

The Jones Act: Charting a New Course after a Century of Failure

Session I: The Jones Act: A Burden America Can No Longer Bear

Panelists:

**DANIEL GRISWOLD**, Senior Research Fellow & Co-Director of Trade and Immigration, Mercatus Center

**MANUEL REYES**, Executive Vice-President/CEO, Puerto Rico Food Marketing, Industry and Distribution Chamber (MIDA)

**BRYAN RILEY**, Director, Free Trade Initiative, National Taxpayers Union

Moderator:

**COLIN GRABOW**, Policy Analyst,  
Herbert A. Stiefel Center for Trade Policy Studies, Cato Institute

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**PETER GOETTLER:** Good morning. My name's Peter Goettler. It's my honor and privilege to be president of the Cato Institute. Thank you for joining us today's conference, "The Jones Act: Charting a New Course After a Century of Failure." And I don't, I'm not a social media person, but for those of you who tweet the hashtag for today is #EndTheJonesAct. Amen.

You know, most of us who deal with economic issues a lot, or in the policy world, we're always dealing with tradeoffs. You can't increase a good thing without increasing a bad thing or reducing some other good thing. Similarly, you can't reduce a bad thing without increasing some other bad thing or reducing a good thing. So it would be a pipe dream to believe we could increase GDP and economic growth, that we could increase the competitiveness of U.S. businesses, that we could increase maritime safety, at the same time we're reducing shipping costs for American business and consumers. That we're reducing prices for consumers. That we're reducing American energy consumption. That we could reduce carbon and pollution emissions, traffic congestion, commuting time across America. We could reduce traffic fatalities and also dramatically reduce the wear and tear on American infrastructure. It would be impossible to do all those things simultaneously. Or would it?

I think if we got rid of the Jones Act we could accomplish all of those things. The Merchant Marine Act of 1920, better known as the Jones Act, is in my mind a classic protectionist scheme.

It benefits a few special interests at the expense of the rest of the population: consumers, businesses. There's a classic special interest dynamic. The benefits are concentrated amongst a few, and they're large, and the costs are diffused amongst the population and across the economy. So the folks who benefit have a really strong interest in maintaining the status quo, and those who pay the costs or bear the burden don't have nearly as strong an incentive to try to reform the status quo.

The Jones Act does create massive distortions in the American economy. I don't know a heck of a lot about shipping, but I know I can look at a map of the United States and I see we've got an ocean on each side. We've got the Great Lakes. And I think if you showed that map to someone and asked them how much of American freight was actually shipped by the sea they would guess it would be more than two percent. The fact that it is two percent, we think has a lot to do with the distortions created by the Jones Act. Despite a massively larger economy since 1960, the amount of freight that is shipped by sea in the Great Lakes, and the Atlantic and the Pacific—intra-U.S. freight—has fallen by about 50 percent at the same time that the volume of freight shipped by rail since 1960 has increased by about 50 percent, and the volume of freight shipped by intercity trucks has increased by 200 percent.

The distortions created by the act and the increased shipping costs that businesses and consumers must bear, they hurt job creators, they increase costs for consumers, they hurt competitiveness of U.S. businesses, and the consumer costs are borne by the least fortunate among us.

The distortions create a lot of interesting anecdotes, like the fact that if you want to ship oil from the Gulf Coast to the Northeast United States it would cost you about five to six dollars per barrel. If you decide to ship it a little further, all the way to eastern Canada, and were able to avoid the requirements of the Jones Act, the price per barrel would fall to about two dollars. It reminds me of when you're booking an airline ticket, you can't why flying from New York to LA through Salt Lake City costs half as much as a flight from Salt Lake City to LA. But those are the kind of distortions that we see.

We have U.S. businesses that should be customers of other U.S. enterprises that are instead customers of foreign enterprises. If you look at the report that Colin and Inu and Dan put together, an overview of the Jones Act and its costs, you'll read interesting things like the fact that airlines that operate in Puerto Rico will import jet fuel from other jurisdictions rather than from the refineries of the Gulf Coast because of the increased shipping costs created by the Jones Act. Puerto Rican farmers will buy fertilizer and other material from foreign sources rather than American sources because of the higher cost of shipping inputs from other parts of the United States. And I didn't know until we began this product that there are actually livestock that get shipped to the mainland from Hawaii on airplanes. That may seem shocking

to you, but rest assured they are confined to coach, they're limited to one carry-on, and they're made to pay for their own drinks.

But there are nutty results like that. Colin says that as the profile of our project to reform or repeal the Jones Act has increased stories like this flow in. Daily basis would be an exaggeration but at least on a weekly basis and we could go on and on because a lot of them are pretty funny. Well, they're not funny. I said to Colin a couple of days ago I don't know whether to laugh or to cry at some of these things. But some of them are, you know, worth crying about.

The emergency response we saw in Puerto Rico last year where supplies to rebuild the island, humanitarian relief, is burdened in transport because the ships have to comply with the Jones Act. You know, when there's an oil spill we shouldn't have to worry about whether the skimmers were built in the U.S. or not, and whether they're U.S.-flagged or U.S.-owned. We should be focused on, you know, the most immediate, urgent response.

Some of you who might support the status quo would perhaps take some exception with my opening where I said we could accomplish all of these benefits without a cost because obviously there would be a cost of reduced benefits for those small portion of Americans who actually benefit from the Jones Act. And obviously I'm setting aside the national security rationale for the act, which we believe and our coming research and some of the discussion today will show really doesn't withstand scrutiny. I think we all know history, our industrial history is replete with examples of industries that were protected and they ceased to be dynamic and vibrant and became sclerotic. And the U.S. shipbuilding industry is no exception. You know, we think that the industry rather than benefiting from protection has suffered from it. And so the costs that are incurred on our economy and our population are really not justified by the rationale that is always put forth. And that you can see, to see how strongly the status quo is defended, if you google "Jones Act" the first thing you'll usually see is an ad paid for by proponents of the act, touting its essential national security benefits. And you don't necessarily see a connection between the purported national security benefits and the group that's paying for those ads, so I guess we'll either have to chalk it up to altruism and interest in our national security or perhaps something else is at work there that we're all unfortunately too familiar with.

What I've found since we started this project is that when I mention the Jones Act to someone, in conversation, they shake their head, they roll their eyes, and they say how ridiculous it is. And then, when you tell them that our objective is to repeal the act, they laugh and tell us that it can't be done. Well, you know, we're tired of hearing that it can't be done. We try to, we want to be able to present both sides of an argument, and we try to tee up debates on the Jones Act, and it's often difficult to get someone to take the other side of the debate. And I know this afternoon we're going to end the day with that type of discussion. But I think to most people the costs of the act are just very difficult to understand when the rationale is, in the

view of many, so flimsy. Our country's divided, but I think that we can come together to champion a reform that carries benefits for so many. I began to understand the Jones Act when someone in Stamford, Connecticut—I lived in Fairfield County—explained to me that all those trucks on I-95 that kept you from getting home at a reasonable hour so many evenings, many of them are due to the restrictions and increased costs that are created by the Jones Act.

So I think it's truly the case that we can, this is an issue where there is not ideological division, there's not a political division. It should be something that unites consumer advocates and free marketers. It should unite environmentalists and deregulators. It should unite the interests of the people of Hawaii with those of us who sit in congestion on I-95 in the Northeast. It should unite job creators and consumers, energy producers, energy consumers. And you know, with dynamics like that I think that rather than laughing it off and believing that special interests, concentrated benefits for special interests, we should be able to overcome that with such a broad coalition that we're seeing coming together in opposition to the act.

