

(§ 801 et seq.) of this title. For complete classification of this Act to the Code, see section 842 of this title and Tables.

AMENDMENTS

1938—Act June 23, 1938, amended the text and renumbered section 5 of act Mar. 3, 1933, to be section 7.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment effective ninety days after June 23, 1938, see section 43(e) of act June 23, 1938, set out as a note under section 845a of this title.

REPEALS

For provisional repeal, see note set out preceding section 801 of this title.

§ 848. Short title

This chapter may be cited as the Intercoastal Shipping Act, 1933.

(Mar. 3, 1933, ch. 199, § 8, formerly § 6, 47 Stat. 1427, renumbered June 23, 1938, ch. 600, § 43(d), 52 Stat. 965.)

REPEALS

For provisional repeal, see note set out preceding section 801 of this title.

CHAPTER 24—MERCHANT MARINE ACT, 1920

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1114, 1225 of this title; title 15 section 1014.

§ 861. Purpose and policy of United 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, and, insofar as may not be inconsistent with the express provisions of this Act, the Secretary of Transportation shall, in the disposition of vessels and shipping property as hereinafter provided, in the making of rules and regulations, and in the administration of the shipping laws keep always in view this purpose and object as the primary end to be attained.

(June 5, 1920, ch. 250, § 1, 41 Stat. 988; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Aug. 6, 1981, Pub. L. 97-31, § 12(33), 95 Stat. 156.)

REFERENCES IN TEXT

This Act, referred to in text, means act June 5, 1920, ch. 250, 41 Stat. 988, as amended, known as the Merchant Marine Act, 1920, which enacted sections 13, 861 to 864, 865, 866 to 870, 871 to 883-1, 884 to 889, 911, 921 to 927, 941, 951 to 954, 961, 971 to 975, and 981 to 984 of this title and amended sections 597, 599, 688, 802 to 804, 805, 808, 812, and 813 of this title. For complete classification of this Act to the Code, see section 889 of this title and Tables.

The shipping laws, referred to in text, are classified generally to this title.

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" for "United States Maritime Commission".

TRANSFER OF FUNCTIONS

"United States Maritime Commission" was substituted for "United States Shipping Board". For dissolution of the Board and transfer of its functions to the Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees. For subsequent transfers of functions, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 864, 871, 891 of this title.

§§ 862, 863. Omitted

CODIFICATION

Section 862, act June 5, 1920, ch. 250, § 2, 41 Stat. 988, repealed certain provisions enacted during World War 1 which related to the construction, acquisition, and operation of ships during the emergency then existing. The section further provided that the enforcement of certain penalties and contract rights should not be affected by the repeal. Subsections (a)(1) to (5) of the section enumerated the acts and parts of acts repealed as follows:

"(1) The emergency shipping fund provisions of the Act entitled 'An Act making appropriations to supply urgent deficiencies in appropriations for the Military and Naval Establishments on account of war expenses for the fiscal year ending June 30, 1917, and for other purposes,' approved June 15, 1917, (ch. 29, 40 Stat. 182), as amended by the Act entitled 'An Act to amend the emergency shipping fund provisions of the Urgent Deficiency Appropriation Act, approved June 15, 1917, so as to empower the President and his designated agents to take over certain transportation systems for the transportation of shipyard and plant employees, and for other purposes,' approved April 22, 1918 (ch. 62, 40 Stat. 535), and as further amended by the Act entitled 'An Act making appropriation to supply deficiencies in appropriations for the fiscal year ending June 30, 1919, and prior fiscal years, on account of war expenses, and for other purposes,' approved November 4, 1918 (ch. 201, 40 Stat. 1022).

"(2) Section 3 of such Act of April 22, 1918 (ch. 62, 40 Stat. 535).

"(3) The paragraphs numbered 2 and 3 under the heading 'Emergency shipping fund' in such Act of November 4, 1918 (ch. 201, 40 Stat. 1022); and

"(4) The Act entitled 'An Act to confer on the President power to prescribe charter rates and freight rates and to requisition vessels, and for other purposes,' approved July 18, 1918 (ch. 157, 40 Stat. 913).

"(5) Sections 5, 7, and 8, Shipping Act, 1916 (Sept. 7, 1916, ch. 451, 39 Stat. 730)."

Section 863, act June 5, 1920, ch. 250, § 4, 41 Stat. 990, transferred to the United States Shipping Board all vessels (except those in the military or naval service) acquired by the President under the acts repealed by former section 862 of this title or under act May 12, 1917, ch. 13, 40 Stat. 75. For dissolution of the United States Shipping Board and transfer of its functions to the United States Maritime Commission, and subsequent transfers of functions, see Transfer of Functions note set out under section 861 of this title.

§ 864. Sale of vessels; terms and conditions

In order to accomplish the declared purposes of this Act, and to carry out the policy declared in section 861 of this title, the Secretary of Transportation is authorized and directed to sell, as soon as practicable, consistent with good business methods and the objects and purposes to be attained by this Act, at public or private competitive sale after appraisalment and due advertisement, to persons who are citizens of the United States except as provided in section 865 of this title, all of the vessels referred to in section 863 of this title or otherwise acquired by the Secretary of Transportation. Such sale shall be made at such prices and on such terms and conditions as the Secretary of Transportation may prescribe, but the completion of the payment of the purchase price and interest shall not be deferred more than fifteen years

after the making of the contract of sale. The Secretary of Transportation in fixing or accepting the sale price of such vessels shall take into consideration the prevailing domestic and foreign market price of, the available supply of, and the demand for vessels, existing freight rates and prospects of their maintenance, the cost of constructing vessels of similar types under prevailing conditions, as well as the cost of the construction or purchase price of the vessels to be sold, and any other facts or conditions that would influence a prudent, solvent business man in the sale of similar vessels or property which he is not forced to sell. All sales made under the authority of this Act shall be subject to the limitations and restrictions of section 808 of this title.

(June 5, 1920, ch. 250, § 5, 41 Stat. 990; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Aug. 6, 1981, Pub. L. 97-31, § 12(34), 95 Stat. 156.)

REFERENCES IN TEXT

This Act, referred to in text, means act June 5, 1920, ch. 250, 41 Stat. 988, as amended, known as the Merchant Marine Act, 1920, which enacted sections 13, 861 to 864, 865, 866 to 870, 871 to 883-1, 884 to 889, 911, 921 to 927, 941, 951 to 954, 961, 971 to 975, and 981 to 984 of this title and amended sections 597, 599, 688, 802 to 804, 805, 808, 812, and 813 of this title. For complete classification of this Act to the Code, see section 889 of this title and Tables.

Section 863 of this title, referred to in text, was omitted from the Code.

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" in four instances, for "Commission". For prior transfers of functions, see Transfer of Functions note below.

TRANSFER OF FUNCTIONS

"Commission" (meaning United States Maritime Commission) was substituted for "board" (meaning United States Shipping Board). For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees. For subsequent transfers of functions, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 865, 871, 1195 of this title.

§ 864a. Purchase allowance in sale of vessels for cost of putting vessels in class

On and after June 30, 1948, the Secretary of Transportation may make allowances to purchasers of vessels for cost of putting such vessels in class, such allowances to be determined on the basis of competitive bids, without regard to the provisions of the last paragraph of section 1736(d) of Appendix to title 50.

(June 30, 1948, ch. 775, § 101, 62 Stat. 1199; Aug. 6, 1981, Pub. L. 97-31, § 12(35), 95 Stat. 156.)

CODIFICATION

Section was enacted as part of The Supplemental Independent Offices Appropriation Act, 1949, act June 30, 1948, and not as part of the Merchant Marine Act, 1920, which comprises this chapter.

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" for "Commission", meaning the United States Maritime Commission.

TRANSFER OF FUNCTIONS

For transfer of functions of United States Maritime Commission, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

§ 864b. Elements considered in sale of vessels in determination of selling price

On and after June 29, 1949, no sale of a vessel by the Maritime Administration of the Department of Transportation shall be completed until its ballast and equipment shall have been inventoried and their value taken into consideration by the Maritime Administration in determining the selling price.

(June 29, 1949, ch. 281, § 1, 63 Stat. 349; Aug. 6, 1981, Pub. L. 97-31, § 12(36), 95 Stat. 156.)

CODIFICATION

Section was not enacted as part of the Merchant Marine Act, 1920, which comprises this chapter.

AMENDMENTS

1981—Pub. L. 97-31 substituted "Maritime Administration of the Department of Transportation" for "Maritime Commission" and "Maritime Administration" for "Commission", meaning United States Maritime Commission.

TRANSFER OF FUNCTIONS

For transfer of functions of United States Maritime Commission, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

§ 865. Sale to aliens

The Secretary of Transportation is authorized and empowered to sell to aliens, at such prices and on such terms and conditions as he may determine, not inconsistent with the provisions of section 864 of this title (except that completion of the payment of the purchase price and interest shall not be deferred more than ten years after the making of the contract of sale), such vessels as he shall, after careful investigation, deem unnecessary to the promotion and maintenance of an efficient American merchant marine; but no such sale shall be made unless the Secretary of Transportation, after diligent effort, has been unable to sell, in accordance with the terms and conditions of section 864 of this title, such vessels to persons citizens of the United States, and has determined to make such sale; and he shall make as a part of his records a full statement of his reasons for making such sale. Deferred payments of purchase price of vessels under this section shall bear interest at the rate of not less than 5½ per centum per annum, payable semiannually.

(June 5, 1920, ch. 250, § 6, 41 Stat. 991; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; June 29, 1936,

ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Aug. 6, 1981, Pub. L. 97-31, § 12(37), 95 Stat. 156.)

