from time to time, make provision for replacements and additions. All vessels built for the board shall be built in the United States, and they shall be planned with reference to their possible usefulness as auxiliaries to the naval and military services of the United States. (May 22, 1928, c. 675, § 203, 45 Stat. 690.)

For title of Act see note to § 891.

**891d. Construction loan fund; increase.**—(a) There is authorized to be appropriated, to be credited to and for the purposes of the construction loan fund created by section 870 of this title, such amounts as will, when added to the amounts credited to such fund by the United States Shipping Board under authority of law (exclusive of repayments on loans from the fund), make the aggregate of the amounts credited to such fund (exclusive of such repayments) equal to \$250,000,000.

(b) When \$250,000,000 has been credited to such fund (whether by the board under authority of law or from appropriations authorized by this section, but exclusive of repayments on loans from the fund) then no further sums (except such repayments) shall be credited by the board to such fund.

(c) The construction loan fund shall continue to be a revolving fund. Repayments on loans from the fund shall be credited to the fund, but interest on such loans shall be covered into the Treasury as miscellaneous receipts. (May 22, 1928, c. 675, § 302, 45 Stat. 692.)

For title of Act see note to § 891.

**891e. Ocean mail service; vessels used for carriage of United States mails.**—All mails of the United States carried on vessels between ports between which it is lawful under the navigation laws for a vessel not documented under the laws of the United States to carry merchandise shall, if practicable, be carried on vessels in respect of which a contract is made under sections 801e to 801q of this title. (May 22, 1928, c. 675, § 401, 45 Stat. 692, as amended Apr. 17, 1930, c. 173, § 1, 46 Stat. 109.)

The amendment struck out the words in parentheses "exclusive of ports in the Dominion of Canada other than ports in Nova Scotia."

For title of Act May 22, 1928, see note to § 891.

Section 414(f) of said Act May 22, 1928, provides "Any contract made prior to the enactment of this Act [May 22, 1928] shall remain in force and effect in the same manner and to the same extent as though this Act [sections 801e to 801q] had not been enacted. Any such contract which expires on June 30, 1928, may be extended for a period of not more than one year from such date."

**891f. Same; requirements of postal service.**—As soon as practicable after May 22, 1928, and from time to time thereafter, it shall be the duty of the Postmaster General to certify to the

United States Shipping Board what ocean mail routes, in his opinion, should be established and/or operated for the carrying of mails of the United States between ports between which it is lawful under the navigation laws for a vessel not documented under the laws of the United States to carry merchandise, distributed so as equitably to serve the Atlantic, Mexican Gulf, and Pacific coast ports, the volume of mail and commerce then moving over such routes and the estimated volume thereof during the next five years, the times deemed by him advisable for the departure of the vessels carrying such mails, and other requirements necessary to provide an adequate postal service between such ports. (May 22, 1928, c. 675, § 402, 45 Stat. 692, as amended Apr. 17, 1930, c. 173, § 2, 46 Stat. 170.)

The amendment struck out the words in parentheses "exclusive of ports in the Dominion of Canada other than ports in Nova Scotia," and added after the words "volume of mail" the words "and commerce."

For title of Act May 22, 1928, see note to § 891.

**891g. Same; recommendations of Shipping Board.**—The board shall, as soon as practicable after receipt of such certification from the Postmaster General, determine and certify to him the type, size, speed, and other characteristics of the vessels which should be employed on each such route, the frequency and regularity of their sailings, and all other facts which bear upon the capacity of the vessels to meet the requirements of the service stated by the Postmaster General. The board in making its determination shall take into consideration the desirability of having the mail service performed by vessels constructed in accordance with the latest and most approved types, with modern improvements and appliances. (May 22, 1928, c. 675, § 403, 45 Stat. 693.)

For title of Act see note to § 891.

**891h. Same; authority to make contracts.**—The Postmaster General is authorized to enter into contracts with citizens of the United States whose bids are accepted, for the carrying of mails between ports between which it is lawful under the navigation laws for a vessel not documented under the laws of the United States to carry merchandise. He shall include in such contracts such requirements and conditions as in his best judgment will insure the full and efficient performance thereof and the protection of the interests of the Government. Performance under any such contract shall begin not more than three years after the contract is let, and the term of the contract shall not exceed ten years. (May 22, 1928, c. 675, § 404, 45 Stat. 693, as amended Apr. 17, 1930, c. 173, § 3, 46 Stat. 170.)