There's so many things, you know in 1920 when the Jones Act was passed, the maritime act of 1920 was enacted, it was the same year that prohibition came into enforcement. And it only took us 13 years to realize that prohibition should be consigned to the ash heap of history. There's obviously many things that existed in the 1920s that we want to sustain, but there's also many things like the technology of the day, the automotive of the day, the civil rights policy of the day, that we've seen change dramatically. And we think it's long past that time we put the Jones Act on a ship—Jones Act-compliant or not, I don't care—and bid it bon voyage.

So thanks so much for being here today and we're really looking forward to the presentations that we're going to hear. I'm now going to turn it over to my colleague Colin Grabow, who along with Inu Manak has done a great job quarterbacking this project, and this is something that, the conference today is not the denouement of the project, it's maybe it's the end of the beginning. But this is an effort that is going to go on, it's going to be sustained until we end up with the positive, beneficial reform that we all seek, so thanks so much.

**COLIN GRABOW:** Thank you, Peter, for those opening remarks and that very kind introduction and thanks to all of you for coming out here this morning, as well as those of you watching online. My name is Colin Grabow, I'm a policy analyst here at the Cato Institute's Herbert A. Stiefel Center for Trade Policy Studies and I'll be the moderator of our first panel "The Jones Act: A Burden America Can No Longer Bear." Let's be very clear, the Jones Act is a burden upon the United States. It could be no other way.

The U.S. flag requirement reduces competition by keeping foreign flagged ships, which is to say 99 percent of the world's fleet, out of the U.S. market. Its U.S. crew requirement shrinks the pool of available labor supply while its restrictions on foreign ownership deprives the sector of needed investment. Most egregiously, the Jones Act mandates that ships transporting goods

between two points in the United States have to be built here in the United States. Or more accurately, we should say “assembled” in the United States given that they invariably rely upon foreign components such as the engine.

Now these U.S.-built ships, or U.S.-assembled ships, are not cheap. It is commonly estimated that these ships are 4-5 times more than an equivalent ship built in a foreign shipyard. In fact, last year the Congressional Research Service released a report that said that for coastal ships—the type of ship you typically find in the Jones Act trade—they can be up to 6 to 8 times more expensive in the United States than one built abroad. Think about that. A thirty million dollar ship built overseas could theoretically cost up to 240 million dollars here in the United States.

Now, when competition is stifled, and the cost of inputs is raised, it doesn’t take an advanced degree in economics to understand the implications for transport costs—they go up.

The data bears this out. Peter mentioned the example of shipping a barrel of oil from the Gulf Coast up to a refinery in New England, and it costs three times more to put that on a Jones Act ship than to send that same barrel of oil on a foreign-flagged ship up to Canada. We have in 2012 the Federal Reserve Bank of New York found that to send a container of household items from the East Coast of the U.S. to Puerto Rico costs roughly twice as much than sending those same goods in the same container to neighboring Jamaica or the Dominican Republic.

We have reports of all kinds of strange economic decision making as Peter pointed out. We have in Puerto Rico the sourcing of animal feed from St. John, Canada instead of New Jersey, despite the fact that prices in both places are the same and despite the fact that St. John, Canada is 500 miles further away. We have reports of hog farmers in North Carolina sourcing soy meal from distant Brazil rather than here in the United States. And, perhaps most absurd of all, we do have the example of ranchers sending their cattle to feedlots and slaughterhouses on the West Coast, not on board ships but on board Boeing 747s, in large part as a result of the high cost of the Jones Act.

Now I’ve been talking a lot about costs, and I suspect that’s going to be a recurring theme at today’s event. But I think there’s a philosophical angle that we need to take a minute to reflect upon. And that’s that in the United States of America—the land of the free—that it is illegal to buy a foreign-built ship and use that in the cabotage trade. That seems wrong. And if the government is going to impose that kind of economic abrogation upon our freedom then it better have a darn good reason. I’m not sure it does.

The stated purpose of the Jones Act is to ensure 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.” So has this vision been realized? I think it’s hard to make that case.

For decades the U.S. maritime industry has been in a long, steady decline. In 1982 there were 326 oceangoing Jones Act vessels of at least 1,000 tons. By 2000 that number had dropped to 193. Last month it was 96. Fewer ships means fewer mariners to crew those ships, and according to the Maritime Administration they've admitted that their most optimistic projection shows "a shortfall of 1,800 qualified mariners in the event of a full, prolonged mobilization." On the shipbuilding front we've seen somewhere in the neighborhood of 300 shipyards close since the early 1980s and the number of people employed in that sector has dropped from over 186,000 in 1981 to about 94,000 today.

So we have very real and demonstrable costs along with alleged benefits that I think, at the very least, are overstated.

Now I've provided only a taste of the Jones Act's myriad problems. To discuss the law greater in detail and examine both the big picture as well as some of its overlooked aspects I am joined today by our three panelists. Leading off will be Bryan Riley, of the National Taxpayers Union's Free Trade Initiative. Bryan has been writing about the Jones Act for years and has certainly been a valuable resource for me in the course of my own research. Next up will Dan Griswold. A noted trade expert and Cato alum, Dan currently serves as Co-Director of the Mercatus Center's Trade and Immigration Project which has published numerous reports in recent years on the Jones Act's shortcomings. And last we will hear from Manuel Reyes, who is the CEO of the Puerto Rico Chamber for the Marketing and Distribution of the Food Industry, a role I imagine that has provided him with plenty of first-hand experience in dealing with the Jones Act and an up-close view of its economic impact.

Now as Peter already mentioned for those of you following along on social media the hashtag we're using today is #EndTheJonesAct. And for those of you who have your appetites whetted by today's discussion and want to learn more about the Jones Act we have you covered. We have a webpage, [cato.org/jonesact](http://cato.org/jonesact). It's full of written material, you can find videos, we have podcasts, and there's even a newsletter that you can sign up for dedicated to the Jones Act so please check that out. And without further ado I'll turn it over to Bryan, the floor is yours.

**BRYAN RILEY:** Thanks for the work and your leadership on this issue personally. I just want to begin by saying what a privilege it is to be on a panel at the Cato Institute, which is an American institution which does so much not just to protect but to expand Americans' liberty and freedom. And I remember as an intern, coming to DC as an intern going to events at a little townhouse on Pennsylvania Avenue. And to see how much Cato has grown and hopefully how much more will continue to grow is just really fantastic because Cato is such an important part of the ideals that our country was founded upon.

As Colin mentioned I work at the National Taxpayers Union and occasionally on trade policy issues somebody will look at me and say "You work at the National Taxpayers Union, this is a trade issue, I don't understand." Well, tariffs, of course, are just taxes, and so NTU thought it was important to expand our efforts to promote low taxes, particularly lower tariffs, and non-tariff barriers which I would kind of lump the Jones Act mostly into, or just hidden taxes that drive up prices on Americans. So it's a natural issue for the National Taxpayers Union to work on.