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" for "Commission" in two instances, "he" for "it" in three instances, and "his" for "its" in two instances, and struck out "upon an affirmative vote of not less than five of its members, spread upon the minutes of the board," preceding "determined to make such sale". For prior transfers of functions, see Transfer of Functions note below.

TRANSFER OF FUNCTIONS

"Commission" (meaning United States Maritime Commission) was substituted for "board" (meaning United States Shipping Board). For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees. For subsequent transfers of functions, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 864 of this title.

§ 865a. Sale of inactive passenger vessels to foreigners; conditions; requisition in emergency; surety bond

Notwithstanding any other provision of law or of prior contract with the United States, any vessel heretofore operated as a passenger vessel, as defined in section 613(a) of the Merchant Marine Act, 1936, as amended [46 U.S.C. 1183(a)], under an operating-differential subsidy contract with the United States and now in inactive or layup status, except the steamship Independence and the steamship United States, may be sold and transferred to foreign ownership, registry, and flag, with the prior approval of the Secretary of Transportation. Such approval shall require (1) approval of the purchaser; (2) payment of existing debt and private obligations related to the vessel; (3) approval of the price, including terms of payment, for the sale of the vessel; (4) the seller to enter into an agreement with the Secretary whereby an amount equal to the net proceeds received from such sale in excess of existing obligations and expenses incident to the sale shall within a reasonable period not to exceed twelve months of receipt be committed and thereafter be used as equity capital for the construction of new vessels which the Secretary determines are built to effectuate the purposes and policy of the Merchant Marine Act, 1936, as amended [46 U.S.C. 1101 et seq.]; and (5) the purchaser to enter into an agreement with the Secretary, binding upon such purchaser and any later owner of the vessel and running with title to the vessel, that (a) the vessel will not carry passengers or cargo in competition, as determined by the Secretary, with any United States-flag passenger vessel for a period of two years from the date the transferred vessel goes into operation; (b) the vessel will be made available to the United States in time of emergency and just compensation for title or use; as the case may be, shall be paid in accordance with section 902 of the Mer-

chant Marine Act, 1936, as amended (46 U.S.C. 1242); (c) the purchaser will comply with such further conditions as the Secretary may impose as authorized by sections 808, 835 and 839 of this title; and (d) the purchaser will furnish a surety bond in an amount and with a surety satisfactory to the Secretary to secure performance of the foregoing agreements.

In addition to any other provision such agreements may contain for enforcement of (4) and (5) above, the agreements therein required may be specifically enforced by decree for specific performance or injunction in any district court of the United States. In the agreement with the Secretary the purchaser shall irrevocably appoint a corporate agent within the United States for service of process upon such purchaser in any action to enforce the agreement.

(Pub. L. 92-296, § 1, May 16, 1972, 86 Stat. 140; Pub. L. 97-31, § 12(38), Aug. 6, 1981, 95 Stat. 156.)

REFERENCES IN TEXT

The Merchant Marine Act, 1936, referred to in text, is act June 29, 1936, ch. 858, 49 Stat. 1985, as amended, which is classified principally to chapter 27 (§ 1101 et seq.) of this title. For complete classification of this Act to the Code, see section 1245 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Merchant Marine Act, 1920, which comprises this chapter.

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" for "Secretary of Commerce".

§ 866. Establishment and operation of steamship lines between ports of United States

Investigation and determination by Secretary—The Secretary of Transportation is authorized and directed to investigate and determine as promptly as possible after June 5, 1920, and from time to time thereafter what steamship lines should be established and put in operation from ports in the United States or any Territory, District, or possession thereof to such world and domestic markets as in his judgment are desirable for the promotion, development, expansion, and maintenance of the foreign and coastwise trade of the United States and an adequate postal service, and to determine the type, size, speed, and other requirements of the vessels to be employed upon such lines and the frequency and regularity of their sailings, with a view to furnishing adequate, regular, certain, and permanent service.

Sale or charter of vessels—The Secretary of Transportation is authorized to sell, and if a satisfactory sale cannot be made, to charter such of the vessels referred to in section 863 of this title or otherwise acquired by the Secretary of Transportation, as will meet these requirements to responsible persons who are citizens of the United States who agree to establish and maintain such lines upon such terms of payment and other conditions as the Secretary of Transportation may deem just and necessary to secure and maintain the service desired; and if any such steamship line is deemed desirable

and necessary, and if no such citizen can be secured to supply such service by the purchase or charter of vessels on terms satisfactory to the Secretary of Transportation, the Secretary of Transportation shall operate vessels on such line until the business is developed so that such vessels may be sold on satisfactory terms and the service maintained, or unless it shall appear within a reasonable time that such line cannot be made self-sustaining.

Preference in sales or charters—Preference in the sale or assignment of vessels for operation on such steamship lines shall be given to persons who are citizens of the United States who have the support, financial and otherwise, of the domestic communities primarily interested in such lines if the Secretary of Transportation is satisfied of the ability of such persons to maintain the service desired and proposed to be maintained, or to persons who are citizens of the United States who may then be maintaining a service from the port of the United States to or in the general direction of the world-market port to which the Secretary of Transportation has determined that such service should be established.

Lines established by shipping board; continued operation—Where steamship lines and regular service had been established and were being maintained by ships of the United States Shipping Board on June 5, 1920, such lines and service shall be maintained by the Secretary of Commerce until, in the opinion of the Secretary, the maintenance thereof is unbusinesslike and against the public interests.

Additional lines established by Secretary; rates and charges—Whenever the Secretary of Transportation shall determine, as provided in this Act, that trade conditions warrant the establishment of a service or additional service under Government administration where a service is already being given by persons, citizens of the United States, the rates and charges for such Government service shall not be less than the cost thereof, including a proper interest and depreciation charge on the value of Government vessels and equipment employed therein.

(June 5, 1920, ch. 250, § 7, 41 Stat. 991; May 22, 1928, ch. 675, § 414(b), 45 Stat. 696; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, § 204, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276; Aug. 6, 1981, Pub. L. 97-31, § 12(39), 95 Stat. 156.)

REFERENCES IN TEXT

This Act, referred to in text, means act June 5, 1920, ch. 250, 41 Stat. 988, as amended, known as the Merchant Marine Act, 1920, which enacted sections 13, 813, 861 to 864, 865, 866 to 870, 871 to 883-1, 884 to 889, and 911 to 984 of this title, and amended sections 597, 599, 688, 802 to 804, 805, 808 and 812 of this title. For complete classification of this Act to the Code, see section 889 of this title and Tables.

Section 863 of this title, referred to in text, was omitted from the Code.

CODIFICATION

The United States Shipping Board, referred to in fourth undesignated paragraph, was dissolved and its

functions transferred to successive Federal agencies and departments. The Secretary of Commerce, referred to in such paragraph, exercised certain functions of the Board pursuant to Reorg. Plan No. 21 of 1950, and was not changed to Secretary of Transportation in view of the directory language of Pub. L. 97-31. See 1981 Amendment and Transfer of Functions notes below.

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" for "Commission" wherever appearing except the fourth paragraph and "his" for "its". For prior transfers of functions, see Transfer of Functions note below.

1928—Act May 22, 1928, struck out paragraph which related to contracts for carrying mails.

TRANSFER OF FUNCTIONS

All the functions conferred upon the Secretary of Commerce by the provisions of Reorg. Plan No. 21 of 1950 are to remain vested in the Secretary except to the extent inconsistent with sections 101(b) and 104(b) of Reorg. Plan No. 7 of 1961. See section 202 of Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

In the fourth undesignated paragraph, "Secretary of Commerce" and "Secretary" were substituted for "Commission" (meaning the United States Maritime Commission) on the authority of Reorg. Plan No. 21 of 1950, set out under section 1111 of this title, section 306 of which abolished the United States Maritime Commission and section 204 of which transferred to the Secretary of Commerce such Commission's functions not transferred to the Federal Maritime Board.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by Reorg. Plan No. 6 of 1949, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069, set out under section 1111 of this title.

"Commission" (meaning United States Maritime Commission) was substituted for "board" (meaning United States Shipping Board). For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 891v, 1195 of this title.

§ 867. Investigation of port, terminal, and warehouse facilities

It shall be the duty of the Secretary of Transportation, in cooperation with the Secretary of the Army, with the object of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which he has jurisdiction, to investigate territorial regions and zones tributary to such ports, taking into consideration the economies of transportation by rail, water, and highway and the natural direction of the flow of commerce; to investigate the causes of the congestion of commerce at ports and the remedies applicable thereto; to investigate the subject of water terminals, including the necessary docks, warehouses, apparatus, equipment, and appliances in connection therewith, with a view to devising and suggesting the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between carriers by water and carriers by rail; to advise with

communities regarding the appropriate location and plan of construction of wharves, piers, and water terminals; to investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and to investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight which would naturally pass through such ports: *Provided*, That if after such investigation the Secretary of Transportation shall be of the opinion that rates, charges, rules, or regulations of common carriers by rail subject to the jurisdiction of the Interstate Commerce Commission are detrimental to the declared object of this section, or that new rates, charges, rules, or regulations, new or additional port terminal facilities, or affirmative action on the part of such common carriers by rail is necessary to promote the objects of this section, the Secretary of Transportation may submit his findings to the Interstate Commerce Commission for such action as such commission may consider proper under existing law.

(June 5, 1920, ch. 250, § 8, 41 Stat. 992; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Aug. 6, 1981, Pub. L. 97-31, § 12(40), 95 Stat. 156.)

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" for "Commission" in three instances, "his" for "its", and "he" for "it". For prior transfers of functions, see Transfer of Functions note below.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army.

