explored. Had more cargo (materials/supplies) been needed, most of it would likely have been delivered on foreign ships. Groups favoring the Jones Act tout the fact that a Jones Act vessel, the *Northern Lights*, participated in support of military operations in 2003—but the fleet's contributions do not appear to have gone beyond this lone ship.[49]

Since the 2003 Iraq War the Jones Act fleet has declined from 151 ships to 99.[50] Recent comments from the Pentagon suggest that this is a concern. Noting the fleet's dwindling size, General McDew told Congress that this situation "demands that we reassess our approach to ensure that the [United States] retains critical national security surge sealift capabilities. We may also need to rethink policies of the past in order to face an increasingly competitive future."[51]

In contrast to domestically built Jones Act vessels, foreign-built ships have proven essential to the U.S. military's sealift capabilities. Of the 46 ships comprising the Maritime Administration's Ready Reserve Force—a fleet that helps transport combat equipment and supplies "during the critical surge period before commercial ships can be marshaled"—30 are foreign-built.[52] Although worthy to serve in the country's defense, these same ships are ineligible to engage in coastwise trade.

The irrelevance of the Jones Act to U.S. national security can also be gleaned from the growing divergence between the characteristics of its fleet and the needs of the armed forces. The military, according to the Congressional Research Service, prefers ships with speed and versatility that can "unload diverse cargos in shallow harbors lacking shore-side cranes."[53] Jones Act shippers, in contrast, prefer vessels that operate at slower, more fuel-efficient speeds, are specialized for a particular type of cargo, and are designed to operate in modern port facilities. Meanwhile, increasing specialization within the commercial shipping sector has reduced the likelihood that military requirements can be met by Jones Act ships.[54]

Other aspects of today's military further illustrate the growing divide between the Jones Act and modern realities. At the time the law was written, soldiers were transported to the theater of operations in troopships, which slowly ploughed the waves. Today such ships no longer exist. Instead, troops are flown to their destinations aboard jet aircraft at hundreds of miles per hour.[55] And with modern conventional wars typically measured in weeks or even days, there is often barely enough time to lay down a keel before hostilities have ended.

Indeed, the goal of ensuring that domestic shipyards are capable of churning out new vessels in times of war to replace losses or add to the country's firepower is also anachronistic. With the exception of some smaller vessels sunk by mines in the Korean War, the United States has not lost a ship to enemy action since World War II. Thus, the value in exacting such a heavy, ongoing toll on the country's economy to promote a domestic shipbuilding capacity that might be needed in the event of a long, early 20th-century type of conventional war in the future is increasingly dubious.

Another component of national security is the capacity to respond quickly and effectively to natural and manmade disasters. In this area, the Jones Act again falls short. Rather than serving as an asset in such scenarios, the law actually functions as an impediment by disqualifying ships from providing relief. Theoretically, this problem could be mitigated through presidential waivers of the Jones Act, but—believe it or not—protected industries tend to lobby in opposition to any waivers, including those extended for humanitarian purposes. Keith Hennessey, who served as director of President George W. Bush's National Economic Council, reported that following Hurricane Katrina in 2005, shippers, shipbuilders, and maritime workers lobbied the Bush administration hard and at all levels against a waiver, demanding shorter time frames and narrower waiver scopes.[56]

After Hurricane Maria hit Puerto Rico in 2017, President Trump admitted to being hesitant to grant a Jones Act waiver because "a lot of people who work in the shipping industry . . . don't want the Jones Act lifted."[57]

"One component of national security is the capacity to respond quickly and effectively to natural and manmade disasters. In this area, the Jones Act falls short."

"The direct and indirect costs of the Jones Act are substantial, and the fact that they have not been comprehensively tallied partly explains why the law has endured for so long."