For those of you who are on social media my handle, name, whatever you call it is @freetradebryan, not to be confused, Dan, with @tariffman. And for those of you who may have seen in a tweet a week or two ago I said "If you come to the Cato event I will tell the story of when I visited Puerto Rico and was on a similar, a much smaller, panel debating the Jones Act." And I had recently joined the Heritage Foundation and somebody came to me and said "Bryan we've got an opportunity for a speaker to go to Puerto Rico and talk about the Jones Act, would you like to..." Yes, yes, I would love to go to Puerto Rico! And what I remember about the event was...it was myself and the proponents of the Jones Act were local businesses involved in shipping for Jones Act carriers and one of the things I said, and I'll repeat a point that you made, at the time I said that U.S.-built ships cost about three times more than foreign-built ships. The differential is even higher now or more studies have come out. So pretty commonly accepted fact among people who study shipping costs. And the other side said that I didn't know what I was talking about, they're in the business, they buy ships, they cost the same, they buy them from the U.S., they buy them from Korea, they all cost the same, Bryan doesn't know what he's talking about. So I felt kind of bad about that. And the next day as I was at the airport in Puerto Rico flying back somebody came up to me and said "Bryan, I was at that panel and I just wanted to tell you something: I work for the company and I'm really sorry because you're exactly right. Ships cost at least three times more for the built in the U.S. than someplace else." So I took that kind of personally, and any opportunity I have -- probably not as personally as you do (gestures toward Manuel) -- but any opportunity I have to talk about this issue I'm so happy to do it. And the title of my contribution was "What the Trump Administration Can Learn From the Jones Act." And the reason I chose that topic was I think the Jones Act is so important in and of itself, but there are broader implications. Particular when Americans have an administration that is using national security as an excuse to impose tariffs on, and restrictions on, steel and aluminum, potentially on automobiles. So hopefully there are some lessons the administration can learn from the Jones Act that are applicable to its other trade efforts.

And when I talk about repealing or changing the Jones Act, to be clear, mostly what I'm referring to is the requirement that ships used to transport goods domestically be built in the U.S. We should be able to buy the ships from wherever -- the best made ships at the lowest prices. There are other aspects of the Jones Act. Sometimes people will lump those in together. The main ones are the ships must be U.S.-crewed -- operated by U.S. crews. I personally don't

view that as a significant...it would be great to get rid of but we have immigration laws that restrict foreign people doing business in the U.S. so I don't see the significance of that particularly, although Jones Act defenders will talk about foreign spies and terrorists going up and down the Mississippi if we got rid of the Jones Act. And the requirement that ships must be U.S.-owned -- we should get rid of that requirement. We have laws on the book like the Committee on Foreign Investment in the U.S. that screens for investment to make sure there are no security threats from foreign investment. Most people will tell you foreign investment is a good thing.

So with protectionist trade barriers typically the story is we're going to help one industry and another industry will be harmed. We're going to help steel producers. Driving up the cost of steel will hurt steel users. We're going to protect shipbuilders and make people who buy ships pay more. By the way I was so happy to hear in the introductory remarks the observation made that protectionist barriers can actually be harmful to the protected industry itself. President Woodrow Wilson said many years ago, "One of the counts of the indictment against the so-called protective tariff is that it has robbed Americans of their independence, resourcefulness, and self-reliance. Our industry has grown invertebrate, cowardly, and dependent on government aid.

Now I'm probably the only person at the National Taxpayers Union who's going to quote Woodrow Wilson favorably, but I think he's right on point here. And we have plenty of examples of that where high tariff protected U.S. industries have gotten weaker over the long term, whereas companies that have been forced to compete internationally are as competitive as any industry in the world. One example is the clothing industry. The average U.S. is about 1 percent, with the exception of clothing, apparel, and shoes with an average tariff of about 13 or 14 percent. So if you have this highly-protected industry, if that's so great for that industry it should be thriving. Well in fact since 1990 employment in clothing manufacturing has declined by about 90 percent. That's a little bit of a tricky statistic because that's talking about the people sewing the clothes together, it's not talking about working for Nike or in New York designing the clothes, and marketing them, and all those jobs which would tell a different story.

My colleague at NTU Andrew Wilford has pointed out the same thing you mentioned: the ban on the use of foreign-owned ships has not led to a thriving shipbuilding industry in the U.S., and in fact the number of ocean-going vessels is about half the size now as it was at the turn of the century. And so what I did is look at industries that are at least comparable in some ways to shipping goods by sea. We ship goods by air and by land, either by trucks or by trains, and our tariffs on those industries are very low. Typically under 2 percent. And those are industries that are all thriving: aircraft manufacturing, railroad manufacturing, truck manufacturing, has all been getting larger over the years and not smaller. And by the way, if you look at the boat industry, the recreational boat industry, they will tell you that 95 percent of the recreational boats sold in the United States are made in the United States. We don't have a ban on foreign

recreational boats, in fact the average tariff is just about 1 percent. So Americans can compete if they have the opportunity. And I think one of the double standards that some defenders of the Jones Act have is they say "We've got to keep the foreign competition out." But when you look at how they do business they love imports. And you've pointed this out in your articles. If you're building a new ship, a lot of times even to design a new ship you've got to contract out to Korea or Europe or somebody else who actually knows how to build the ships because we've largely lost that capability because of the Jones Act and other reasons because we haven't had to compete. So we'll buy the plans from someplace else, we'll buy the components, we'll buy the engines from someplace else. So the shipbuilders have two standards. They want to be able to import things with low tariffs or tariff-free, but they don't want their customers to have that same opportunity.

So I don't think there's any question that the Jones Act is something that's bad not just for the customers, which we'll learn more about, but it's been bad for the industry itself. We're in an era where if the industry really wants to do something good I would hope they'd look at something like steel and aluminum tariffs that are driving up the cost of business for themselves and for Americans in general, as opposed to trying to expand these barriers to other parts of the economy.

I just want to wrap up by saying that the Jones Act is approaching its hundredth anniversary, and I hope your efforts and I hope everybody here by learning more about this that we're able to keep it from going on for another hundred years. So, Colin, with that I'll wrap up and look forward to what my colleagues have to say.

**DAN GRISWOLD:** Thank you Bryan, thank you Colin. I just want to begin by saying how delighted I am to be here at the Cato Institute. I had a good 14 year run here heading up the trade and immigration department and it's just wonderful to be here at the Hayek auditorium and talking about the Jones Act. This is exhibit A right up there with sugar quotas and a few others on what is really wrong with protectionism and cronyism and isn't a century of policy failure enough? I'm delighted to be here. There's four main restrictions in the Jones Act, three of them related to ships, right? There's U.S.-built, U.S.-owned, U.S.-flagged, but a fourth one relates to the crew. 75 percent of the crew of a Jones Act ship must be U.S. citizens. The rest need to be legally authorized to work in the United States, and I want to focus on that, and I want to focus on three issues in particular, critiquing that. One, it's unnecessarily discriminatory against the millions of Americans who can work here legally but aren't U.S. citizens. It's economically costly. Like the shipbuilding requirement, it drives up the cost of shipping in the United States with all of the negative effects that has. But finally, and the main argument for it is based on national security, it does not enhance our national security and I would argue it's actually counterproductive in terms of our national security.

