

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

Session III: National Security and the Maritime Industry

Panelists:

STEVE ELLIS, Executive Vice President, Taxpayers for Common Sense

NICK LORIS, Herbert and Joyce Morgan Fellow
in Energy and Environmental Policy,

Center for Free Markets and Regulatory Reform, Heritage Foundation

ROB QUARTEL, CEO and Chairman, NTLEX

Moderator:

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CHRISTOPHER A. PREBLE: My name is Christopher Preble. I'm the Vice President for Defense and Foreign Policy Studies here at Cato. Welcome back all of you from lunch. It's my privilege and honor to chair this panel, the title of which is "National Security and the Maritime Industry."

Now, I will note for the record that prior to when my colleagues at the Herbert A. Stiefel Center for Trade Policy Studies here at the Cato Institute began working on the Jones Act, I knew absolutely nothing about it. I didn't even know it existed or what it was or anything. I was like, "What?"

Those of you in this room, if you didn't know something about it, I suspect many of you did know a lot more today. What we have heard so far, it seems to me, is twofold. The first is that, yes, there are costs associated with the Jones Act. In a few places, especially the noncontiguous states and territories, those costs are somewhat more noticeable than in the lower 48, as it were, and that those costs are dispersed. The benefits are enjoyed by a very small group of industries and people in the shipbuilding industry. My colleague Dan Griswold mentioned that with the possible exception of the sugar program, this is the next most egregious example of concentrated benefits and diffused costs.

But if the Jones Act exists in order to provide a national security benefit to the nation, then you would expect there to be costs. So what we're really debating is are the costs that we incur as a society reasonable relative to the benefits we gain in national security. I'm trying to summarize so far what we've heard. The national security rationale has come up in the prior two panels,

even though that was not ostensibly the purpose of those panels. Those panels are mostly focused on the economic and downstream costs.

So I'm joined here today by three people who are really in an excellent position to focus on the national security implications. I'll briefly introduce them. Their full bios are available for those of you who are here, or you can go online. But the first person we'll hear from Steve Ellis, to my immediate left. He's the Executive Vice President at Taxpayers for Common Sense. I've known Steve for many years. He's spoken here at Cato several times. He is a persistent and vocal critic of the budget deficits and federal fiscal policy. He's testified before Congress on numerous occasions. His subjects range from earmarks to flood insurance and spending in between. In addition to that, however, and I think in large measure the main reason why Steve is here, aside from just we like having him here, is he served for 6 years in the United States Coast Guard, and he earned his bachelor's degree from the Coast Guard Academy. So Steve knows a lot about maritime trade and maritime industry.

Next, we'll hear from Nick Loris. Nick focuses on energy and environmental regulatory issues as the Herbert and Joyce Morgan Fellow at the Heritage Foundation. He's also a research fellow in Heritage's Roe Institute for Economic Policy Studies, and he writes about energy, energy prices, supplies, and economic effects of environment policies. He has also testified before House and Senate committees and published widely. He received his master's degree in economics from George Mason University.

And our third and final speaker on the end of the stage there is Rob Quartel. He's the Chairman and CEO of NTELX, but for the purposes of this discussion, his expertise comes from being a former member of the U.S. Federal Maritime Commission, and he is an internationally recognized expert on maritime and transportation security issues. He's been a senior policy advisor to a number of figures, public figures into Congress. His undergraduate degree is from Rice, and he has a master's from Yale School of Organization and Management. He's also a member of the Council on Foreign Relations.

So, with that, I will turn it over to Steve. I'm hoping we'll have a fairly free-flowing discussion here but also leave plenty of time for those of you in the audience.

Steve, take it away.

STEVE ELLIS: Thanks, Chris, and thanks for having me here. It's always good to be here at Cato, and thank you for attending. I'll be really brief because I know a lot of the issues, underlying issues about the Jones Act and the issues around that has been covered this morning, but just to flag a couple points and then raise one particular issue.

When you look at coastwise trade, so trade among ports along U.S. coasts, it is actually declined by 45 percent since 1960, while other forms of trade—rail, pipeline, trucking—have all increases, and actually even river-borne has increased during that time.

You also see at that time, we went from 166 or more Jones Act-eligible vessels in 2000 down to 96 as of just 2 months ago. One thing is protectionist policy is what are we protecting if it's diminishing and it's clearly not working.

But then also, there's some other costs that I don't think have been brought up as yet, and that is, when you look at these large container ships that are coming to the U.S., they make one, two, possibly three port calls. Obviously, they can't transport U.S. goods from any of those ports to the other U.S. ports. So you have this one very inefficient. They're still making the port calls. The second thing, though, is that the ports along the Eastern Seaboard, they are wanting to deepen their ports, so that they can attract this container traffic. So you have deepening projects that have either recently been completed, are being done, or are planned in Boston, New York, Philadelphia, Norfolk, Charleston, Savannah, Jacksonville, Port Everglades, Miami, and that's just the East Coast. All of those projects are paid for—65 percent of the cost of a deepening project is paid for by the U.S. taxpayer.