Trump agreed to a mere 10-day waiver, which was not enough time for a Norwegian ship to transport 53 containers of aid from New Orleans to Puerto Rico, or for a Dutch vessel, owned by Greenpeace, to carry supplies to the beleaguered island.[58]

TALLYING THE COSTS

There are not many published estimates of the cost to the U.S. economy of the Jones Act. In the 1990s, the U.S. International Trade Commission (USITC) published several papers on the topic using different assumptions, yielding estimates of economy-wide costs ranging from $656 million to $9.8 billion.[59] A 1998 Government Accountability Office assessment subsequently found the trade commission's approach to be reasonable, but noted that the benefits of repeal may be smaller when factoring in the costs of complying with U.S. tax, labor, and employee protection laws that foreign competitors would have to incur in order to compete in the U.S. shipping market.[60]

Since 2002 the USITC has declined to provide an estimate of the law's costs. The estimates it has provided, however, seem to overlook the full range of costs generated by the Jones Act. The costs attributable directly and indirectly to the law are substantial, and the fact that they have not been comprehensively tallied partly explains why it has endured for so long. The Jones Act restricts shipping, which is an intermediate good (or service) that factors into the cost of nearly everything purchased by businesses and households. These costs are manifest in many different ways.

In addition to the commercial and national security costs of perpetuating a second-rate shipping industry as discussed above, the Jones Act imposes a variety of significant costs on the U.S. economy. We identify six broad cost categories that any proper and comprehensive analysis of the Jones Act should take into account. Those categories are: transportation costs, environmental costs, lost wages and output, lost domestic revenue, lost foreign revenue, and infrastructure costs.

In a forthcoming paper, we intend to provide detailed estimates for the costs in each of these categories. For the purpose of this paper, we discuss these costs generally and—mostly—qualitatively, although some rough estimates are provided for perspective where possible.

TRANSPORTATION COSTS. The most obvious and direct effect of the Jones Act is on waterborne shipping rates. By limiting participation in the U.S. maritime and inland waterways transportation sector to U.S.-built, U.S.-owned, U.S.-flagged, and U.S.-crewed ships, the costs of moving cargo by water are artificially inflated. The resulting harms are a simple matter of supply and demand.

Absent competition to discipline rates, and without much need to keep operating costs in check, the Jones Act fleet is akin to having a high-seas postal service—one that barely stays afloat. To get a sense of the inefficiencies, a Maritime Administration report found that the operating costs of U.S.-flagged vessels engaged in foreign commerce in 2010 were 2.7 times greater than those of their foreign competitors.[61] The daily operating costs, which include crew, tools, supplies, maintenance and repair, insurance, and overhead were tallied at $7,454 for foreign-flagged vessels, but a whopping $20,053 for U.S.-flagged vessels. Of the U.S. total, 68 percent ($13,655) was crew costs, as compared to 35 percent for foreign-flagged ships. It should be no surprise that labor unions are among the Jones Act's most vigorous supporters.[62] Maintenance and repair costs, meanwhile, are inflated by a provision in the Tariff Act of 1922—supported by Senator Jones—mandating that repairs made in foreign ports be subject to a 50 percent ad valorem tax.[63] Moreover, any rebuilding of a ship abroad—defined as the addition of more than 7.5 percent of the vessel's steelweight to the hull and superstructure, or adding a major component weighing more than 1.5 percent of the vessel's steelweight—will cause the vessel to lose its Jones Act eligibility.

These high costs, in combination with the lack of foreign competition, considerably inflate waterborne shipping rates, which is nothing less than a massive tax on an economy otherwise blessed with tens of thousands of miles of coastline and inland waterways.[64] But the cost of enduring higher waterborne shipping rates is just one component of the transportation cost premium resulting from the Jones Act. If U.S. businesses have no choice but to use waterborne shipping—as is more or less the case for Hawaii, Alaska, Puerto Rico, and Guam—the transportation costs could be estimated as the difference between U.S. rates and global market rates multiplied by the average distance traveled and average weight (or average number of containers shipped).