First, the discriminatory aspect of it. If you work for a lot of federal agencies in Washington -- most of them, probably -- you do need to be a U.S. citizen. And on a lot of them we can understand that, having to do with national security. But if you were legally authorized to work in the United States and you're applying for a job in the private sector, it is against the law for them to ask if you're a U.S. citizen. It doesn't matter. The important thing is, do you have authorization to work in the United States: legal citizen, legal permanent resident, there's a host of temporary work authorizations: refugee and asylee. That's what we look at. In fact, if you go to the website of the Equal Opportunity Employment Commission it says, "Most employers should not ask whether or not a job applicant is a United States citizen before making an offer of employment."

Now for all the problems with the Jones Act at least we haven't nationalized all the ships, so you're not going to work for the government if you're working on a Jones Act ship. We don't impose the citizenship requirement on other forms of domestic transportation. Trucking, passenger and rail. Even airlines, and we all, you know, remember September 11, there's a security issue there. But if you want to work on an airline as part of the crew flying domestically -- and the airline industry is also subject to the cabotage laws, not the building requirement but at least the cabotage laws -- you aren't required to be a U.S. citizen. I went to the websites of some of the places you can apply to work on an airline and they just require that you have a passport -- can be U.S. or foreign -- and you have authorization to work in the United States. So there's no reason why we should require that they be U.S. citizens.

Now, I think for domestic shipping up the Mississippi, the Great Lakes, from one port to another, we can argue about a compromise and reform on the Jones Act. Maybe requiring everybody to be legally authorized to work in the United States. But let's get rid of this needless 75 percent citizenship quota which is really what it is. It also drives up costs. There have been studies done. The International Trade Commission about 15 years ago looked at this. A very thorough study. And they found obviously the shipbuilding requirement drives up costs but they also found that the citizenship requirement, the U.S.-crewed requirement, also contributes significantly to costs. It can be several times higher. Let's say you're going to Puerto Rico or Hawaii. It can be several times higher -- 4 to 6 times higher depending on the kind of ship -- to require that it be a U.S.-authorized crew. No reason why it can't be an international crew on those ships. And that the crewing expense is a significant part of the expense of operating that ship -- 50 to 80 percent of the cost. And you're talking about shipping oil or other things this contributes significantly to the cost. So, you know, policy recommendation number two. Number one is we talk about reforming it for purely domestic shipping but for shipping that goes beyond the mainland of the United States, across international waters, we should just get rid of the crewing requirements entirely, get rid of the Jones Act entirely in those areas because they're driving up costs and having a significant impact on Puerto Rico and other places as we'll hear shortly.

Well let's talk about national security, which is where the supporters of the Jones Act camp out. They make two basic arguments. One, if we let foreigners crew these ship it'll be an open door for terrorists to penetrate the American heartland. And secondly, we need to have this kind of reserve army of merchant marines in case of time of national emergency. Well, they make this argument despite the fact that there is no evidence that allowing foreign-born crewmembers to enter U.S. waters has compromised U.S. security at all. There was a GAO report just a few years ago -- 2011 -- that looked at, you know, if international ships dock at the United States they have international crew. And they're coming to New York, and Miami, and Long Beach. In fact, in the course of a typical year there are about 5 million separate cases of foreign-born crewmembers entering U.S. waters at these ports. We do have a small problem with absconding -- I love that word, absconding, it's fun to use it in a speech -- a few hundred will abscond. They'll basically disappear in the United States and their biggest crime is probably washing dishes at a restaurant. But in terms of terrorist acts that have been facilitated by foreign-born seafarers entering the United States there's zero. The GAO report said, "To date there have been no terrorist attacks involving seafarers on vessels transiting to U.S. ports and no definitive information indicating that extremists have entered the United States as seafarer non-immigrant visa holders." That was a few years ago, there's been no incidents since then.

You know, we don't require the U.S. military, people entering the U.S. military to be citizens. Each year the military takes in several thousand people. There's an estimated 24,000 -- according to the National Immigration Forum, 24,000 non-citizens active in the U.S. military. We let them drive tanks and do all sorts of other things and not require that they be U.S. citizens. I also have to mention, and my counterparts here at Cato, Alex Nowrasteh and David Bier have done some great work analyzing the foreign-born contribution to the terrorist issue and trying to bring some sense to that. It's also worth noting that being a U.S. citizen is no guarantee against committing terrorist acts here in the United States. According to the Program on Extremist at George Mason, no sorry George Washington University, since 2014 more than half of domestic terror incidences involving connections to ISIS have been by U.S. citizens. So that's not a protection, we should get rid of that requirement. And then finally, this idea that we need to have a standing -- I don't know what you'd call it, you wouldn't call it an army would you -- this standing pool of trained merchant marines in time of national emergency. You know, defenders of the Jones Act like Loren Thompson at the Lexington Institute, he points out that 9 out of 10 trained mariners in the United States are working on Jones Act ships. The problem with this, as has been alluded to, is that the Jones Act has utterly failed to maintain a viable merchant industry, period, nevermind crews. You've heard the decline in the ships. There's been a corresponding decline in the crew. The whole industry is atrophying and it's less able to meet our national needs. You know, just think of the counter-scenario if we'd adopted the Cato/Mercatus/NTU reform effort on the Jones Act, got rid of the U.S.-built requirement, we would have a thriving waterborne transportation industry that rather than 2 percent would be shipping 10 percent or whatever, something more like Europe. More ships, more cargo being carried in the U.S., that would require more crewmembers and we could require if they're going

up the Mississippi or purely in intercoastal waters they be authorized to work in the United States, you would see the number of trained merchant marines going up, not down.

So, and there's been testimony before Congress. There was a senior union official that said, "The pool of licensed and unlicensed mariners has shrunk to a critical level." That's under the Jones Act. It's utterly failed, it's time to try something different. Let me just end and, I don't know, are the essays posted already? But anyway, I ended my essay for Cato just saying, "If the U.S. government foresees a need for merchant marine personnel to meet its future demands in time of emergency it should develop a plan to meet that need that does not require the United States to maintain an aging, shrinking, and economically uncompetitive fleet of Jones Act ships." Thank you.

**COLIN GRABOW:** Thank you very much Dan. Manuel?

**MANUEL REYES:** Good morning to everyone. I want to begin by thanking Cato for doing this important event, but in particular for including Puerto Rico in it. The Jones Act affects the whole economy, the whole U.S. economy and the whole nation, but it has a very specific and particular effect on the offshore jurisdictions of the U.S., namely Alaska, Hawaii, and Puerto Rico. But of those, Puerto Rico is particularly hit and want to just put that in perspective. Puerto Rico is the only territory where the Jones Act applies. All other U.S. territories are exempt, partially or totally. And the best example is our neighbor, the U.S. Virgin Islands. Also, we have the largest population of all the domestic trades. Puerto Rico is about 3.3 million U.S. citizens as opposed to 1.5 million in Hawaii and 700,000 in Alaska. So, and mainly we're the poorest jurisdiction under the Jones Act. So the burden of this law falls in disproportion to the economy of Puerto Rico, and it's no coincidence that the economic situation of Puerto Rico is related to this.

Having said that, when I was invited to come here I didn't want to be repetitive with my panelists, and I want to give a different perspective. And I also didn't want to emphasize on the cost, direct cost issue. So I wanted to look somewhere else. So I thought about the title of the conference, "Charting a New Course After a Century of Failure." And it occurred to me that even though the Jones Act is 100 years old, it has gotten a lot worse in the past 20 years, at least in the case of Puerto Rico, and I want to get into that and that's what I'll be talking about.