TRANSFER OF FUNCTIONS

"Maritime Commission" and "Commission" (meaning United States Maritime Commission) were substituted for "board" (meaning United States Shipping Board). For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees. For subsequent transfers of functions, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

§ 868. Vessels sold under deferred payment plan; insurance

If the terms and conditions of any sale of a vessel made under the provisions of this Act include deferred payments of the purchase price, the Secretary of Transportation shall require, as part of such terms and conditions, that the purchaser of the vessel shall keep the same insured (a) against loss or damage by fire, and against marine risks and disasters, and war and other risks if the Secretary of Transportation so specifies, with such insurance companies, as-

sociations or underwriters, and under such forms of policies, and to such an amount, as the Secretary of Transportation may prescribe or approve; and (b) by protection and indemnity insurance with such insurance companies, associations, or underwriters and under such forms of policies, and to such an amount as the Secretary of Transportation may prescribe or approve. The insurance required to be carried under this section shall be made payable to the Secretary of Transportation and/or to the parties as interest may appear. The Secretary of Transportation is authorized to enter into any agreement that he deems wise in respect to the payment and/or the guarantee of premiums of insurance.

(June 5, 1920, ch. 250, § 9, 41 Stat. 992; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Aug. 6, 1981, Pub. L. 97-31, § 12(41), 95 Stat. 156.)

REFERENCES IN TEXT

This Act, referred to in text, means act June 5, 1920, ch. 250, 41 Stat. 988, as amended, known as the Merchant Marine Act, 1920, which enacted sections 13, 861 to 864, 865, 866 to 870, 871 to 883-1, 884 to 889, 911, 921 to 927, 941, 951 to 954, 961, 971 to 975, and 981 to 984 of this title and amended sections 597, 599, 688, 802 to 804, 805, 808, 812, and 813 of this title. For complete classification of this Act to the Code, see section 889 of this title and Tables.

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" for "Commission" in six instances and "he" for "it". For prior transfers of functions, see Transfer of Functions note below.

TRANSFER OF FUNCTIONS

"Commission" (meaning United States Maritime Commission) was substituted for "board" (meaning United States Shipping Board). For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936, Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees. For subsequent transfers of functions, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1153 of this title.

§ 869. Creation of fund for insurance of interests of United States

The Secretary of Transportation may create out of insurance premiums, and revenue from operations and sales, and maintain and administer separate insurance funds which he may use to insure in whole or in part against all hazards commonly covered by insurance policies in such cases, any legal or equitable interest of the United States (1) in any vessel constructed or in process of construction; and (2) in any plants or property in the possession or under the authority of the Secretary of Transportation. The United States shall be held to have such an interest in any vessel toward the construction, reconditioning, remodeling, improving, or equipping of which a loan has been made under the authority of this Act, in any

vesse! upon which he holds a mortgage or lien of any character, or in any vessel which is obligated by contract with the owner to perform any service in behalf of the United States, to the extent of the Government's interest therein.

(June 5, 1920, ch. 250, § 10, 41 Stat. 992; May 22, 1928, ch. 675, § 501, 45 Stat. 697; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Aug. 6, 1981, Pub. L. 97-31, § 12(42), Aug. 6, 1981, 95 Stat. 156.)

REFERENCES IN TEXT

This Act, referred to in text, means act June 5, 1920, ch. 250, 41 Stat. 988, as amended, known as the Merchant Marine Act, 1920, which enacted sections 13, 861 to 864, 865, 866 to 870, 871 to 883-1, 884 to 889, 911, 921 to 927, 941, 951 to 954, 961, 971 to 975, and 981 to 984 of this title and amended sections 597, 599, 688, 802 to 804, 805, 808, 812, and 813 of this title. For complete classification of this Act to the Code, see section 889 of this title and Tables.

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" for "Commission" in two instances and "he" for "it" in two instances. For prior transfers of functions, see Transfer of Functions note below.

1928—Act May 22, 1928, added sentence relating to extent of interest of United States, among other changes.

TRANSFER OF FUNCTIONS

"Commission" (meaning United States Maritime Commission) was substituted for "board" (meaning United States Shipping Board). For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936, Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees. For subsequent transfers of functions, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

CROSS REFERENCES

War risk insurance, see section 1281 et seq. of this title.

§ 870. Repealed. June 29, 1936, ch. 858, § 903(h), (c), 49 Stat. 2016

Section, acts June 5, 1920, ch. 250, § 11, 41 Stat. 993; June 8, 1924, ch. 273, § 1, 43 Stat. 467; Mar. 4, 1927, ch. 512, § 1, 44 Stat. 1451; May 22, 1928, ch. 675, § 301(a), 45 Stat. 690; Feb. 2, 1931, ch. 100, 46 Stat. 1059, provided for a construction loan fund for aiding in the construction of vessels. See section 1116 of this title.

§§ 870a to 870d. Omitted

CODIFICATION

Section 870a, act Mar. 4, 1927, ch. 512, § 2, 44 Stat. 1451, related to disposition of funds received in repayment of loans, under section 870 of this title, as interest on said loans and from sales of vessels and was omitted in view of the repeal of section 870 of this title. See section 1116 of this title.

Section 870b, act Apr. 18, 1934, ch. 148, § 1, 48 Stat. 596, related to extension of construction loan fund to whaling and/or fishing vessels, and was impliedly repealed by act June 29, 1936, ch. 858, § 903(b), 49 Stat. 2016, according to a letter dated Feb. 28, 1941, from the chairman of the United States Maritime Commission.

Section 870c, act Apr. 16, 1934, ch. 148, § 2, 48 Stat. 596, related to vessels suitable as naval auxiliaries, and was impliedly repealed by act June 29, 1936, ch. 858, § 903(b), 49 Stat. 2016. See note for section 870b of this title.

Section 870d, act Apr. 16, 1934, ch. 148, § 3, 48 Stat. 596, related to the definition of the term "citizens of the United States" as used in section 870b of this title. See note for section 870b of this title.

§ 871. Repair and operation of vessels until sale

All vessels may be reconditioned and kept in suitable repair and until sold shall be managed and operated by the Secretary of Transportation or chartered or leased by him on such terms and conditions as the Secretary of Transportation shall deem wise for the promotion and maintenance of an efficient merchant marine, pursuant to the policy and purposes declared in sections 861 and 864 of this title.

The term "reconditioned" as used in this section includes the substitution of the most modern, most efficient, and most economical types of internal-combustion engines as the main propulsive power of vessels. Should the Secretary of Transportation have any such engines built in the United States and installed, in private shipyards or navy yards of the United States, in one or more merchant vessels owned by the United States, and the cost to the Secretary of Transportation of such installation exceeds the amount of funds otherwise available to him for that use, the Secretary of Transportation may transfer to his funds from which expenditures under this section may be paid, from his construction fund authorized by section 870 of this title, so much as in his judgment may be necessary to meet obligations under contracts for such installation; and the Treasurer of the United States shall, at the request of the Secretary of Transportation, make the transfer accordingly: *Provided*, That the total amount expended by the Secretary of Transportation for this purpose shall not in the aggregate exceed \$25,000,000. Any such vessel after June 5, 1920, so equipped by the Secretary of Transportation under the provisions of this section shall not be sold for a period of five years from the date the installation thereof is completed, unless it is sold for a price not less than the cost of the installation thereof and of any other work of reconditioning done at the same time plus an amount not less than \$10 for each dead-weight ton of the vessel as computed before such reconditioning thereof is commenced. The date of the completion of such installation and the amount of the dead-weight tonnage of the vessel shall be fixed by the Secretary of Transportation: *Provided further*, That in fixing the minimum price at which the vessel may thus be sold the Secretary of Transportation may deduct from the aggregate amount above prescribed 5 per centum thereof per annum from the date of the installation to the date of sale as depreciation: *And provided further*, That no part of such fund shall be expended upon the reconditioning of any vessel unless the Secretary of Transportation shall have first made a binding contract for a satisfactory sale of such vessel in accordance with the provisions of this Act, or for the charter or lease of such vessels for a period of not less than five years by a ca-

pable, solvent operator; or unless the Secretary of Transportation is prepared and intends to directly put such vessel in operation immediately upon completion. Such vessel, in any of the enumerated instances, shall be documented under the laws of the United States and shall remain documented under such laws for a period of not less than five years from the date of the completion of the installation, and during such period it shall be operated only on voyages which are not exclusively coastwise.

(June 5, 1920, ch. 250, § 12, 41 Stat. 993; June 6, 1924, ch. 273, § 2, 43 Stat. 468; Feb. 11, 1927, ch. 104, § 1, 44 Stat. 1083; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Aug. 6, 1981, Pub. L. 97-31, § 12(43), 95 Stat. 157.)

REFERENCES IN TEXT

This Act, referred to in text, means act June 5, 1920, ch. 250, 41 Stat. 988, as amended, known as the Merchant Marine Act, 1920, which enacted sections 13, 861 to 864, 865, 866 to 870, 871 to 883-1, 884 to 889, 911, 921 to 927, 941, 951 to 954, 961, 971 to 975, and 981 to 984 of this title and amended sections 597, 599, 688, 802 to 804, 805, 808, 812, and 813 of this title. For complete classification of this Act to the Code, see section 889 of this title and Tables.

Section 870 of this title, referred to in text, was repealed by act June 29, 1936, ch. 858, § 903(b), (c), 49 Stat. 2016. See section 1116 of this title.

CODIFICATION

The first paragraph of this section originally contained a further provision continuing the United States Shipping Board Merchant Fleet Corporation in existence with authority to operate vessels. The corporation was subsequently dissolved by section 203 of act June 29, 1936.

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" for "Commission" in twelve instances, "him" for "it" in two instances, and "his" for "its" in three instances. For prior transfers of functions, see Transfer of Functions note below.

1927—Act Feb. 11, 1927, substituted "U.S. Shipping Board Merchant Fleet Corporation" for "U.S. Shipping Board Emergency Fleet Corporation" in first paragraph.