But in the continental United States, businesses have alternatives to waterborne transportation. And the data show that the amount of U.S. cargo shipped along the Atlantic coast, Pacific coast, and Great Lakes today is about half the volume of the cargo shipped that way in 1960, despite the economy's considerable growth in the intervening years.[65] Over the same period, railroads have increased their transport volume by about 50 percent and intercity trucks have increased their freight by more than 200 percent.[66] To confirm that waterborne shipping at market rates didn't lose its appeal, river barges and coastal ships linking the United States with Canada and Mexico experienced growth in their freight tonnage of more than 300 percent over the same period.[67]

While the Jones Act reduced the supply of ships and drove up the costs of waterborne shipping, it increased demand for road transport, presumably driving up the prices of trucking and rail.

ENVIRONMENTAL COSTS. By forcing more carbon-intensive surface transportation methods into use, the Jones Act is responsible for creating unnecessary environmental costs. According to the World Shipping Council, maritime shipping "is the world's most carbon-efficient form of transporting goods—far more efficient than road or air transport."[68] Maritime shipping produces approximately 10–40 grams of carbon dioxide to carry one ton of cargo one kilometer. In contrast, rail transport produces 20–150 grams, and trucking—whose tonnage is forecast to grow 44 percent by 2045 according to the Department of Transportation—produces 60–150 grams.[69] According to transportation analysis firm INRIX, the monetary value of carbon emissions caused by vehicles idling in traffic in 2013 was $300 million and by 2030 is expected to rise to $538 million—a total of $7.6 billion over the 17-year period.[70]

In 2015, trucks—by far the most-used mode of moving freight in the United States—carried 11.5 billion tons of goods, compared to over one billion tons for Jones Act vessels.[71] If even a small percentage of this cargo were shifted from trucks to coastwise shipping it could have significant economic and environmental benefits. Indeed, according to the World Economic Forum, if the "more than 500,000 qualifying international containers moved over highway and rail" in 2012 "were allowed to stay on water and trans-ship on international liner services, the economic benefit . . . could exceed $200 million."[72] Although 38 states and the District of Columbia are connected by navigable waterways and marine highways, and nearly 40 percent of the U.S. population lives in coastal counties, coastal shipping of cargo between U.S. ports in the Lower 48 states comprises a negligible 2 percent of domestic freight.[73] As if to make even more compelling the environmental case for ending the Jones Act, according to the Congressional Research Service, "some of the most congested truck routes, such as Interstate 95 in the East and Interstate 5 in the West, run parallel to coastal shipping routes, and water shipment through the Saint Lawrence Seaway and the Great Lakes has the potential to relieve pressure on major east–west highways, pipelines, and railroads in the Midwest."[74]

Provisions in the Jones Act also hinder the development of alternative energy sources. For instance, offshore wind firm Deepwater Wind became aware of the law when a specialized wind turbine installation vessel it needed for installing a wind turbine was prevented from touching the Rhode Island shore because it was built in Europe (a leader in this type of ship construction) and thus would have violated the Jones Act.[75] This nonsense was enforced despite

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“Increased transportation costs imposed by the Jones Act has led Hawaiian cattlemen to transship their cattle through Canada, or even to fly their cows by air.”

there being no similar domestically built vessel at the time. Accordingly, U.S. vessels less suited to the task were employed to bring components from the coast to the installation site, delaying the project and increasing its costs.

To obtain more specialized vessels compliant with the Jones Act to perform this task, meanwhile, will cost the offshore wind industry dearly in terms of both time and money. An analysis conducted for the Department of Energy found that a U.S.-built wind turbine installation vessel would “likely cost 60% to 200% more than a comparable vessel built in an Asian shipyard,” while another report placed the price tag of such a ship at $222 million with a construction time of 34 months.[76]