But before that, here my fellow panelists, I just wanted to, I can't resist making a blanket statement, that what we're talking about is just that the U.S. flag is not competitive. Period. That's the statement. And this is not something that we say. This is, there's a Maritime Administration study in 2011 that was done by interviewing the carriers. And the carriers said they didn't want to be on the U.S. flag unless they have guaranteed cargo or a closed market. So I just wanted to state that fact before I get into my subject.

But what I wanted to discuss is that the Jones Act does not operate in a vacuum. It instead is a part of a larger set of laws and regulations that interact. And in particular, regulations meant to promote competition to prevent abuse and to protect shippers and consumers. For those hundred years there was some agencies that were overseeing the practices of the carriers that service the markets. Because these markets is prone to market concentration. So you had the Interstate Commerce Commission and you had the Federal Maritime Commission overseeing the operations of the carriers. And you had, they had to be, tariffs had to be public, they had public hearings. They had to be reasonable tariffs and those agencies oversaw and had, and the carriers had to open their books to show what's going on. That was until 95', when all the deregulation of transport came in. But that whole process was incomplete, unfortunately. And basically, in 1995 the Interstate Commerce Commission Termination Act eliminated those basic controls that we had, and basically created a very sweet deal for domestic carriers. They have a closed market now, but now they're unsupervised oligopolies. Congress -- and what's amazing about this is that Congress knew at the time that this was going to be a problem. And I want to point out, this is the slide that's behind me, to section 407 of the Interstate Commerce Commission Act where it basically mandates the Department of Transportation to do a study of the concentration of the markets and the competition issue. And I want to point out 4 and 6, that the DOT needed to look at: the problems of parallel pricing and its impact on competition in domestic trades. Bear in mind it's not saying the potential problems, the hypothetical problems. It's stating that there's a problem of parallel pricing. And on number 6 it says "whether additional protections are needed to protect shippers from the abuse of market power." Again, it basically states that there is market power in those markets. Such language leaves no doubt that Congress knew there was going to be a problem, but it assigned the responsibility to oversee this to the Department of Transportation, which we all know is a historical guardian of the Jones Act not focused on protecting shippers or consumers.

So the DOT did two studies, one in 1997 and one in 2006. And in those reports they agree there's market concentration. They say they don't have any data, there's no public data, because this happened after this deregulation process occurred. Now you have a closed market but no data to oversee it. And I want to point out something I left behind, is that the system afterwards changed. They left the Federal Maritime Commission in place but only to attend international cargo. Domestic cargo is now under the Surface Transportation Board, which was given little authority to oversee it. And the main difference between the two types of regulation, is that for international cargo, you have to file if you have a service contract with a shipper. So if a carrier has a contract with a shipper it has to be filed under the Federal Maritime Commission. In the case of domestic offshore trades they don't have to be filed anywhere. So that's created a lack of information and a lack of data and a lack of transparency in the market that created the scenario for what happened afterward. So the DOT does those two studies. They admitted they didn't have the data. They admitted that shippers were complaining of parallel pricing and other abuses. But they say they found no evidence and the carriers could not unreasonably raise prices or others could enter the market.

Well, you know, facts are difficult things to hide permanently, and reality came crashing in. While at the same time that the Department of Transportation was saying that there was no problem in the markets -- and included Puerto Rico, Hawaii, and Alaska, but in the case of Puerto Rico, no problem -- the Department of Justice found that there was antitrust violations between 2003 and 2008. There were big criminal cases of almost all the carriers servicing Puerto Rico, there was a class action suit, there were civil action suits afterwards. So, you know, that just points to the fact that Congress basically predicted that this was going to happen, it happened. What's amazing is that afterwards, the agencies that should be in charge of this have done nothing. And we have no idea, because of the lack of transparency, if the rates, for example, went down after the convictions and after all this process came in. As far as we know, the Puerto Rico trade may have ended up paying those fines because we have no idea what happened. They might have passed their prices on to the island.

But furthermore, the lack of transparency has deepened after all this because at the time at least two of the carriers in Puerto Rico were public corporations, and afterwards they became private corporations, which is a move that's done many times to avoid scrutiny by regulators. And even further, in 2015 the largest carrier servicing Puerto Rico, Horizon Line, left the market. So now we have two companies, two carriers, with over 80 percent of the market that are among those who were at the time convicted of price fixing. So, at the end of the day what's happened is that U.S. shippers and Puerto Rican shippers -- and by that token, consumers -- are defenseless because there's no system to deal with this situation. You're presuming open markets, and you took away the regulations that were there -- and I think we all agree that's a good thing, eliminating regulations -- but you didn't complete the process and you left the Jones Act intact, promoting basically an unsupervised oligopoly with no oversight. So after a century of the Jones Act the situation has further deteriorated in the past two decades by the conceivably unintended actions of Congress and the possibly intended lack of action by the DOT and the Surface Transportation Board.

And in terms of moving forward what could be done? I think the starting point would be to recognize this issue. And the government cannot pretend to ignore this reality and continue to act as if these are open markets that can self-regulate. So the discussion is no longer if this is a maritime issue limited to jurisdictions of maritime committees and agencies, but needs to be widened to include some other agencies such as trade, commerce, and justice committees and agencies to deal with the situation. And even though none of us want regulation and we would prefer complete repeal of the Jones Act, they cannot have it both ways. If they're going to force on these jurisdictions a concentrated market then there needs to be some oversight such as the ones the ones that service commissions usually have in the states to deal with essential services. And bear in mind that, for an island, there's no greater or no more essential service than maritime transportation. Specific things that could be done, contracts in the domestic offshore market could be filed, as they do in the international cargo. And this oversight could

be given to the agencies that are prepared to do this. And I want to point the contrast in the regulation itself that's currently on 49 U.S. code 10-706 -- I think it's on the board -- that's dealing with trains in this case, but on the competitive and the concentration of markets issue, it orders now, not the Department of Transportation, but the Federal Trade Commission and the antitrust division of the Justice Department to do a similar job to what it required in 95' to the Department of Transportation.

So, at the end of the day what we need is competitive open markets, or at least the tools to deal with the imposed unsupervised oligopolies. Thank you.

**COLIN GRABOW:** Ok, that concludes the individual presentations and I'd now like to turn to question and answer. Before turning to the audience, however, I'd like to use my privileged position as moderator to ask a question of my own, which I'd like to direct towards Manuel. Now, one reason I suspect that interest has picked up over the past year regarding the Jones Act has to do with the impact of Hurricane Maria on Puerto Rico last year. This, of course, the outcry over its impact resulted in a ten-day Jones Act waiver from the Trump administration. Supporters of the Jones Act contend that this waiver was thoroughly unnecessary, that there were plenty of supplies brought to Puerto Rico. They were just piled up at the port, they couldn't get to where they were needed -- it was a problem of inland distribution -- and that the Jones Act fleet was perfectly adequate to speed needed supplies to Puerto Rico. So what I want to ask Manuel is, was this waiver necessary? Did it bring any benefits? And how valid are these arguments from Jones Act supporters?