1924—Act June 6, 1924, added second par.

TRANSFER OF FUNCTIONS

"Commission" (meaning United States Maritime Commission) was substituted for "board" (meaning United States Shipping Board). For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees. For subsequent transfers of functions, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 891b of this title.

§ 872. Sale of property other than vessels

The Secretary of Transportation is further authorized to sell all property other than vessels transferred to him under section 863 of this title upon such terms and conditions as the Sec-

retary of Transportation may determine and prescribe.

(June 5, 1920, ch. 250, § 13, 41 Stat. 993; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Aug. 6, 1981, Pub. L. 97-31, § 12(44), 95 Stat. 157.)

REFERENCES IN TEXT

Section 863 of this title, referred to in text, has been omitted from the Code.

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" for "Commission" in two instances and "him" for "it". For prior transfers of functions, see Transfer of Functions note below.

TRANSFER OF FUNCTIONS

"Commission" (meaning United States Maritime Commission) was substituted for "board" (meaning United States Shipping Board). For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees. For subsequent transfers of functions, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

§ 873. Repealed. June 29, 1936, ch. 858, § 903(b), 49 Stat. 2016

Section, act June 5, 1920, ch. 250, § 14, 41 Stat. 993, related to the disposition of the net proceeds of activities of the Shipping Board.

§ 874. Omitted

CODIFICATION

Section, act June 5, 1920, ch. 250, § 16, 41 Stat. 994, terminated all authority granted the United States Emergency Fleet Corporation to acquire houses, buildings, or lands under certain acts.

§ 875. Possession and control of terminal equipment and facilities

The President may at any time he deems it necessary, by order setting out the need therefor and fixing the period of such need, permit or transfer the possession and control of any part of the property taken over by or transferred to the Secretary of Transportation under this section to the Department of the Army or the Navy Department for their needs, and when in the opinion of the President such need therefor ceases the possession and control of such property shall revert to the Secretary of Transportation. None of such property shall be sold except as may be provided by law.

(June 5, 1920, ch. 250, § 17, 41 Stat. 994; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Aug. 6, 1981, Pub. L. 97-31, § 12(45), 95 Stat. 157.)

CODIFICATION

As originally enacted, this section contained an additional paragraph directing the Commission to take over, on Jan. 1, 1921, certain terminal facilities acquired by the President under act Mar. 28, 1918, ch. 28, 40 Stat. 459.

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" for "Commission" in two instances and struck out opening paragraph relating to transfer of possession and control of docks, etc., acquired by the War Department or the Navy Department during the war emergency to the Commission. For prior transfers of functions, see Transfer of Functions note below.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Department of the Army under the administrative supervision of a Secretary of the Army. Such change of name was not executed in the first paragraph since the paragraph related to acquisitions by the former War Department during the World War I emergency.

TRANSFER OF FUNCTIONS

"Commission" (meaning United States Maritime Commission) was substituted for "board" (meaning United States Shipping Board). For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees. For subsequent transfers of functions, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

§ 876. Power of Secretary and Commission to make rules and regulations

(1) The Secretary of Transportation is authorized and directed in aid of the accomplishment of the purposes of this Act—

(a) To make all necessary rules and regulations to carry out the provisions of this Act;

And the Federal Maritime Commission is authorized and directed in aid of the accomplishment of the purposes of this Act:

(b) To make rules and regulations affecting shipping in the foreign trade not in conflict with law in order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade, whether in any particular trade or upon any particular route or in commerce generally, and which arise out of or result from foreign laws, rules, or regulations or from competitive methods or practices employed by owners, operators, agents, or masters of vessels of a foreign country; and

(c) To request the head of any department, board, bureau, or agency of the Government to suspend, modify, or annul rules or regulations which have been established by such department, board, bureau, or agency, or to make new rules or regulations affecting shipping in the foreign trade other than such rules or regulations relating to the Public Health Service, the Consular Service, and the steamboat inspection service.

(2) No rule or regulation shall be established by any department, board, bureau, or agency of the Government which affects shipping in the foreign trade, except rules or regulations affect-

ing the Public Health Service, the Consular Service, and the steamboat inspection service, until such rule or regulation has been submitted to the Federal Maritime Commission for its approval and final action has been taken thereon by the Commission or the President.

(3) Whenever the head of any department, board, bureau, or agency of the Government refuses to suspend, modify, or annul any rule or regulation, or make a new rule or regulation upon request of the Federal Maritime Commission, as provided in subdivision (c) of paragraph (1) of this section, or objects to the decision of the Commission in respect to the approval of any rule or regulation, as provided in paragraph (2) of this section, either the Commission or the head of the department, board, bureau, or agency which has established or is attempting to establish the rule or regulation in question may submit the facts to the President, who is authorized to establish or suspend, modify, or annul such rule or regulation.

(4) No rule or regulation shall be established which in any manner gives vessels owned by the United States any preference or favor over those vessels documented under the laws of the United States and owned by persons who are citizens of the United States.

(June 5, 1920, ch. 250, § 19, 41 Stat. 995; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Aug. 6, 1981, Pub. L. 97-31, § 12(46), 95 Stat. 157.)

REFERENCES IN TEXT

This Act, referred to in par. (1), means act June 5, 1920, ch. 250, 41 Stat. 988, as amended, known as the Merchant Marine Act, 1920, which enacted sections 13, 861 to 864, 865, 866 to 870, 871 to 883-1, 884 to 889, 911, 921 to 927, 941, 951 to 954, 961, 971 to 975, and 981 to 984 of this title and amended sections 597, 599, 688, 802 to 804, 805, 808, 812, and 813 of this title. For complete classification of this Act to the Code, see section 889 of this title and Tables.

AMENDMENTS

1981—Par. (1). Pub. L. 97-31 substituted "Secretary of Transportation" for "Commission", and added after subsec. (a) an undesignated paragraph respecting authority of Federal Maritime Commission. For prior transfers of functions, see Transfer of Functions note below.

TRANSFER OF FUNCTIONS

"Commission" (meaning United States Maritime Commission) was substituted for "board" (meaning United States Shipping Board). For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees. For subsequent transfers of functions, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

All functions of the Public Health Service and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service were transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. The Secretary of Health, Education, and Welfare was redesignated the Secre-

tary of Health and Human Services by section 509(b) of Pub. L. 96-68, which is classified to section 3508(b) of Title 20, Education.

The Steamboat Inspection Service was consolidated in the Bureau of Marine Inspection and Navigation which was later abolished. Functions relating to the inspection of vessels are now vested in the Commandant of the Coast Guard. See note set out under section 1 of this title.

§ 877. Coastwise laws extended to island Territories and possessions

From and after February 1, 1922, the coastwise laws of the United States shall extend to the island Territories and possessions of the United States not covered thereby on June 5, 1920, and the Secretary of Transportation is directed prior to the expiration of such year to have established adequate steamship service at reasonable rates to accommodate the commerce and the passenger travel of said islands and to maintain and operate such service until it can be taken over and operated and maintained upon satisfactory terms by private capital and enterprise: *Provided*, That if adequate shipping service is not established by February 1, 1922, the President shall extend the period herein allowed for the establishment of such service in the case of any island Territory or possession for such time as may be necessary for the establishment of adequate shipping facilities therefor: *And provided further*, That the coastwise laws of the United States shall not extend to the Virgin Islands of the United States until the President of the United States shall, by proclamation, declare that such coastwise laws shall extend to the Virgin Islands and fix a date for the going into effect of same.

(June 5, 1920, ch. 250, § 21, 41 Stat. 997; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; Apr. 16, 1936, ch. 228, 49 Stat. 1207; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Aug. 6, 1981, Pub. L. 97-31, § 12(47), 95 Stat. 157.)

CODIFICATION

Provisos of this section authorizing the government of the Philippine Islands to regulate transportation between ports or places in the Philippine Archipelago until Congress authorized the registry of vessels owned in those islands, and providing that this section should not go into effect in the Philippine Islands until after investigation and proclamation by the President, were omitted on authority of Proc. No. 2695 of 1946, set out under section 1394 of Title 22, Foreign Relations and Intercourse, which proclaimed the independence of the Philippines.

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" for "Commission". For prior transfers of functions, see Transfer of Functions note below.

1936—Act Apr. 16, 1936, added last proviso at end of section.

TRANSFER OF FUNCTIONS

"Commission" (meaning United States Maritime Commission) was substituted for "board" (meaning United States Shipping Board). For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a

note under section 901 of Title 5, Government Organization and Employees. For subsequent transfers of functions, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

§§ 878, 879. Omitted

CODIFICATION

Section 878, act June 5, 1920, ch. 250, § 23, 41 Stat. 997, provided for allowance of deduction in determining net income for the ten taxable years beginning with taxable year ending after June 5, 1920, of amount equivalent to net earnings of vessels operated in foreign trade provided owner has set aside funds for construction of new vessels of type approved by United States.

Section 879, acts June 5, 1920, ch. 250, § 23, 41 Stat. 998; May 29, 1928, ch. 852, § 707, 45 Stat. 881, exempted proceeds of sales of vessels from income taxes when invested in building of new ships, for period of 10 years from June 5, 1920.

§ 880. Repealed. Pub. L. 86-682, § 12(c), Sept. 2, 1960, 74 Stat. 722, 723

Section, acts June 5, 1920, ch. 250, § 24, 41 Stat. 998; May 22, 1928, ch. 675, § 414(a), 45 Stat. 696, related to the carriage of United States mails on American-built documented vessels. See section 5001 et seq. of Title 39, Postal Service.