The amendment struck out the words in parentheses "exclusive of ports in the Dominion of Canada other than ports in Nova Scotia."

For title of Act May 22, 1928, see note to § 891.

**891i. Same; character and construction; citizenship of officers.**—(a) The vessels employed in ocean mail service under a contract made under sections 891e to 891q of this title shall be steel vessels, shall be steam or motor vessels, and shall be either (1) American-built and registered under the laws of the United States during the entire time of such employment, or (2) registered under the laws of the United States not later than February 1, 1928, and so registered during the entire time of such employment, or (3) actually ordered and under construction for the account of citizens of the United States prior to February 1, 1928, and registered under the laws of the United States during the entire time of such employment.

(b) A vessel for the services of which a contract is entered into under authority of sections 891e to 891q of this title, and the construction of which is hereafter begun, shall be either (1) a vessel constructed, according to plans and specifications approved by the Secretary of the Navy, with particular reference to economical conversion into an auxiliary naval vessel, or (2) a vessel which will be otherwise useful to the United States in time of national emergency.

(c) From and after May 22, 1928, all licensed officers of vessels documented under the laws of the United States, as now required by law, shall be citizens of the United States; from and after May 22, 1928, and for a period of four years, upon each departure from the United States of a vessel employed in ocean mail service under sections 891e to 891q of this title, one-half of the crew (crew including all employees of the ship other than officers) shall be citizens of the United States and, thereafter, two-thirds of the crew as above defined shall be citizens of the United States. (May 22, 1928, c. 675, § 405, 45 Stat. 693.)

For title of Act see note to § 891.

**891j. Same; advertising for bids.**—Before making any contract for carrying ocean mails under sections 891e to 891q of this title the Postmaster General shall give public notice by advertisement once a week for three weeks in such daily newspapers as he shall select in each of the cities of Boston, New York, Philadelphia, Baltimore, New Orleans, Charleston, Norfolk, Savannah, Jacksonville, Galveston, Houston, and Mobile, calling for bids for carrying of such ocean mails; or when the proposed service is to be on the Pacific Ocean then in Los Angeles, San Francisco, Portland, Tacoma, and Seattle. Such notice shall describe the proposed route, the time when such contract will be made, the number of trips a year, the schedule required, the time when the service shall commence, the character of the vessels required, and all other information deemed by the Postmaster General to be necessary to inform prospective bidders as to the character of the service to be required. (May 22, 1928, c. 675, § 406, 45 Stat. 694.)

For title of Act see note to § 891.

**891k. Same; awarding contracts.**—Each contract for the carrying of ocean mails under section 891e to 891q of this title shall be awarded to the lowest bidder who, in the judgment of the Postmaster General, possesses such qualifications as to insure proper performance of the mail service under the contract. (May 22, 1928, c. 675, § 407, 45 Stat. 694.)

For title of Act see note to § 891.

**891l. Same; classification of vessels.**—(a) The vessels employed in ocean mail service under sections 891e to 891q of this title shall be divided into classes as follows:

Class 7. Vessels capable of maintaining a speed of 10 knots at sea in ordinary weather, and of a gross registered tonnage of not less than 2,500 tons.

Class 6. Vessels capable of maintaining a speed of 10 knots at sea in ordinary weather, and of a gross registered tonnage of not less than 4,000 tons.

Class 5. Vessels capable of maintaining a speed of 13 knots at sea in ordinary weather, and of a gross registered tonnage of not less than 8,000 tons.

Class 4. Vessels capable of maintaining a speed of 16 knots at sea in ordinary weather, and of a gross registered tonnage of not less than 10,000 tons.

Class 3. Vessels capable of maintaining a speed of 18 knots at sea in ordinary weather, and of a gross registered tonnage of not less than 12,000 tons.

Class 2. Vessels capable of maintaining a speed of 20 knots at sea in ordinary weather, and of a gross registered tonnage of not less than 16,000 tons.

Class 1. Vessels capable of maintaining a speed of 24 knots at sea in ordinary weather, and of a gross registered tonnage of not less than 20,000 tons.

(b) The classification of a vessel may be based upon its speed without regard to its tonnage if the Postmaster General is of opinion that speed is especially important on the particular route on which the vessel is to be employed, and that a suitable vessel documented under the laws of the United States of a higher classification is not available on reasonable terms and conditions, or, on account of the character of the ports served

or for other reasons, can not be safely or economically employed on such route. (May 22, 1928, c. 675, § 108, 45 Stat. 691.)