**MANUEL REYES:** Well...they're not valid. I can tell you that Puerto Rico suffered with many limitations after the hurricane. So the waiver was needed even though they opposed it. It was needed, we needed a longer waiver and they opposed that too. And at the time I remember hearing from meetings in Congress -- which never include the importers or the shippers of Puerto Rico -- saying that what you were just mentioning, that the Jones Act, that the waiver was not needed and was not used. Well, the facts are other. And I think I have a slide that I sent, hopefully I sent, a slide with that. In any case, the ten-day waiver was used by at least ten ships. And this is important, because a ten-day waiver under such a circumstance where there's no communications on the island, it's very difficult to coordinate movements of merchandise. I think it was a very good example of what could have happened and how the aid could have come in if the waiver was extended. So this is a fact that is important to be on record, because the record of what I heard at the time in Washington is that it was not, the waiver was not used and the extension was not needed. Well, it was used, and there's the evidence there, there's the names of the ships, all the information that you can gather.

Also, I want to be fair with the carriers. They were there immediately after the hurricane, and for the first week there was a problem at the ports and the roads were not open so it was difficult for the merchandise to get out of the ports. So there was an initial problem at the port. But afterwards, for the next two, three months, even ten months afterwards we had a problem

receiving merchandise. They didn't have capacity to bring all the stuff that wanted to come in. And this is something, this is a fact. Even though they denied it publicly, privately in meetings that we had at the time during the emergency they told us, "Hey, we are the ones deciding what can get into the ships and what cannot get into the ships. And that's an admission that not everything can was trying to get into Puerto Rico couldn't get into Puerto Rico. Unfortunately, because of what I said, the lack of information and the lack of transparency and the lack of oversight, it becomes a "he said, she said" discussion. So there's very little official information that we can use – this is official, from the U.S. Customs – but we do have other indirect evidence of what happened. And I had two slides, one of the out of stock measurement at the stores, before and after the hurricane, and this is that one over there. Usually the out of stock on the stores in the island is about 15 percent. After the hurricane it became over 44 percent of stocks that wasn't at the store. And it went down slowly, but still in June it was still over 21 percent or around 21 percent. So that's in part, not completely, to the transportation problems that we had. And it's not only the lack of capacity of the carriers themselves, but we had lack of truckers – I want to be fair – we had lack of equipment. But that could all have been at least some relief we could have received if the service expanded and could have come from other places. And also, I think we have one more, we do a survey, monthly survey of our members on what's going on in the industry and basically this is what they told us. We asked if they were having maritime transportation problems after the hurricane, and you can see there up until July 73 percent were having problems with maritime transportation. So I don't know, I hope that answers your question.

**COLIN GRABOW:** Thank you very much. OK I'll now open it up to questions from the audience, but first a few rules. Please wait to be recognized before asking your question. Please wait for the microphone to arrive so that we can all hear you and those listening in online can also hear you. Please give your name and affiliation if you have an affiliation. And remember this is an opportunity to ask a question, not give a speech, and please conclude with a question mark. OK, who would like to be first? How about right here in the front row.

**ATTENDEE:** Have you heard about any attempt to extend the Jones Act to ships that are exporting American energy products, even to foreign ports? I just wonder if you've heard about that, thanks.

**MANUEL REYES:** I have. There's actually, in Puerto Rico there's been a discussion about natural gas, importing natural gas, and I was looking at the issue the other day. And I actually found a GAO report a couple years back that was analyzing that. So yes, there's at least movement that requested that study by the GAO on having the natural gas be required – exported from the U.S. elsewhere – to be exported on Jones Act vessels or U.S.-flagged vessels. So there's a GAO study, particularly on the energy sector.

**BRYAN RILEY:** Yeah, there's certainly been examples of when industries or segments of the economy have looked at the Jones Act, "How do we get in on this?" but for the most part those types – not for the most part, those types of proposals have always been slapped down. I think by design it's hard to change U.S. laws.

**MANUEL REYES:** And by the way, I just want to mention that the conclusion of the GAO report, it said that it's basically impossible. That the advantage that the U.S. export of LNG had because of the price would basically be offset by the requirement of using U.S.-flagged ships.

**DAN GRISWOLD:** And I think impossible is the right word. My understanding is that there's not a single Jones Act ship that can transport liquified natural gas, am I correct? I'm not an engineer, but you've got to have it at near absolute zero. These are very sophisticated, they're not barges going up and down the Mississippi. And so, if you extended the Jones Act to our shipping liquified natural gas internationally, you'd basically shut down that sector, am I not correct?

**MANUEL REYES:** That was another conclusion of the study, yes, completely. It says that even if they wanted to, the shipbuilding companies were not prepared to do...they didn't have the technology to do it.

**COLIN GRABOW:** OK, next question. I believe Keli'i Akina, you have a question.

**KELI'I AKINA:** Well thank you very much. Keli'i Akina, president of the Grassroot Institute of Hawaii. My question has to do with the impact of the Jones Act on states other than Hawaii, and on territories other than Puerto Rico – we know the disproportionate impact there. But in landlocked states, for example, or elsewhere throughout the country, how do we persuade people of the impact of the Jones Act at a national level as well as upon each of the states?

**BRYAN RILEY:** One of my favorite books which I commend to everybody in the auditorium or watching online is a book called Mad About Trade by Dan Griswold.

**DAN GRISWOLD:** My best friend.

**BRYAN RILEY:** And one of the points – you're not original with this – but you did such a great job of explaining is the reason we have so many of these tariffs and restrictions like the Jones Act that remain on the books is concentrated benefits and dispersed costs. And the people who benefit from these types of laws are well aware of it, highly organized, spend a lot of money, lobby, donate, whereas the costs are dispersed. So, we need to make people more aware of the costs, but there's always going to be a problem if you're trying to get your corn from North Dakota to the pig producers, pork producers in North Carolina it costs you a little bit more because of the Jones Act. It's harder to get those groups politically motivated. Also, and one of

the reasons I think this Cato event is so important, you have to believe there's a chance of success for making changes. So the effect that there is an opportunity for change and getting the groups that represent the farmers and the producers of energy and others more organized, I would hope that would help make it a reality.

**DAN GRISWOLD:** I would just agree with Bryan. You can make general arguments for the U.S. economy, the way it distorts transportation, and causes more wear and tear on the roads, and pipelines, and when people read about trains shipping petroleum and there being accidents and all that – that would, we could lessen that risk if we had, if we relaxed or repealed the Jones Act. So there are national security and national interest arguments you could make in favor of repealing or reforming the Jones Act.

**COLIN GRABOW:** OK, someone in the back, dead center.

**JAMES GIBNEY:** Hi Colin, James Gibney from Bloomberg. Question for you. I'm really glad you guys are doing this project. I wonder what kind of reaction you've gotten from folks on the Hill about the project. I'm even curious whether or not there's anyone here from Congress today, staffers or not. But would love to know since obviously Congress's role is going to be huge in this, and the shipbuilding caucus is very powerful, very well-funded, and Hawaii's congressional delegation, for example, is basically sold out to Jones Act carriers. So I'd just like to get some sense of what kind of reaction you've gotten from the Hill.

**COLIN GRABOW:** I'll say we've had some positive interactions with people on the Hill. You mentioned Hawaii's congressional delegation. Good news in November was the election of Representative Ed Case of Hawaii. He is opposed to the Jones Act, so that will be a welcome addition to Congress. We have heard from people on the Hill, both in the Senate and House that are interested in this issue and want to learn more and are talking about moving forward with some kind of reform, but that will remain to be seen. So I'll just say stay tuned for 2019 but the initial indications are positive.