§ 881. Classification of vessels by American Bureau of Shipping

For the classification of vessels owned by the United States, and for such other purposes in connection therewith as are the proper functions of a classification bureau, all departments, boards, bureaus, and commissions of the Government are directed to recognize the American Bureau of Shipping as their agency so long as the American Bureau of Shipping continues to be maintained as an organization which has no capital stock and pays no dividends: *Provided*, That the Secretary of Transportation shall appoint one representative and the Secretary of the Department in which the Coast Guard is operating shall appoint one representative (except in a case where such Secretary is the Secretary of Transportation in which case he shall appoint both representatives) who shall represent the Government upon the executive committee of the American Bureau of Shipping, and the bureau shall agree that these representatives shall be accepted by them as active members of such committee. Such representatives of the Government shall serve without any compensation, except necessary traveling expenses: *Provided further*, That the official list of merchant vessels published by the Government shall contain a notation clearly indicating all vessels classed by the American Bureau of Shipping.

(June 5, 1920, ch. 250, § 25, 41 Stat. 998; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Aug. 6, 1981, Pub. L. 97-31, § 12(48), 95 Stat. 157.)

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation shall appoint one representative and the Secretary of the Department in which the Coast Guard is operating shall appoint one representative

(except in a case where such Secretary is the Secretary of Transportation in which case he shall appoint both representatives)" for "Secretary of Commerce and the chairman of the Commission shall each appoint one representative". For prior transfers of functions, see Transfer of Functions note below.

TRANSFER OF FUNCTIONS

"Commission" (meaning United States Maritime Commission) was substituted for "board" (meaning United States Shipping Board). For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees. For subsequent transfers of functions, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

For transfer of functions of Secretary of Commerce, see sections 101 to 104 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title, Reorg. Plan No. 26 of 1950, set out in the Appendix to Title 5, Government Organization and Employees, and section 108 of Title 49, Transportation.

CROSS REFERENCES

American Bureau of Shipping to continue to function in connection with the Government, its bureaus, departments, boards, and commissions, as provided in this section, see section 369 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 369 of this title.

§ 882. Number of passengers cargo vessels may carry

Cargo vessels documented under the laws of the United States may carry not to exceed sixteen persons in addition to the crew between any ports or places in the United States or its Districts, Territories, or possessions, or between any such port or place and any foreign port, or from any foreign port to another foreign port, and such vessels shall not be held to be "passenger vessels" or "vessels carrying passengers" within the meaning of the inspection laws and the rules and regulations thereunder: *Provided*, That nothing herein shall be taken to exempt such vessels from the laws, rules, and regulations respecting life-saving equipment: *Provided further*, That when any such vessel carries persons other than the crew as herein provided for, the owner, agent, or master of the vessel shall first notify such persons of the presence on board of any dangerous articles, as defined by law, or of any other condition or circumstance which would constitute a risk of safety for passenger or crew: *And provided further*, That in any case in which the Secretary of the Department in which the Coast Guard is operating, finds that an emergency situation so requires, and subject to such regulations as he may prescribe, any vessel documented under the laws of the United States and not engaged in an international voyage may carry in excess of sixteen persons in addition to the crew.

The privilege bestowed by this section on vessels of the United States shall be extended insofar as the foreign trade is concerned to the cargo vessels of any nation which allows the like privilege to cargo vessels of the United States in trades not restricted to vessels under its own flag.

Failure on the part of the owner, agent, or master of the vessel to give such notice shall subject the vessel to a penalty of \$500, which may be mitigated or remitted by the Secretary of the Department in which the Coast Guard is operating upon a proper representation of the facts.

(June 5, 1920, ch. 250, § 26, 41 Stat. 998; Aug. 9, 1975, Pub. L. 94-85, 89 Stat. 426; Aug. 6, 1981, Pub. L. 97-31, § 12(159), 95 Stat. 168.)

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of the Department in which the Coast Guard is operating" for "Secretary of Commerce". For prior transfers of functions, see Transfer of Functions note below.

1975—Pub. L. 94-85 added proviso relating to carriage of in excess of sixteen persons in addition to crew in emergency situations.

TRANSFER OF FUNCTIONS

For transfer of functions of Secretary of Commerce, see sections 101 to 104 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title, Reorg. Plan No. 26 of 1950, set out in the Appendix to Title 5, Government Organization and Employees, and section 108 of Title 49, Transportation.

§ 883. Transportation of merchandise between points in United States in other than domestic built or rebuilt and documented vessels; incineration of hazardous waste at sea

No merchandise shall be transported by water, or by land and water, on penalty of forfeiture of the merchandise (or a monetary amount up to the value thereof as determined by the Secretary of the Treasury to be recovered from any consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing said merchandise to be transported), between points in the United States, including Districts, Territories, and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, 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, or vessels to which the privilege of engaging in the coastwise trade is extended by section 13 or 808 of this title: *Provided*, That no vessel having at any time acquired the lawful right to engage in the coastwise trade, either by virtue of having been built in, or documented under the laws of the United States, and later sold foreign in whole or in part, or placed under foreign registry, shall hereafter acquire the right to engage in the coastwise trade: *Provided further*, That no vessel of more than five hundred gross tons which has acquired the lawful right to engage in the coastwise trade, by virtue of having been built in or documented under the laws of the United States, and which has later been rebuilt shall have the right thereafter to engage in the coastwise trade, unless the entire rebuilding, including the construction of any major components of the hull or superstructure of the vessel, is effected within the United States, its territories (not including trust territories), or its possessions: *Provided further*, That this section shall not apply to merchandise transported between points within

the continental United States, including Alaska, over through routes heretofore or hereafter recognized by the Interstate Commerce Commission for which routes rate tariffs have been or shall hereafter be filed with said Commission when such routes are in part over Canadian rail lines and their own or other connecting water facilities: *Provided further*, That this section shall not become effective upon the Yukon River until the Alaska Railroad shall be completed and the Secretary of Transportation shall find that proper facilities will be furnished for transportation by persons citizens of the United States for properly handling the traffic: *Provided further*, That this section shall not apply to the transportation of merchandise loaded on railroad cars or to motor vehicles with or without trailers, and with their passengers or contents when accompanied by the operator thereof, when such railroad cars or motor vehicles are transported in any railroad car ferry operated between fixed termini on the Great Lakes as a part of a rail route, if such car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Interstate Commerce Commission, and if the stock of such common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920, and if the stock of the common carrier owning such car ferry is, with the approval of the Interstate Commerce Commission, now owned or controlled by any common carrier by rail and if such car ferry is built in and documented under the laws of the United States: *Provided further*, That upon such terms and conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, this section shall not apply to the transportation by vessels of the United States not qualified to engage in the coastwise trade, or by vessels of foreign registry, of (a) empty cargo vans, empty lift vans, and empty shipping tanks, (b) equipment for use with cargo vans, lift vans, or shipping tanks, (c) empty barges specifically designed for carriage aboard a vessel and equipment, excluding propulsion equipment, for use with such barges, and (d) any empty instrument for international traffic exempted from application of the customs laws by the Secretary of the Treasury pursuant to the provisions of section 1322(a) of title 19, if the articles described in clauses (a) through (d) are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; and (e) stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade: *Provided further*, That upon such terms and

conditions as the Secretary of the Treasury by regulation may prescribe, and, if the transporting vessel is of foreign registry, upon his finding, pursuant to information furnished by the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States, the Secretary of the Treasury may suspend the application of this section to the transportation of merchandise between points in the United States (excluding transportation between the continental United States and noncontiguous states, districts, territories, and possessions embraced within the coastwise laws) which, while moving in the foreign trade of the United States, is transferred from a non-self-propelled barge certified by the owner or operator to be specifically designed for carriage aboard a vessel and regularly carried aboard a vessel in foreign trade to another such barge owned or leased by the same owner or operator, without regard to whether any such barge is under foreign registry or qualified to engage in the coastwise trade: *Provided further*, That until April 1, 1984, and notwithstanding any other provisions of this section, any vessel documented under the laws of the United States and owned by persons who are citizens of the United States may, when operated upon a voyage in foreign trade, transport merchandise in cargo vans, lift vans, and shipping-tanks between points embraced within the coastwise laws for transfer to or when transferred from another vessel or vessels, so documented and owned, of the same operator when the merchandise movement has either a foreign origin or a foreign destination; but this proviso (1) shall apply only to vessels which that same operator owned, chartered or contracted for the construction of prior to November 16, 1979, and (2) shall not apply to movements between points in the contiguous United States and points in Hawaii, Alaska, the Commonwealth of Puerto Rico and United States territories and possessions. For the purposes of this section, after December 31, 1983, or after such time as an appropriate vessel has been constructed and documented as a vessel of the United States, the transportation of hazardous waste, as defined in section 6903(5) of title 42, from a point in the United States for the purpose of the incineration at sea of that waste shall be deemed to be transportation by water of merchandise between points in the United States: *Provided, however*, That the provisions of this sentence shall not apply to this transportation when performed by a foreign-flag ocean incineration vessel, owned by or under construction on May 1, 1982, for a corporation wholly owned by a citizen of the United States; the term "citizen of the United States", as used in this proviso, means a corporation as defined in section 802(a) and (b) of this title. The incineration equipment on these vessels shall meet all current United States Coast Guard and Environmental Protection Agency standards. These vessels shall, in addition to any other inspections by the flag state, be inspected by the United States Coast Guard, including drydock inspections and internal examinations of tanks and void spaces, as would be required of a vessel of the United States. Satis-

factory inspection shall be certified in writing by the Secretary of Transportation. Such inspections may occur concurrently with any inspections required by the flag state or subsequent to but no more than one year after the initial issuance or the next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making such inspections, the Coast Guard shall refer to the conditions established by the initial flag state certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of an equivalent fitting, material, appliance, apparatus, or equipment other than that required for vessels of the United States if the Coast Guard has been satisfied that fitting, material, appliance, apparatus, or equipment is at least as effective as that required for vessels of the United States. *Provided further*, That for the purposes of this section, supplies aboard United States documented fish processing vessels, which are necessary and used for the processing or assembling of fishery products aboard such vessels, shall be considered ship's equipment and not merchandise.