LOST WAGES AND OUTPUT. Traffic congestion caused by the unnecessarily high volume of trucks on our highways means not only wasted gas and diesel, but extra pollution and wasted time. The economic damage is far from trivial. According to the Maritime Administration, congestion in the nation’s transportation system costs Americans $200 billion every year, wastes 4.2 billion hours spent in traffic, and wastes 2.9 billion gallons of fuel used while idling.[77] In 2013, meanwhile, INRIX estimated the costs of traffic congestion alone in lost wages and output to the U.S. economy to be $124 billion, which it said would rise to $186 billion by 2030 absent “significant action to alleviate congestion.”[78] On a per household basis, the annual cost of traffic amounts to $1,700 today and is expected to rise approximately 33 percent to $2,300 by 2030.[79]

If repeal of the Jones Act could reduce such costs by even a small percentage the savings to the national economy would be in the billions of dollars.

LOST DOMESTIC REVENUE. The profoundly adverse effect of the Jones Act on U.S. shipping not only raises transportation costs for businesses throughout the U.S. economy, but it reduces revenues in many cases as well, squeezing profit margins from both directions. How does this happen? Consider the agricultural sector. Grain and soybean farmers in the Midwest, for example, must make do with *only two* dry-bulk, ocean-going Jones Act vessels to transport their commodities.[80] According to a 2013 Government Accountability Office report, farmers and ranchers in Puerto Rico more often obtain animal feed and fertilizers from foreign sources instead of domestically. Although commodity prices are similar, rate differences between Jones Act carriers and foreign carriers make foreign sourcing more attractive—even when the foreign option is hundreds of miles farther away.[81] For similar reasons, Hawaiian cattlemen have been forced to transship their cattle through Canada, or even fly their cows by air.[82] Relying on these costly alternative means of transportation isn’t a long-term, revenue-winning strategy.

Similarly, airlines operating in Puerto Rico typically import jet fuel from foreign countries such as Venezuela rather than bring it in from Gulf Coast refineries. This practice is attributable to the difficulty of finding available Jones Act vessels to transport fuel in the first place, and the exorbitant cost of doing so when such vessels are found.[83] For reference, within the continental United States, moving crude oil from the Gulf Coast to the Northeast on a Jones Act tanker costs $5 to $6 per barrel, but only $2 per barrel when it is shipped from the Gulf Coast to Eastern Canada on a foreign-flagged vessel.[84] Amazingly, a 1999 Government Accountability Office study found that the cost to ship oil from Alaska’s North Slope to the U.S. Virgin Islands, which are exempt from the Jones Act, was approximately three times less than it cost to ship oil to the Gulf Coast, despite the voyage around South America’s Cape Horn taking twice as long.[85] Beyond reduced competition due to the Jones Act, as well as its domestic crew requirement, the fact that tanker ships manufactured in the United States cost about four times more than their foreign-built counterparts surely figures here.[86]

The Jones Act also explains the seemingly curious sourcing decisions for other commodities, such as rock salt. Maryland and Virginia, for example, obtain the product for wintertime use from distant Chile instead of domestically, despite the United States being the world's largest producer of that commodity.[87]

LOST FOREIGN REVENUE. For as long as the Jones Act has been in force, foreign shipping companies and many of their governments have been interested in obtaining waivers or seeing to the law's repeal or reform. In recent decades, as the liberalization of trade barriers began spreading into the services sectors, foreign governments have been specifically identifying the Jones Act as an "offensive" target during trade negotiations. The Europeans, for example, would like to participate in U.S. shipping and other maritime services markets—and as this report should be reinforcing, nearly all Americans should be supporting their efforts. But the U.S. government has repeatedly refused to even put the Jones Act on the table during such talks. In fact, the text of every U.S. free trade agreement explicitly protects the Jones Act. As a result, U.S. trade partners have correspondingly reduced access to their markets than would otherwise have been the case as punishment for Washington's refusal to cede ground on the Jones Act. There is a cost to bear for this intransigence, and it comes by way of attenuated commercial opportunities in foreign markets for U.S. businesses.

Although it is difficult to put an estimate on the opportunity cost to U.S. exporters, it is no doubt in the billions of dollars.