**MANUEL REYES:** I want to say that's precisely why I focused my presentation on expanding the focus on the Jones Act. It's not only a transportation issue, and if you expand it you get other people that kind of see the problem from a different view. In terms of competition, in terms of trade, in terms of commerce. Not only the transportation committee which we...I don't want to repeat what you said but I agree.

**COLIN GRABOW:** Other questions? Right here in the front.

**ATTENDEE:** Hi, talking about...

**COLIN GRABOW:** Could you identify yourself please?

**EDWARD CATTELL:** Sorry, Edward Cattell. Speaking of Mr. Griswold's issue of Jones Act mariners, and also how do you motivate the landlocked states? I heard an address by Admiral Buzby recently – he's the Maritime Administrator – and he was talking about the shortage of qualified mariners. Particularly needed to man the ships in any kind of a sustained mobilization. So his proposal, which I assume the Maritime Administration is going to send to Congress, is to re-institute the cargo preference requirements for agricultural exports. Now this is, was a major policy which said 90 percent of all the corn and the wheat that we sell in competition with Canada and Australia had to go on American ships. And that got vastly reduced a number of years ago. So the idea is, if we increase it we'll have more American ships and more American mariners. But I would think that increasing cargo preference requirements would be something that the grain farmers in the Midwest would find unacceptable since it'll raise the cost of their grain and make them less competitive in the world market. So what would your take on that be? I did end it with a question mark.

**COLIN GRABOW:** Thank you.

**DAN GRISWOLD:** Well, count me with the farmers. It would take us in the wrong direction, it would just add to the costs. It's just taking the failure of the Jones Act and spreading it internationally and effecting a very important farm sector. Farmers these days have enough to worry about without adding that burden to it, with the retaliation they're facing in China, Canada, Mexico and elsewhere because of this administration's questionable trade policies. So that would be the wrong approach, that would be costly to taxpayers if it's foreign aid. It would be costly to farmers if they're trying to compete internationally. I say if you want to have more opportunities for people, authorized American workers to find jobs in the maritime industry, why not look for ways of expanding the industry? And the way to do that is to lift the Jones Act controls so that waterborne transportation can be more competitive. Our economy has grown, our population has grown, there's no reason why that sector shouldn't grow and yet they've been shrinking and I would argue it's all because of the Jones Act. We need to go towards less government regulation, more market competition. The proposal that was floated there would take us in the wrong direction.

**MANUEL REYES:** I want to emphasize that in terms of growing the U.S. carriers or the U.S. service, again we need to look at what we're talking about. You have U.S. ship companies or U.S. carriers that are not on the Jones Act trade or not under the U.S. flag. In fact, it is the U.S. carriers who came up with this whole system, parallel system of flags of convenience. So it's not necessarily that they're not there, it's just that they're not under the U.S. flag because of the Jones Act and because of the cost implied. I mean, they themselves came up with this system to kind of avoid all the regulations of the U.S. flag. So in terms of what we can do going forward, they might be there. It's just a matter of getting rid of the Jones Act and those requirements and they will come back to the U.S. flag or some other form of market.

**COLIN GRABOW:** Next? Very back row.

**ATTENDEE:** Hi this is [indistinguishable] from IAD and I just have a quick question about this act and its relation to the for and against with the human smuggling, which, you know, there's always something related about how it is affecting or not affecting if it can be removed and things like that. And I end with a question mark.

**COLIN GRABOW:** Dan?

**DAN GRISWOLD:** Human smuggling...I haven't given any thought to that particular angle of it. I will go back to the fact that 5 million different incidences of foreign credentialed sailors entering U.S. waters each year. I think there's a particular visa category, C-1 and D-1 where they, say you're an international ship, international crew, docking at Long Beach with a containership. Those crew members need to have visas to enter U.S. waters so we know who's on the ship, we've got some idea of that. There's a small absconder problem but it's just a fraction of a percent. There's ways of controlling that. I just don't see it as a problem. You know we have a million people per day or something entering the United States temporarily, mostly from Mexico but also flying in and by ship. And so it's a real problem, I'm not dismissing that, but I think the 75 percent citizenship requirement of Jones Act ships does nothing to address national security, it does nothing to address that issue.

**COLIN GRABOW:** OK, other questions? We have one dead center, grey jacket.

**STEVE SHAPIRO:** Hi, Steve Shapiro, currently unaffiliated. I'd like to ask for a clarification on antitrust enforcement. Mr. Reyes, were you indicating before that the maritime industries were not under the jurisdiction of Federal Trade Commission or Department of Justice enforcement, or was it your contention that the enforcement was not effective?

**MANUEL REYES:** Antitrust presumes open competition, and what I'm saying is we don't have that. And the situation that we have right now is that there's no transparency and little information or data if the Department of Justice wanted to enforce something, or even if private companies wanted to enforce something. And you add to that the extreme concentration and power that these companies have in a trade such as the case of Puerto Rico. So even if private companies wanted to bring suits they're unprotected in terms of their cargo would not come in, their prices would, you know, could vary differently, and there's no other...you know, mechanism to deal with that. I want to mention an additional fact. That on those private contracts, and for some reason the Federal Maritime Commission's requires them and not in the case of domestic carriers. But under those service contracts which amount to pretty much all movements in the case of the Puerto Rico trade, they include a clause on those contracts that prohibit the shipper from sharing that information or the information of the

contract with itself. So basically you have a complete obscurity and murkiness in a trade that's very much concentrated and has a history of violations. And what I'm saying is that antitrust is not enough because there's no data to actually enforce it.

**COLIN GRABOW:** OK, towards the back in the blue shirt.

**WILL GONZALEZ:** Buenos dias, my name is Will Gonzalez. I actually work with a community-based organization in Philadelphia called [indistinguishable]. And I wanted to follow up with Mr. Reyes. Since Puerto Rico has no voting representation in Congress, what are the efforts to try to mobilize Puerto Rican communities here in the United States, sizeable, Pennsylvania, New York, Massachusetts, Florida – 5 million Puerto Ricans here only 3 million on the island -- to be active on this. And then on a follow-up, how do we look at from state to state, for example, we wrote an op-ed at the time of...in the aftermath of Hurricane Maria asking for the lifting, for the permanent lifting of the Jones Act and we looked at, we made the argument how it benefitted Pennsylvania, not just Puerto Rico, Pennsylvania being the largest producer of nucleic acids and at the time Puerto Rico being one of the largest importers of nucleic acids which are building blocks for pharmaceuticals. But again, I'll return to the question: what can be done to mobilize our communities here to support this for Puerto Rico and create economic opportunity for even the communities here.

**MANUEL REYES:** I think that's precisely why I'm here, that's one of the reasons. I know there are other people working. Here we have the president of the Chamber of Commerce of Puerto Rico which I want to recognize. Kenneth Rivera is also here working on it. And we've been communicating with the New York communities. I don't know if you know the New York Bar Association approved a resolution this year requesting Puerto Rico be exempt from the Jones Act, and then they moved and the American Bar Association approved one themselves. So, and yeah, we've been talking with groups in Florida, in other states. So we're trying. It's a difficult thing because, you know, we have other jobs, most of us. And I know there was a historic coalition, an anti-Jones Act coalition at some time, and I know we're going to have one of the panelists afterwards who led that coalition. So maybe we need something like that again to try to get traction. And Cato will be helpful on that.