(June 5, 1920, ch. 250, § 27, 41 Stat. 999; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; Apr. 11, 1935, ch. 58, 49 Stat. 154; July 2, 1935, ch. 355, § 1, 49 Stat. 442; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; 1950 Reorg. Plan No. 21, § 204, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276; July 14, 1956, ch. 600, § 1, 70 Stat. 544; July 7, 1958, Pub. L. 85-508, § 27(a), 72 Stat. 351; July 5, 1960, Pub. L. 86-583, § 1, 74 Stat. 321; Sept. 21, 1965, Pub. L. 89-194, 79 Stat. 823; Aug. 11, 1968, Pub. L. 90-474, 82 Stat. 700; Nov. 23, 1971, Pub. L. 92-163, § 1, 85 Stat. 486; Oct. 3, 1978, Pub. L. 95-410, title II, § 213, 92 Stat. 904; Nov. 16, 1979, Pub. L. 96-112, § 4, 93 Stat. 848; Aug. 6, 1981, Pub. L. 97-31, § 12(49), 95 Stat. 157; Dec. 29, 1982, Pub. L. 97-389, title V, §§ 502, 504, 96 Stat. 1954, 1956.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in act Feb. 17, 1898, ch. 26, § 1, 30 Stat. 248, which was classified to section 290 of this title.

AMENDMENTS

1982—Pub. L. 97-389, § 502, added provision relating to the transportation of hazardous waste, the proviso thereto for foreign-flag transport, and further provisions relating to standards for and the inspection of vessels engaged in such transport.

Pub. L. 97-389, § 504, added proviso defining supplies aboard United States fish processing vessels used for fishery products manufacture as ship's equipment.

1981—Pub. L. 97-31 in the fourth proviso substituted "Secretary of Transportation" for "Secretary of Commerce". For prior transfers of functions, see Transfer of Functions note below.

1979—Pub. L. 96-112 added proviso that, until April 1, 1984, and notwithstanding any other provisions of this section, any vessel documented under the laws of the United States and owned by citizens of the United States could, when operated upon a voyage in foreign trade, transport merchandise in cargo vans, lift vans, and shipping-tanks between points embraced within the coastwise laws for transfer to or when transferred

¹So in original. Probably should be followed by a colon.

from another vessel or vessels, so documented and owned, of the same operator when the merchandise movement had either a foreign origin or a foreign destination, but that the proviso would apply only to vessels which that same operator owned, chartered or contracted for the construction of prior to Nov. 16, 1979, and would not apply to movements between points in the contiguous United States and points in Hawaii, Alaska, the Commonwealth of Puerto Rico and United States territories and possessions.

1978—Pub. L. 95-410, in first sentence, substituted "forfeiture of merchandise" for "forfeiture thereof" and inserted parenthetical text for forfeiture of a monetary amount up to the value of the merchandise as determined by the Secretary of the Treasury to be recovered from any consignor, seller, owner, importer, consignee, agent, or other person or persons transporting or causing the merchandise to be transported.

1971—Pub. L. 92-163 added "and equipment, excluding propulsion equipment, for use with such barges" following "(c) empty barges specifically designed for carriage aboard a vessel" and added reciprocity proviso reciprocally permitting foreign-flag specialty barges, specifically designed and regularly carried aboard a barge carrying ship in foreign trade to carry export or import cargo between United States points which has been transferred from one such barge to another.

1968—Pub. L. 90-474 in the final proviso designated existing provisions relating to empty cargo vans, empty lift vans, and empty shipping tanks as cl. (a), added cls. (b) to (d), saved modifying provisions relating to empty cargo vans, empty lift vans, and empty shipping tanks so as to render them applicable to cls. (a) to (d), and added cl. (e).

1965—Pub. L. 89-194 added proviso that section should not apply to the transportation of empty cargo vans, lift vans, and shipping tanks by vessels of the United States not qualified to engage in the coastwise trade of by vessels of foreign registry so long as such vans or tanks are owned or leased by the owner or operator of the transporting vessels and are being transported for use in the carriage of goods in foreign trade.

1960—Pub. L. 86-583 prohibits the operation in the coastwise trade of a rebuilt vessel unless the entire rebuilding, including the construction of any major components of the hull and superstructure of the vessel, is accomplished in the United States.

1958—Pub. L. 85-508 substituted "including Alaska" for "excluding Alaska".

1956—Act July 14, 1956, added proviso to prohibit the operation in coastwise trade of vessels of more than 500 gross tons which have been rebuilt outside the United States.

1935—Act July 2, 1935, amended section generally. Act Apr. 11, 1935, added fifth proviso.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 4 of Pub. L. 86-583 provided that: "This Act [amending sections 883 and 883a of this title] shall be effective from the time of enactment [July 5, 1960] hereof: *Provided, however,* That no vessel shall be deemed to have lost its coastwise privileges as a result of the amendments made by this Act if it is rebuilt within the United States, its Territories (not including trust territories), or its possessions under a contract executed before such date of enactment and if the work of rebuilding is commenced not later than twenty-four months after such date of enactment."

EFFECTIVE DATE OF 1956 AMENDMENT

Section 4 of act July 14, 1956, provided that: "This Act [amending this section and adding sections 883a and 883b of this title] shall be effective from the date of enactment [July 14, 1956] hereof: *Provided, however,* That no vessel shall be deemed to have lost its coastwise privileges hereunder if it is rebuilt under a contract entered into before such date of enactment and if the work of rebuilding is commenced not later than six months after such date of enactment."

SAVINGS PROVISIONS

For effect of subtitle IV (§ 10101 et seq.) of Title 49, Transportation, see Repeals not set out preceding section 801 of this title.

TRANSFER OF FUNCTIONS

All the functions conferred upon the Secretary of Commerce by the provisions of Reorg. Plan No. 21 of 1950 are to remain vested in the Secretary except to the extent inconsistent with sections 101(b) and 104(b) of Reorg. Plan No. 7 of 1961. See section 202 of Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

"Secretary of Commerce" was substituted for "United States Maritime Commission" on the authority of Reorg. Plan No. 21 of 1950, set out under section 1111 of this title, section 306 of which abolished the United States Maritime Commission and section 204 of which transferred to the Secretary of Commerce such Commission's functions not transferred to the Federal Maritime Board.

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by Reorg. Plan No. 6 of 1949, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069, set out under section 1111 of this title.

"United States Maritime Commission" was substituted for "Shipping Board". For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees.

TRANSPORTATION OF MERCHANDISE OR PASSENGERS WITHIN ALASKA BY FOREIGN BUILT HOVERCRAFT

Pub. L. 95-599, title I, § 146, Nov. 6, 1978, 92 Stat. 2714, provided that:

"(a) Effective during the five-year period beginning on the date of enactment of this Act [Nov. 6, 1978], nothing in section 27 of the Merchant Marine Act, 1920 [this section], or any other provision of law restricting the coastwise trade to vessels of the United States shall prohibit the transportation within the State of Alaska of merchandise or passengers by foreign built hovercraft.

"(b) For the purpose of this section the term 'hovercraft' means a vehicle which travels over land or water in a cushion of air generated by such vehicle."

REPORT TO CONGRESS REGARDING EFFECT OF RECIPROcity PROVISIONS

Section 2 of Pub. L. 92-163 authorized the Secretary of the Treasury, for a period of five years following Nov. 23, 1971, to make a report at the beginning of each regular session to the Congress regarding activities under Pub. L. 92-163, including but not limited to the extent to which foreign governments are extending reciprocal privileges to the vessels of the United States.

REGULATIONS

Section 3 of Pub. L. 86-583 provided that: "The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purposes of this Act [amending this section and section 883a of this title]."

ADMISSION OF ALASKA AS STATE

Effectiveness of amendment of this section by Pub. L. 85-508 was dependent upon the admission of Alaska into the Union under section 8(b) of Pub. L. 85-508. Admission was accomplished Jan. 3, 1959 upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508. See notes preceding section 21 of Title 48, Territories and Insular Possessions.

JURISDICTION OVER COMMON CARRIERS BETWEEN PORTS IN HAWAII AND OTHER PORTS

Pub. L. 86-3, § 18(a), Mar. 18, 1959, 73 Stat. 12, as amended Pub. L. 86-624, § 46, July 12, 1960, 74 Stat. 423, provided that: "Nothing contained in this Act shall be construed as depriving the Federal Maritime Board [now Secretary of Transportation] of the exclusive jurisdiction heretofore conferred on it over common carriers engaged in transportation by water between any port in the State of Hawaii and other ports in the United States, or possessions, or as conferring on the Interstate Commerce Commission jurisdiction over transportation by water between any such ports."

JURISDICTION OVER COMMON CARRIERS BETWEEN PORTS IN ALASKA AND OTHER PORTS

Section 27(b) of Pub. L. 85-508 provided that: "Nothing contained in this or any other Act shall be construed as depriving the Federal Maritime Board [now Secretary of Transportation] of the exclusive jurisdiction heretofore conferred on it over common carriers engaged in transportation by water between any port in the State of Alaska and other ports in the United States, its Territories or possessions, or as conferring upon the Interstate Commerce Commission jurisdiction over transportation by water between any such ports."

TRANSPORTATION OF LUMBER TO PUERTO RICO

Pub. L. 87-877, § 4, Oct. 24, 1962, 76 Stat. 1201, allowed for suspension of this section during a 1-year period beginning Oct. 24, 1962, with respect to transportation of lumber to Puerto Rico from ports or terminal areas in the United States if Secretary of Commerce determined that no domestic vessel was reasonably available.