INFRASTRUCTURE COSTS. Among the externalities generated when trucks and freight trains are used as substitutes for waterborne shipping is wear and tear on our highways, bridges, and rail lines. According to a Congressional Budget Office report, 2014 federal government spending on highways totaled $165 billion, of which $92 billion went to capital spending and $73 billion to operations and maintenance.[88] Although trucks account for only 10 percent of the total miles traveled on U.S. roadways, they are responsible for more than 75 percent of total road maintenance costs.[89] U.S. railways and roadways are being pushed to their limit. The Society of Civil Engineers has estimated that fixing the country's surface transportation infrastructure would require an investment of at least $155 billion per year, which amounts to roughly 23 percent of the government's $666 billion budget deficit in 2017.[90]

Jones Act restrictions affect other important maritime services as well, including oil spill containment and cleanup, offshore wind farm operations, and the dredging of ports and rivers. In addition to complicating and making more expensive the provision of disaster relief and alternative energy, as already described, these restrictions drive up the costs to taxpayers of infrastructure projects, including deepening harbors to accommodate larger vessels, as well as routine maintenance of seaports and rivers.

The 10-year project to widen the Panama Canal for more traffic and a new class of supersize container vessels was recently completed. The added capacity of these "Post-Panamax" ships can lower shipping costs 15–20 percent, but harbors need to be at least 47 feet deep to host them. In 2015, the U.S. Army Corps of Engineers reported that only 7 of the 44 major U.S. Gulf Coast and Atlantic ports could accommodate these ships, but domestic dredging capacity is limited. The absence of suitable harbors means fewer, but more expensive, infrastructure- and business-development projects. It also means that Post-Panamax ships will have to continue calling on West Coast ports, where their containers will be put on trucks and railcars to transport products from Asia to the U.S. East and Midwest—a slower and more expensive process.[91]

Analysts at Samuels International Associates estimate that European dredgers, if permitted access to the market, could save U.S. taxpayers $1 billion a year on current projects.[92]

Considered in the aggregate, the economic and opportunity costs of the Jones Act are far more significant than is commonly perceived. Accounting for the actual inflated costs of transportation and infrastructure, the forgone wages and output, the lost domestic and foreign business revenue, and the monetized environmental toll puts the *annual* cost of the Jones Act in the tens of billions of dollars. And that figure doesn't include annual administration and oversight of the law.

> **"U.S. trade partners have reduced access to their markets as punishment for Washington's refusal to cede ground on the Jones Act."**

> “The beneficiaries of the Jones Act are limited in number but well organized, and they consider the law to be a cash cow.”

ONE HUNDRED YEARS TOO MANY—REPEALING THE JONES ACT

If the evidence supporting repeal of the Jones Act is so compelling, why have we allowed the U.S. economy to be burdened under its weight for nearly a century? The answer lies in the politics and asymmetries in motivation between those advocating reform and those seeking preservation of the status quo. The beneficiaries of the status quo are limited in number but well organized, and they consider the law a cash cow. They are willing to devote significant resources to protecting and preserving their scheme. Meanwhile, the hundreds of millions of the rest of us, upon whom the burdens are foisted, don’t consider reparation or mitigation of the situation a priority. The costs are significant but are spread across the economy like a stealth tax.

These asymmetries have created a situation where the interests committed to preserving the Jones Act have opted to neglect making economic investments in their businesses, while focusing instead on their political investments. Such political investments have paid dividends. Consider Alaska and Hawaii, the two states most adversely affected by high shipping rates. Alaska Sen. Lisa Murkowski (R) and Rep. Don Young (R) are both on record supporting the Jones Act, as are all four members of Hawaii’s congressional delegation. It turns out that states and districts that are especially dependent on maritime transportation also happen to be home to maritime interests that benefit from the law. It should come as no surprise that the interests of such politically connected groups in Alaska and Hawaii take precedence over those of their residents.