And somebody reminded me in terms of my previous point the lack of competitiveness of the U.S. flag and the fact that there might be carriers out there, U.S. carriers out there that are not under the U.S. flag. I just want to give the example that in the case of Puerto Rico, all the Jones Act carriers also operate international ships from other ports. So these are the examples of the hypocrisy of this. They say the Jones Act is so good for Puerto Rico, but they themselves don't use it in any other trade where they have. For example, we have dedicated service from Canada to Puerto Rico from the same company, a Jones Act company, but with an international ship, and that company services Florida, I mean the U.S. Virgin Islands from Florida with an

international ship. So, you know, it's not that the industry is not necessarily there, it's just that it's not under the U.S. flag, and the impact of the U.S. flag is just being focused on jurisdictions such as Puerto Rico.

**COLIN GRABOW:** Next? Here in the middle with the yellow tie.

**JOHN KING:** John King, and just call me Citizen King. I'm very interested in helping regenerate American shipbuilding and shipping industry. But I had a concern and a question. And the concern was that the current discussion focuses on the direct cost of Jones Act ships, which, as a longtime budget analyst from the Pentagon I'm interested in. The direct cost is to the customer versus the total cost. And part of the total cost discussion are the huge subsidies to the foreign shipbuilders and shippers like lower wages, lack of environmental laws, health care provided at the federal level, part of the kind of corporate/employee consideration. So if I'm thinking along that line that if there was a total cost analysis of a U.S. Jones Act versus foreign shippers it would be a little bit more fair, it wouldn't be three, four, five, or six to one, it might be only two to one, and that would be a point of discussion. But if you flip to the question side, if you open the door and repeal the Jones Act completely then you're obviously going to have the lower cost foreigners come in and just wipe out the American market, which would generate a national security issue but of a different line, which would be if we do need ships for logistics and supply you wouldn't have them, because the Military Sealift Command's not that big. And then you'd have a situation like the Brits did with the Falklands when to respond to the Falklands War they had to take ships up from trade, but they were British-flagged vessels. And if you needed a situation like that for national security in the United States, you wouldn't have any American flagged ships anymore. So how would you deal with foreign-flagged ships? Do you have any concern about either of those?

**BRYAN RILEY:** Well, I think if I understood my fellow panelists, I think all we're saying is, for the most part, just treat shipbuilding the way we treat everybody else. And so you look at the U.S. automobile industry for example, we have automobile production as high or higher than it's ever been. Auto manufacturing thriving under an environment where we have not totally open – and maybe moving in the other direction – but pretty open trade. The same for aircraft. And so I would take issue with the assertion that if we open up to foreign competition we would be wiped out. Now, if in fact we do lose what little civilian production we have left, if we have suppliers from Korea and from Europe and Japan, I don't particularly view that as a security threat but as something that actually helps us if we get our goods more cheaply someplace else and use our resources more effectively elsewhere, I don't see that as a security threat but as something that would actually make us stronger. And the last quick point I wanted to make is I think there's a big difference between the civilian shipbuilding and military shipbuilding. So the people in the firms building nuclear submarines typically aren't the same ones building the ships that are going to be shipping cargo, for example. So that's something that's different from when the Jones Act and previous laws went into effect so this is something I would argue not

only does not make our national security weaker but would make it stronger and strengthen our alliances with our allies around the world.

**DAN GRISWOLD:** Just one quick point. You mentioned the environmental standards. My understanding is international ships have made a lot of progress, and they're the most modern, they're the most efficient, the most fuel-efficient. I think we'd probably be making a contribution overall to using resources in a more environmentally-friendly way if we were able to use the most modern international ships to serve Puerto Rico and Hawaii and some of these other destinations rather than a Jones Act fleet which is significantly older than the global shipping fleet. And I'm sure this will come up today, also safer for the crewmembers than the Jones Act ships as we saw three years ago with the El Faro.

**COLIN GRABOW:** I'll just add a few points of my own. Regarding subsidies, let's note that the U.S. engages in subsidies as well. The Philly Shipyard, I think if you add up the tax breaks, they've got I think free or very cheap land from the government, they've gotten a lot of sweet deals. If you add that up the Philly Shipyard alone has something like \$500 million in subsidies that have been handed out to them. They're not alone, other shipyards – I think the Austal shipyard in Alabama has received subsidies. And let's remember that in the 1990s there was a deal on the table negotiated by the Clinton administration for all major shipbuilding countries to get rid of subsidies. Japan said yes, the Koreans said yes, the Americans said no. They said all along we want to do away with subsidies, they're harming us, but then when push came to shove they said no. I'm not aware of their position changing on that.

With regard to the environment let's keep in mind that one of the worst environmental disasters in American history, the Exxon Valdez, was a Jones Act vessel.

When it comes to national security, I'm sure we'll get into that in more detail in the national security panel, let's keep in mind that during the Gulf War, Operations Desert Shield/Desert Storm, the U.S. relied heavily upon foreign-flagged vessels. In fact we asked the Soviet Union twice for a ro-ro ship to borrow from them, we were shut down both times by them. So the Jones Act has not come through and assured us guaranteed access to sealift in times of need. But again, we'll hear more about that later on. So I think we have time for at least one or two more questions. Right over here.

**JOE KENT:** Hi, Joe Kent from the Grassroot Institute of Hawaii. I just wanted to ask about the Puerto Rico trade. A non-Jones Act ship...Puerto Rico's next to the other island countries, not like Hawaii, Hawaii's out in the middle of nowhere, and so a foreign ship would only need to go a short distance to get around the Jones Act. How do you explain, people who might say, well, it doesn't cost Puerto Rico that much.

**MANUEL REYES:** I'm not sure I understood the question. Yes we have...please clarify.

**ATTENDEE:** OK, so a non-Jones Act ship would only need to go, for example, to the U.S. Virgin Islands, to just stop off in the U.S. Virgin Islands, and then it could go to Puerto Rico and then, wouldn't that get around...?

**MANUEL REYES:** No, no it wouldn't. I wish it was that easy. No, they couldn't. The Jones Act forbids that. You cannot use...you know, one of these companies thought about it and some porters have thought about it. You know, it would need to get off the ship, the merchandise would need to get off the ship and to get on another one. You cannot just bypass it that way.

**COLIN GRABOW:** OK, one more question. Right here in the middle.

**PHIL HOXLEY:** Hi, Phil Hoxley from the American Enterprise Institute. I just have one quick question about the U.S. merchant fleet tonnage. So if you look at, it's a 1920 law, and the tonnage of the U.S. fleet peaks in 82', 83', right before Reagan passes some merchant marine shipping reform. Can you explain your version of the story, and then it plummets, the gross tonnage for the U.S. fleet plummets and continues to plummet to the 96 vessels we have now. So can you, to the best of your abilities, give an explanation for why the merchant marine fleet peaks in the 80s and then declines?

**COLIN GRABOW:** Ok, I'll just add that let's distinguish that there is the total U.S. merchant fleet and then there's also the Jones Act fleet which is a subset of the U.S.-flag fleet, so just keep that in mind, but any of you want to have at that?

**GRISWOLD:** I don't have any historical [indistinguishable].

**COLIN GRABOW:** I do know that Mike Hansen who's going to be on our last panel I believe, that's right up his alley, he could probably speak to that, so if you want to save that question for our last panel please do so.