TRANSPORTATION OF COAL BETWEEN POINTS IN UNITED STATES IN CANADIAN VESSELS

Act Aug. 7, 1956, ch. 1028, 70 Stat. 1090, permitted Canadian vessels to transport coal to Ogdensburg, N.Y., from other points in the United States, on the Great Lakes, or their connecting or tributary waters for a period ending June 30, 1957.

TRANSPORTATION OF IRON ORE IN VESSELS OF CANADIAN REGISTRY

Act June 24, 1952, ch. 458, 66 Stat. 156, provided for the transportation of iron ore and terminated on Dec. 31, 1952.

Similar provisions were contained in the following acts:

- Mar. 29, 1951, ch. 25, 65 Stat. 28.
- June 30, 1950, ch. 427, § 5, 64 Stat. 309.
- Mar. 28, 1949, ch. 36, 63 Stat. 16.
- Mar. 24, 1948, ch. 144, 62 Stat. 85.
- Jan. 27, 1942, ch. 21, 56 Stat. 19, as amended Aug. 1, 1942, ch. 544, 56 Stat. 735, and repealed July 25, 1947, ch. 327, § 2b, 61 Stat. 451, eff. six months after July 25, 1947.
- May 31, 1941, ch. 158, 55 Stat. 236.

TRANSPORTATION OF PASSENGERS AND MERCHANDISE ON CANADIAN VESSELS BETWEEN POINTS IN ALASKA AND UNITED STATES

Pub. L. 85-473, June 30, 1958, 72 Stat. 244, allowed passengers to be transported on Canadian vessels between ports in southeastern Alaska, and passengers and merchandise may be transported on Canadian vessels between Hyder, Alaska, and other points in southeastern Alaska or the continental United States either directly or via a foreign port, or for any part of the transportation for a period ending June 30, 1959, unless the Secretary of Commerce determined that U.S. flag service was available to provide such transportation.

Similar provisions were contained in the following acts:

- July 11, 1957, Pub. L. 85-103, 71 Stat. 294.
- Apr. 18, 1956, ch. 207, 70 Stat. 114.
- May 7, 1955, ch. 35, 60 Stat. 47.
- June 29, 1954, ch. 413, 68 Stat. 321.
- July 16, 1953, ch. 201, 67 Stat. 175.
- June 11, 1952, ch. 391, 66 Stat. 133.
- June 27, 1951, ch. 153, 65 Stat. 90.
- June 29, 1950, ch. 409, 64 Stat. 301.
- Aug. 22, 1949, ch. 493, 63 Stat. 622.

TRANSPORTATION OF GRAIN BETWEEN UNITED STATES PORTS ON GREAT LAKES BY VESSELS OF CANADIAN REGISTRY DURING 1951

Act Oct. 10, 1951, ch. 459, 65 Stat. 371, provided for the transportation of grain and terminated on Dec. 31, 1951.

TRANSPORTATION OF MERCHANDISE BETWEEN HYDER, ALASKA, AND UNITED STATES

Act July 30, 1947, ch. 387, 61 Stat. 632, as amended June 28, 1948, ch. 693, 62 Stat. 1067, provided for the transportation of merchandise between Hyder, Alaska, and United States and terminated on June 30, 1949.

CROSS REFERENCES

Corporation meeting certain conditions deemed citizen for purposes of this section, see section 883-1 of this title.

Provisions restricting coastwise transportation to vessels of United States not applicable to American Samoa, see section 1664 of Title 48, Territories and Insular Possessions.

Transportation of passengers and merchandise in Canadian vessels between points in Alaska and United States, see section 289b of this title.

Transportation of passengers in foreign vessels, see section 289 of this title and notes thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 316, 391a, 446b, 883-1 of this title; title 19 section 1554; title 50 App. section 1745.

§ 883-1. Corporation as citizen; fisheries and transportation of merchandise or passengers between points in United States; parent and subsidiary corporations; domestic built vessels; certificate; surrender of documents on change in status

Notwithstanding any other provision of law, a corporation incorporated under the laws of the United States or any State, Territory, District, or possession thereof, shall be deemed to be a citizen of the United States for the purposes of and within the meaning of that term as used in sections 316, 808, 835, and 883 of this title, and the laws relating to the documentation of vessels, if it is established by a certificate filed with the Secretary of the Treasury as hereinafter provided, that—

(a) a majority of the officers and directors of such corporation are citizens of the United States;

(b) not less than 90 per centum of the employees of such corporation are residents of the United States;

(c) such corporation is engaged primarily in a manufacturing or mineral industry in the United States or any Territory, District, or possession thereof;

(d) the aggregate book value of the vessels owned by such corporation does not exceed 10 per centum of the aggregate book value of the assets of such corporation; and

(c) such corporation purchases or produces in the United States, its Territories, or possessions not less than 75 per centum of the raw materials used or sold in its operations

but no vessel owned by any such corporation shall engage in the fisheries or in the transportation of merchandise or passengers for hire between points in the United States, including Territories, Districts, and possessions thereof, embraced within the coastwise laws, except as a service for a parent or subsidiary corporation and except when such vessel is under demise or bareboat charter at prevailing rates for use otherwise than in the domestic noncontiguous trades from any such corporation to a common or contract carrier subject to subchapter III of chapter 105 of title 49, which otherwise qualifies as a citizen under section 802 of this title, and which is not connected, directly or indirectly, by way of ownership or control with such corporation.

As used herein (1), the term "parent" means a corporation which controls, directly or indirectly, at least 50 per centum of the voting stock of such corporation, and (2), the term "subsidiary" means a corporation not less than 50 per centum of the voting stock of which is controlled, directly or indirectly, by such corporation or its parent, but no corporation shall be deemed to be a "parent" or "subsidiary" hereunder unless it is incorporated under the laws of the United States, or any State, Territory, District, or possession thereof, and there has been filed with the Secretary of the Treasury a certificate as hereinafter provided.

Vessels built in the United States and owned by a corporation meeting the conditions hereof which are non-self-propelled or which, if self-propelled, are of less than five hundred gross tons shall be entitled to documentation under the laws of the United States, and except as restricted by this section, shall be entitled to engage in the coastwise trade and, together with their owners or masters, shall be entitled to all the other benefits and privileges and shall be subject to the same requirements, penalties, and forfeitures as may be applicable in the case of vessels built in the United States and otherwise documented or exempt from documentation under the laws of the United States.

A corporation seeking hereunder to document a vessel under the laws of the United States or to operate a vessel exempt from documentation under the laws of the United States shall file with the Secretary of the Treasury of the United States a certificate under oath, in such form and at such times as may be prescribed by him, executed by its duly authorized officer or agent, establishing that such corporation complies with the conditions of this section above set forth. A "parent" or "subsidiary" of such corporation shall likewise file with the Secretary of the Treasury a certificate under oath, in such form and at such time as may be prescribed by him, executed by its duly authorized officer or agent, establishing that such "parent" or "subsidiary" complies with the conditions of this section above set forth, before such corporation may transport any merchandise or passengers for such parent or subsidi-

ary. If any material matter of fact alleged in any such certificate which, within the knowledge of the party so swearing is not true, there shall be a forfeiture of the vessel (or the value thereof) documented or operated hereunder in respect to which the oath shall have been made. If any vessel shall transport merchandise for hire in violation of this section, such merchandise shall be forfeited to the United States. If any vessel shall transport passengers for hire in violation of this section, such vessel shall be subject to a penalty of \$200 for each passenger so transported. Any penalty or forfeiture incurred under this section may be remitted or mitigated by the Secretary of the Treasury under the provisions of section 7 of this title.

Any corporation which has filed a certificate with the Secretary of the Treasury as provided for herein shall cease to be qualified under this section if there is any change in its status whereby it no longer meets the conditions above set forth, and any documents theretofore issued to it, pursuant to the provisions of this section, shall be forthwith surrendered by it to the Secretary of the Treasury.

(June 5, 1920, ch. 250, § 27A, as added Sept. 2, 1958, Pub. L. 85-902, 72 Stat. 1736.)

CODIFICATION

In the first par., "subchapter III of chapter 105 of title 49" was substituted for "part III of the Interstate Commerce Act [49 U.S.C. 901 et seq.]" on authority of Pub. L. 95-473, § 3(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 1522.

§ 883a. Reports required of United States vessels rebuilt abroad; penalty for failure to report; mitigation of penalty

If any vessel of more than five hundred gross tons documented under the laws of the United States, or last documented under such laws, is rebuilt, and any part of the rebuilding, including the construction of major components of the hull and superstructure of the vessel, is not effected within the United States, its Territories (not including trust territories) or its possessions, a report of the circumstances of such rebuilding shall be made to the Secretary of the Treasury, upon the first arrival of the vessel thereafter at a port within the customs territory of the United States, if rebuilt outside the United States, its Territories (not including trust territories), or its possessions, or, in any other case, upon completion of the rebuilding, in accordance with such regulations as the Secretary may prescribe. If the required report is not made, the vessel, together with its tackle, apparel, equipment, and furniture, shall be forfeited, and the master and owner shall each be liable to a penalty of \$200. Any penalty or forfeiture incurred under this Act may be remitted or mitigated by the Secretary under the provisions of section 7 of this title.

(July 14, 1956, ch. 600, § 2, 70 Stat. 544; July 5, 1960, Pub. L. 86-583, § 2, 74 Stat. 321.)

REFERENCES IN TEXT

This Act, referred to in text, means act July 14, 1956, ch. 600, 70 Stat. 544, as amended, which enacted sections 883a, and 883b of this title, amended section 883 of this title, and enacted provisions set out as a note under section 883 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

This section was enacted as part of act July 14, 1956, and not as part of act June 5, 1920, ch. 250, 41 Stat. 988, known as the Merchant Marine Act, 1920.