For title of Act see note to § 891.

**891m. Same; compensation under contracts.**—(a) The rate of compensation to be paid under sections 891e to 891q of this title for ocean-mail service shall be fixed in the contract. Such rate shall not exceed: For vessels of Class 7, \$1.50 per nautical mile; for vessels of Class 6, \$2.50 per nautical mile; for vessels of Class 5, \$4 per nautical mile; for vessels of Class 4, \$6 per nautical mile; for vessels of Class 3, \$8 per nautical mile; for vessels of Class 2, \$10 per nautical mile; and for vessels of Class 1, \$12 per nautical mile. As used in this section the term "nautical mile" means 6,080 feet.

(b) When the Postmaster General is of opinion that the interests of the postal service will be served thereby, he may, in the case of a vessel of class 1 capable of maintaining a speed in excess of 24 knots at sea in ordinary weather, contract for the payment of compensation in excess of the maximum compensation authorized in subsection (a), but the compensation per nautical mile authorized by this subsection shall not be greater than an amount which bears the same ratio to \$12 as the speed which such vessel is capable of maintaining at sea in ordinary weather bears to 24 knots.

(c) If the Postmaster General is of opinion that to expedite and maintain satisfactory service under a contract made under sections 891e to 891q of this title, airplanes or airships are required to be used in conjunction with vessels, he may allow additional compensation, in amounts to be determined by him, on account of the use of such airplanes or airships. Such airplanes or airships shall be American-built and owned, officered, and manned by citizens of the United States.

(d) The Postmaster General shall determine the number of nautical miles by the shortest practicable route between the ports involved and payments under any contract made under sections 891e to 891q of this title shall be made for such number of miles on each outward voyage regardless of the actual mileage traveled. (May 22, 1928, c. 675, § 409, 45 Stat. 694.)

For title of Act see note to § 891.

**891n. Same; violation of contracts.**—In the case of failure of a vessel from any cause to perform any regular voyage required by a contract made under sections 891e to 891q of this title, a pro rata deduction shall be made from the contract price on account of such omitted voyage; and suitable deductions, to be determined by the Postmaster General, may be made from the compensation payable under the contract for delays, failures to properly safeguard the mails, or other irregularities in the performance of the contract. Deductions so determined upon shall be deducted by the Postmaster General from the payments otherwise due and payable under the terms of the contract. The Postmaster General may, in case of emergency, permit the substitution for a particular voyage of a vessel not within the provisions of the contract, even though not conforming to the requirements of section 891i of this title. (May 22, 1928, c. 675, § 410, 45 Stat. 695.)

For title of Act see note to § 891.

**891o. Same; passengers, freight and express.**—Any vessel operating under a contract made under sections 891e to 891q of this title may carry passengers and their baggage, and freight and express, and may do all ordinary business done by similar vessels. (May 22, 1928, c. 675, § 411, 45 Stat. 695.)

For title of Act see note to § 891.

**891p. Same; naval officers; employment on mail vessels.**—Naval officers of the United States on the active list may volunteer for service on any vessel employed in mail service under a contract made under the provisions of sections 891e to 891q of

this title, and when accepted by the owner or master thereof may be assigned to such duty by the Secretary of the Navy. While in such employment such officers shall receive from the Government half pay, exclusive of allowances, and such other compensation from the owner or master as may be agreed upon by the parties; but such officers while in such employment shall be required to perform only such duties as appertain to the merchant marine. (May 22, 1928, c. 675, § 412, 45 Stat. 695.)

For title of Act see note to § 891.

**891q. Same; mail messengers.**—Upon each vessel employed in ocean mail service under a contract made under sections 891e to 891q of this title, the Postmaster General shall be entitled to have transported such mail messengers as he may require, for whom shall be provided subsistence, suitable staterooms, and working quarters, all free of charge. (May 22, 1928, c. 675, § 413, 45 Stat. 696.)

For title of Act see note to § 891.

**891r. Transportation of government officials.**—Any officer or employee of the United States traveling on official business overseas to foreign countries, or to any of the possessions of the United States, shall travel and transport his personal effects on ships registered under the laws of the United States when such ships are available, unless the necessity of his mission requires the use of a ship under a foreign flag: *Provided*, That the Comptroller General of the United States shall not credit any allowance for travel or shipping expenses incurred on a foreign ship in the absence of satisfactory proof of the necessity therefor. (May 22, 1928, c. 675, § 601, 45 Stat. 697.)