Among the obstacles to Jones Act reform is the complex web of special interests that benefit from preservation of the status quo. Among Jones Act supporters are U.S. shipbuilders, merchant mariners, various maritime unions, and those who actually believe the law is essential to national security. Meanwhile, there are no fewer than 6 federal agencies and 16 congressional committees with Jones Act enforcement and oversight authorities.

Customs and Border Protection (CBP) has primary responsibility for enforcement and administration of the Jones Act. The agency advises and makes recommendations concerning waiver requests to the secretary of the Department of Homeland Security, who ultimately decides whether to grant them. The Maritime Administration within the Department of Transportation keeps records on the maritime transport system, such as the operating status of U.S.-flagged vessels, and has the authority to waive the U.S.-build requirement of the Jones Act under certain circumstances. The U.S. Coast Guard is responsible for determining vessel eligibility and issues certificates and other documentation. The Department of Defense informs CBP when it needs a waiver to be issued in the interest of national defense, but that waiver process is actually automatic, requiring no Department of Homeland Security approval. Finally, the Department of Energy advises CBP on requests for waivers if there are shortages or imminent shortages in the energy supply.

In addition to the day-to-day administration of the Jones Act, there are a number of congressional committees with various oversight authorities, including in the House the committees on Transportation and Infrastructure; Natural Resources; Armed Services; Homeland Security; Judiciary; Education and the Workforce; Ways and Means; Appropriations; and in the Senate the committees on Commerce, Science, and Transportation; Energy and Natural Resources; Armed Services; Homeland Security and Government Affairs; Judiciary; Finance; Appropriations; and Health, Education, Labor, and Pensions. Any attempts to repeal the Jones Act will require deft understanding of the interplay among the various protected interests and this multitude of agencies and committees, each of which may be inclined to throw sand in the gears of reform if its jurisdiction is threatened.

Repealing the Jones Act will require a concerted effort among organizations committed to exposing the costs and unseemly political alliances that have metastasized over the decades. It will require understanding and neutralizing the interlocking but counterintuitive interests that have emerged in support of the status quo. For example, are the trucking and rail industries—which benefit from higher waterborne transportation rates—financially or politically supporting the efforts of the maritime unions and shipbuilders to thwart reform? It will require a relentless effort to overcome political sclerosis and to convince policymakers, the media, and the public of the Jones Act's enormous burdens—and the vast dividends to be reaped from reform.

Short of complete repeal, we offer three important reforms that would help lift the burden of the Jones Act on the U.S. economy.

Grant limited cabotage rights to non–Jones Act compliant vessels

The federal government could allow non–Jones Act ships to carry goods from one U.S. port to another, provided that the vessel originated in a foreign port and that it would continue on to another foreign port after discharging its domestic U.S. cargo in another U.S. port. For example, a ship sailing from Rotterdam could transport cargo from New Jersey to Miami, provided it then sailed to another foreign port—say, Kingston, Jamaica. This would increase competition in domestic shipping, increasing efficiencies and reducing the costs of shipping services.

Grant a permanent exemption of the Jones Act for Alaska, Hawaii, Puerto Rico, and Guam

For Alaska, Hawaii, and the various U.S. territories, which are located hundreds—and in some cases, thousands—of miles from the U.S. mainland, the Jones Act presents a particularly heavy burden.[93] Forced to rely upon Jones Act vessels for trade with the rest of the country, these states and territories suffer from artificially inflated transportation costs and an inability to take full advantage of international trade routes. A non–Jones Act compliant ship steaming from Japan to Los Angeles, for example, will not to be able to stop in Hawaii on the way there (nor the reverse). Granting exemptions for these far-flung states and territories would have the salutary effects of both relieving them of an unnecessary burden as well as serving as an experiment to assess the costs and benefits of Jones Act liberalization with a view toward future liberalization for the entire country.