AMENDMENTS

1960—Pub. L. 86-583 provided for a report of the rebuilding of any part of the vessel, including the construction of major components of the hull and superstructure of the vessel, and for a report upon completion of the rebuilding in certain cases.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-583 effective July 5, 1960, and effect on rebuilding contracts executed before such date, see section 4 of Pub. L. 86-583, set out as a note under section 883 of this title.

EFFECTIVE DATE

Section effective July 14, 1956, see section 4 of act July 14, 1956, set out as an Effective Date of 1956 Amendment Note under section 883 of this title.

REGULATIONS

Secretary of Treasury to prescribe regulations to carry out the purposes of this section, see section 3 of Pub. L. 86-583, set out as a note under section 883 of this title.

§ 883b. Regulations

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purposes of this Act.

(July 14, 1956, ch. 600, § 3, 70 Stat. 544.)

REFERENCES IN TEXT

This Act, referred to in text, means act July 14, 1956, ch. 600, 70 Stat. 544, as amended, which enacted sections 883a, and 883b of this title, amended section 883 of this title, and enacted provisions set out as a note under section 883 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

This section was enacted as part of act July 14, 1956, and not as part of act June 5, 1920, ch. 250, 41 Stat. 988, known as the Merchant Marine Act, 1920.

EFFECTIVE DATE

Section effective July 14, 1956, see section 4 of act July 14, 1956, set out as an Effective Date of 1956 Amendment note under section 883 of this title.

§ 884. Charges for transportation subject to Interstate Commerce provisions

No common carrier shall charge, collect, or receive for transportation subject to subtitle IV of title 49 of persons or property, under any joint rate, fare, or charge, or under any export, import, or other proportional rate, fare, or charge, which is based in whole or in part on the fact that the persons or property affected thereby is to be transported to, or has been transported from, any port in a possession or dependency of the United States, or in a foreign country, by a carrier by water in foreign

commerce, any lower rate, fare, or charge than that charged, collected, or received by it for the transportation of persons, or of a like kind of property, for the same distance, in the same direction, and over the same route, in connection with commerce wholly within the United States, unless the vessel so transporting such persons or property is, or unless it was at the time of such transportation by water, documented under the laws of the United States. Whenever the Secretary of Transportation is of the opinion, however, that adequate shipping facilities to or from any port in a possession or dependency of the United States or a foreign country are not afforded by vessels so documented he shall certify this fact to the Interstate Commerce Commission, and the Interstate Commerce Commission may, by order, suspend the operation of the provisions of this section with respect to the rates, fares, and charges for the transportation by rail of persons and property transported from, or to be transported to such ports, for such length of time and under such terms and conditions as he may prescribe in such order, or in any order supplemental thereto. Such suspension of operation of the provisions of this section may be terminated by order of the Interstate Commerce Commission whenever the Secretary of Transportation is of the opinion that adequate shipping facilities by such vessels to such ports are afforded and shall so certify to the Interstate Commerce Commission.

(June 5, 1920, ch. 250, § 28, 41 Stat. 999; Ex. Ord. No. 6166, § 12, eff. June 10, 1933; June 29, 1936, ch. 858, §§ 204, 904, 49 Stat. 1987, 2016; Aug. 6, 1981, Pub. L. 97-31, § 12(50), 95 Stat. 157.)

CODIFICATION

"Subtitle IV of title 49" was substituted in text for "the Interstate Commerce Act [49 U.S.C. 1 et seq.]" on authority of Pub. L. 95-473, § 3(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV of Title 49, Transportation.

AMENDMENTS

1981—Pub. L. 97-31 substituted "Secretary of Transportation" for "Commission" in two instances and "he" for "it". For prior transfers of functions, see Transfer of Functions note below.

SAVINGS PROVISIONS

For effect of subtitle IV (§ 10101 et seq.) of Title 49, Transportation, see Repeals note set out preceding section 801 of this title.

TRANSFER OF FUNCTIONS

"Maritime Commission" (meaning the United States Maritime Commission) was substituted for "board" (meaning United States Shipping Board). For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees. For subsequent transfers of functions, see Reorg. Plan No. 6 of 1949, Reorg. Plan No. 21 of 1950, and Reorg. Plan No. 7 of 1961, set out under section 1111 of this title.

§ 885. Association of marine insurance companies; application of antitrust laws

(a) Whenever used in this section—

(1) The term "association" means any association, exchange, pool, combination, or other arrangement for concerted action; and

(2) The term "marine insurance companies" means any persons, companies, or associations, authorized to write marine insurance or reinsurance under the laws of the United States or of a State, Territory, District, or possession thereof.

(b) Nothing contained in the "antitrust laws" as designated in section 12 of title 15, shall be construed as declaring illegal an association entered into by marine insurance companies for the following purposes: To transact a marine insurance and reinsurance business in the United States and in foreign countries and to reinsure or otherwise apportion among its membership the risks undertaken by such association or any of the component members.

(June 5, 1920, ch. 250, § 29, 41 Stat. 1000.)

§ 886. Repealed. June 29, 1936, ch. 858, § 903(b), 49 Stat. 2016

Section, act June 5, 1920, ch. 250, § 35, 41 Stat. 1007, as affected by act Feb. 11, 1927, ch. 104, § 1, 44 Stat. 1083, authorized the Shipping Board to exercise its power and authority directly or through the United States Shipping Board Merchant Fleet Corporation.

§ 887. Partial invalidity

If any provision of this Act is declared unconstitutional or the application of any provision to certain circumstances be held invalid, the remainder of such Act and the application of such provisions to circumstances other than those as to which it is held invalid shall not be affected thereby.

(June 5, 1920, ch. 250, § 36, 41 Stat. 1007.)

REFERENCES IN TEXT

This Act, referred to in text, means act June 5, 1920, ch. 250, 41 Stat. 988, as amended, known as the Merchant Marine Act, 1920, which enacted sections 13, 861 to 864, 865, 866 to 870, 871 to 883-1, 884 to 889, 911, 921 to 927, 941, 951 to 954, 961, 971 to 975, and 981 to 984 of this title and amended sections 597, 599, 688, 802 to 804, 805, 808, 812, and 813 of this title. For complete classification of this Act to the Code, see section 889 of this title and Tables.

§ 888. Definitions

When used in this Act, unless the context otherwise requires, the terms "person", "vessel", "documented under the laws of the United States", and "citizen of the United States" shall have the meaning assigned to them by sections 801, 802, and 803 of this title; and the term "alien" means any person not a citizen of the United States.

(June 5, 1920, ch. 250, § 37, 41 Stat. 1008; Sept. 21, 1959, Pub. L. 86-327, § 2, 73 Stat. 597.)

REFERENCES IN TEXT

This Act, referred to in text, means act June 5, 1920, ch. 250, 41 Stat. 988, as amended, known as the Merchant Marine Act, 1920, which enacted sections 13, 861

to 864, 865, 866 to 870, 871 to 883-1, 884 to 889, 911, 921 to 927, 941, 951 to 954, 961, 971 to 975, and 981 to 984 of this title and amended sections 597, 599, 688, 802 to 804, 805, 808, 812, and 813 of this title. For complete classification of this Act to the Code, see section 889 of this title and Tables.

CODIFICATION

The words "the term 'commission' means the United States Maritime Commission;" were omitted preceding the definition of "alien" in view of Reorg. Plan No. 21 of 1950, §§ 204, 306, eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1276, 1277, set out under section 1111 of this title, which abolished the United States Maritime Commission and transferred its functions to the Federal Maritime Board and to the Secretary of Commerce.

AMENDMENTS

1959—Pub. L. 86-327 substituted "sections 1 and 2 of the 'Shipping Act, 1916,' as amended" for "sections 1 and 2 of the 'Shipping Act, 1916,' as amended by this Act", which sections are referred to in the text as "sections 801, 802, and 803 of this title" for purposes of codification.

TRANSFER OF FUNCTIONS

All executive and administrative functions of the United States Maritime Commission were transferred to the Chairman thereof by Reorg. Plan No. 6 of 1949, eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069 set out under section 1111 of this title.

"Commission" (meaning United States Maritime Commission) and "United States Maritime Commission" were substituted for "board" and "Shipping Board" (meaning United States Shipping Board), respectively. For dissolution of the Board and transfer of its functions to the United States Maritime Commission, see Ex. Ord. No. 6166 and act June 29, 1936. Ex. Ord. No. 6166 is set out as a note under section 901 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 922 of this title.

§ 889. Short title

The Act of June 5, 1920, chapter 250, may be cited as the "Merchant Marine Act, 1920."

(June 5, 1920, ch. 250, § 39, 41 Stat. 1008.)

REFERENCES IN TEXT

The Act of June 5, 1920, chapter 250, referred to in text, means act June 5, 1920, ch. 250, 41 Stat. 988, as amended, known as the Merchant Marine Act, 1920, which enacted sections 13, 861 to 864, 865, 866 to 870, 871 to 883-1, 884 to 889, 911, 921 to 927, 941, 951 to 954, 961, 971 to 975, and 981 to 984 of this title and amended sections 597, 599, 688, 802 to 804, 805, 808, 812, and 813 of this title. For complete classification of this Act to the Code, see Tables.

CHAPTER 24A—MERCHANT MARINE ACT, 1928

Sec.	
891.	Declaration of policy.
891a.	Repealed.
891b.	Vessels of Secretary; remodeling and improving.
891c.	Replacement vessels.
891d to 891r.	Repealed.
891s.	Authorization of appropriations.
891t.	Repealed.
891u.	Definitions.
891v.	Reaffirmation of steamship line policy.
891w.	Ship operations; allocations.
891x.	Short title.
891y.	Omitted.