For title of Act see note to § 891.

**891s. Appropriations; authorization.**—The appropriations necessary to carry out the provisions and accomplish the purposes of this chapter are hereby authorized. (May 22, 1928, c. 675, § 701, 45 Stat. 697.)

For title of Act see note to § 891.

**891t. Requisition of vessels by United States in national emergency.**—(a) The following vessels may be taken and purchased or used by the United States for national defense or during any national emergency declared by proclamation of the President:

(1) Any vessel in respect of which, under a contract hereafter entered into, a loan is made from the construction loan fund created by section 870 of this title, as amended—at any time until the principal and interest of the loan has been paid; and

(2) Any vessel in respect of which an ocean mail contract is made under sections 891e to 891q of this title—at any time during the period for which the contract is made.

(b) In such event the owner shall be paid the fair actual value of the vessel at the time of taking, or paid the fair compensation for her use based upon such fair actual value; but in neither case shall such fair actual value be enhanced by the causes necessitating the taking. In the case of a vessel taken and used, but not purchased, the vessel shall be restored to the owner in a condition at least as good as when taken, less reasonable wear and tear, or the owner shall be paid an amount for reconditioning sufficient to place the vessel in such condition. The owner shall not be paid for any consequential damages arising from such taking and purchase or use.

(c) The President shall ascertain the fair compensation for such taking and purchase or use and shall certify to Congress the amount so found by him to be due, for appropriation and payment to the person entitled thereto. If the amount found by the President to be due is unsatisfactory to the person entitled thereto, such person shall be entitled to sue the United States for the amount of such fair compensation and such suit

shall be brought in the manner provided by paragraph 20 of section 41 or by section 250 of Title 28. (May 22, 1928, c. 675, § 702, 45 Stat. 697.)

For title of Act see note to § 891.

**891u. Definitions.**—(a) When used in this chapter, and for the purposes of this chapter only, the words "foreign trade" mean trade between the United States, its Territories or possessions, or the District of Columbia and a foreign country: *Provided, however,* That the loading or the unloading of cargo, mail, or passengers at any port in any Territory or possession of the United States shall be construed to be foreign trade if the stop at such Territory or possession is an intermediate stop on what would otherwise be a voyage in foreign trade.

(b) When used in this chapter the term "citizen of the United States" includes a corporation, partnership, or association only if it is a citizen of the United States within the meaning of section 802 of this title. (May 22, 1928, c. 675, § 703, 45 Stat. 698.)

For title of Act see note to § 891.

**891v. Reaffirmation of policy in section 866.**—The policy and the primary purpose declared in section 866 of this title are hereby reaffirmed. (May 22, 1928, c. 675, § 704, 45 Stat. 698.)

For title of Act see note to § 891.

**891w. Ship operations; allocations.**—In the allocations of the operations of the ships, the Shipping Board shall distribute them as far as possible and without detriment to the service

among the various ports of the country. (May 22, 1928, c. 675, § 705, 45 Stat. 698.)

For title of Act see note to § 891.

**891x. Short title of chapter.**—This chapter may be cited as the "Merchant Marine Act, 1928." (May 22, 1928, c. 675, § 706, 45 Stat. 698.)

For title of Act see note to § 891.

#### Chapter 25.—SHIP MORTGAGE ACT.

#### RECORDING OF SALES, CONVEYANCES, AND MORTGAGES OF VESSELS OF THE UNITED STATES

##### Section 927. Inspection of and copies from records; fees.—

"D" in citation to this section should be "1."

#### PENALTIES

##### ★ 941. Failure of master to exhibit documents; unlawful acts by mortgagor; liability of collector of customs.—

"subsection E" in line 5 of par. (a) of this section should read "section 923."

"subsection F" in line 2 of par. (b) of this section should be omitted.

#### TRANSFER OF MORTGAGED VESSELS AND ASSIGNMENT OF VESSEL MORTGAGES

##### ★ 961. Surrender of documents; termination of mortgagee's interest; sale of mortgaged vessel.—

The word "mortgagor" in the eighth line of paragraph (c) is in the statute, but it should be "mortgagee," as is apparent from the context.