Eliminate the U.S.-build requirement

The U.S.-build requirement is met when a vessel is assembled in the United States and "all major components of its hull and superstructure are fabricated in the United States."[94] This requirement of the Jones Act is the most immediately burdensome to industry, as it raises the costs of building ships within the United States, thereby reducing our competitiveness. Furthermore, this requirement is out of step not only with the realities of commerce in a global-supply-chain world, but also with the practices of U.S. shipbuilders. Increasingly, "U.S. companies that assemble oceangoing vessels rely heavily on foreign parts, foreign investment and foreign shipbuilding expertise," often having leading South Korean firms doing the ship design.[95] Beyond design, foreign components also make up the engines and other electronic equipment as well, making it inaccurate to say that these ships are "made in America" in the first place.[96] Since U.S. shipyards are using many foreign inputs anyways it is time to stop punishing them from benefiting even more from advances in technology that could help put the U.S. shipbuilding industry in line with modern developments.

Ultimately, reform of the Jones Act depends on the willingness of Congress to act on behalf of the American citizens who are economically burdened by the law. For too long, Congress has turned a blind eye as the costs have continued to mount. After almost 100 years of failure, the need for repeal is clear. And the time to act is now.

CONCLUSION

By any measure, the Jones Act has been a failure. Under its watch the U.S. shipbuilding

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> “Typically, a ship has a total life expectancy of about 20 years, but 65 percent of the U.S. domestic container fleet is more than 30 years old.”

industry has atrophied, its shipping fleet has withered, and any contribution to the military's sealift capability has been trivial at best. The failure of the Jones Act to meet its intended objectives, meanwhile, has inflicted considerable economic harm through a variety of direct and indirect channels. Rather than serving to bolster national security, the Jones Act has stultified domestic shipbuilding, diminished the size of America's merchant marine reserve, and hamstrung our ability to respond expeditiously and effectively to natural and manmade disasters.

Among the world's cabotage laws, the Jones Act stands out for its extreme protectionism. Only a handful of countries require ships participating in their domestic maritime services to be built domestically and none have more onerous restrictions. Moreover, there are no comparably stringent regulations of other means of transportation in the United States. The wave of deregulation that brought renewed efficiency and vitality to the rail, trucking, and airline industries in the 1970s and 1980s left the maritime sector untouched.

Accordingly, the U.S. shipbuilding industry is a shambles. U.S.-built ships are as much as six to eight times more expensive than foreign-built ships and, as a result, there are far fewer of them. Indeed, over the past three decades U.S. production of cargo and tanker vessels has typically been in the low single digits.[97] The high cost of shipbuilding has contributed to an aging fleet, as there is less incentive to invest in newer ships. Typically, a ship has a total life expectancy of about 20 years, but—excluding tankers—the Jones Act fleet averages 30 years of age. Rather than ensure the existence of a strong domestic shipbuilding industry, the absence of competition has discouraged shipbuilders from innovating, keeping up with industry standards, or even building many new ships.

Meanwhile, the higher costs imposed on shippers are passed on to their customers—the intermediate goods-consuming producers, wholesalers, and retailers—who absorb some of the costs and pass the rest on to consumers. Because these costs are dispersed over a broad swath of interests, the per entity incidence is generally not significant enough to make repeal of the law a priority for them. Moreover, the disparate interests and concerns of these downstream entities make it more difficult to appreciate the commonality of purpose in repeal.

That such a burdensome law has evaded meaningful reform for nearly 100 years speaks to the determination of a small, well-organized, well-connected class of producers and unions that have succeeded over the years in portraying any effort to reform or repeal the Jones Act as an affront to national security. The time has come to finally turn the tables and for Congress to repeal this onerous law.

NOTES

1. The Jones Act is Section 27 of the Merchant Marine Act of 1920. However, the terms "Jones Act" and "Merchant Marine Act of 1920" are commonly used interchangeably, including by the U.S. Maritime Administration (MARAD). See, for example, "The Maritime Administration's First 100 Years: 1916–2016," U.S. Maritime Administration, https://www.marad.dot.gov/about-us/maritime-administration-history-program/historical-documents-and-resources/the-maritime-administrations-first-100-years/.

2. Adam Smith and Bruce Yandle, *Bootleggers and Baptists: How Economic Forces and Moral Persuasion Interact to Shape Regulatory Politics* (Washington: Cato Institute, 2014).

3. Library of Congress, "The American Expeditionary Forces," https://www.loc.gov/collections/stars-and-stripes/articles-and-essays/a-world-at-war/american-expeditionary-forces/.

4. Wesley L. Jones, "The Merchant Marine Act of 1920," JSTOR, https://archive.org/stream/jstor-1171831/1171831_djvu.txt.

5. Per Coast Guard regulations, major components are deemed to be those that exceed 1.5 percent of the vessel's steelweight. For an extensive discussion of the ownership aspect, see Constantine G. Papavizas, "Public Company Jones Act Citizenship," *Tulane Maritime Law Journal* 39, no. 2 (Summer 2015): 383–437, https://www.winston.com/images/content/9/9/v2/99387/DC-775305-v1-Public-Company-Jones-Act-Citizenship-Published-Art.pdf. The 75 percent ownership rule has been in place since the Jones Act's beginning and has its origin in the Shipping Act of 1916, when foreign interests were buying up U.S. ships during WWI. The origin of the crew requirement remains unclear.

6. "Shipping Domination," *New York Times*, August 13, 1920, https://timesmachine.nytimes.com/timesmachine/1920/08/12/103468215.pdf.

7. Jones, "The Merchant Marine Act of 1920."

8. "Urges US to Fight for American Ships," *New York Times*, June 21, 1920, https://timesmachine.nytimes.com/timesmachine/1920/06/21/96357812.pdf.

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10. Michael L. Grace, "History of the Alaska Steamship Company, Seattle, 1895–1971," March 10, 2010, https://www.cruiselinehistory.com/alaska-steamship-company-seattle-1895-1971/.

11. Ivan L. Ascott, "The Alaska Statehood Act Does Not Guarantee Alaska Ninety Percent of the Revenue from Mineral Leases on Federal Lands in Alaska," *Seattle University Law Review* 27, no. 4 (2004): 999–1034.

12. "Rethinking Maritime Cabotage for Improved Connectivity," United Nations Conference on Trade and Development, Transport and Trade Facilitation Series no. 9 (2017), http://unctad.org/en/PublicationsLibrary/dtltlb2017d1_en.pdf.

13. The other countries that fully exclude foreign-flagged ships from cabotage are Belgium, China, Colombia, Estonia, Greece, Indonesia, Italy, Lithuania, Sweden, and Turkey. See OECD STRI Regulatory Database, http://www.oecd.org/tad/services-trade/services-trade-restrictiveness-index.htm.

14. World Economic Forum, "Enabling Trade: Valuing Growth Opportunities," 2013, http://www3.weforum.org/docs/WEF_SCT_EnablingTrade_Report_2013.pdf.

15. "How Protectionism Sank America's Entire Merchant Fleet," *The Economist*, October 5, 2017, https://www.economist.com/news/finance-and-economics/21730034-jones-act-hurts-american-consumers-and-destroyed-countrys-shipping.

16. Darren Chester, "Call for Comment on Proposed Coastal Shipping Reforms," March 21, 2017, http://minister.infrastructure.gov.au/chester/releases/2017/march/dc063_2017.aspx.

17. Robert Y. Cavana, "A Qualitative Analysis of Reintroducing Cabotage onto New Zealand's Coasts," *Maritime Policy Management* 31, no. 3 (2004): 179–98.

18. "Services Trade Restrictiveness Index Regulatory Database," Organisation for Economic Co-operation and Development, https://qdd.oecd.org/subject.aspx?Subject=063bee63-475f-427c-8b50-c19bffa7392d.

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