So what you are finding is we're developing this overcapacity of ports that is very beneficial to the foreign shipping lines because they can play one port off of another one. We've certainly seen that in the past. Maersk did that to New York back about 10 years ago when they were trying to decide where to have their home port or the main base. So the taxpayers actually funding this overcapacity.

The Corps of Engineers looks at each of these projects in a stovepipe because they are the agency that evaluates and then seeks the authorization for these projects. So they don't consider that Charleston is going to have a deeper harbor when they're recommending Savannah. There's no planning as to, okay, this is what makes the most sense. Portland, Oregon, is 80 miles upriver. It's not going to be that attractive to the shipping lines, and so that's not going to be where we should put the investment. So there's no strategy from the government on that as well.

So you have a case of where, for instance, the ports of Georgia—so Savannah predominantly, but also Brunswick—they are in the process of planning and estimating that they are going to be able to serve 10 million twenty-foot equivalent units, TEUs, of cargo in 10 years' time. To put that in perspective, that's more than, L.A. and Long Beach, the number one and number two U.S. ports did last year combined. So it's a huge amount of overcapacity.

Lastly—and I know this hasn't touched as much on the national security argument, but I think that will be coming up—there's an argument that we need these ships. I've already pointed out that there's dramatically fewer Jones Act-eligible ships, but then also, we do have the Military Sealift Command.

But then also, if you look at in 1991, with the Persian Gulf War, a quarter of all of our military supplies going over to the Persian Gulf were carried on foreign-flag vessels. They are available, and there is capacity to meet those needs, if they come to that, and that all gets back to Chris' point as at what cost do we want to actually continue this policy.

And then I'll stop there.

CHRISTOPHER A. PREBLE: Thank you. Nick, go ahead.

NICK LORIS: Great. Well, thank you all for coming today, and thanks to Cato for having me here. I would echo all of those points. From a national security perspective, I work on energy and environment policy, but Heritage has written this about the Jones Act from both an economic and national security perspective. We've actually made the point that the Jones Act actually hinders national security, certainly not helps it.

Even if we were to need X amount of ships, this is a very screwy, stupid way to pay for it. I mean, if we think about what you want to get from national security and it being a public good that's non-rival and non-excludable, then let's have DoD make the case that they need X amount of ships for DoD purposes and spread the cost among all the taxpayers, not just the people who are incurring the costs as Jones Act users. So that's the first point, and then I think we can have a robust discussion as to how many ships they need.

But, secondly, given the ability to buy and lease foreign-flagged ships, as they have in the past, as we just heard, that allows, DoD to stretch their dollars further. If they can be more wise about their spending, they can stretch those dollars further, and actually, we can have a more robust capacity here in the United States rather than simply have this protected industry.

And I think we all know that protectionism doesn't actually help the industry it protects because it prevents them from innovating and lowering the cost to be competitive with other shipbuilders or really for any industry. Look at the taxicabs in D.C. compared to pre-Uber and Lyft and now. They're starting to make changes that I don't think they would have ever considered had they not been subject to competition. They're changing their meters. They've having digitization, where they're going to offer you to pay with your phone rather than just pay with cash or a credit card. They're going to have maps that show where you actually rode, so you're not getting fleeced by a cab driver driving 5 miles out of his way to upcharge you. There's just a number of innovations they now have to make in order to compete with Uber and Lyft. I think if you subject the U.S. industry in the shipbuilding capacities to those market realities, you might get a smaller fleet and you might get smaller shipbuilding capacity in the United States, but I think you'll get the most competitive elements here in the United States.

So that's my focus, and my focus of the essay, even though it's not national security related that I wrote for Cato, relates to what the last panel was talking about in this relation to concentrated benefits and dispersed costs. I think that's a real critical element to this discussion. What I tried to write is that I think that's important, but it's obviously clear from a public choice perspective why it's hard to get the lower 48 states to kind of care about this issue.

But there are a lot of small businesses who are impacted by this protectionism. It is the folks in Hawaii, and I wrote about small businesses who have gone out of business, and they've had to lay off 50 workers at a bakery because the looming cost and the lasting cost of the Jones Act,

they just couldn't keep up with them. I met with a rum distiller. It's a family-owned shop in the island of Kauai. One, you should take a meeting with a rum distiller for a lot of reasons.

CHRISTOPHER A. PREBLE: In Kauai.

NICK LORIS: Yeah, yeah. In Kauai. Free samples. The trip, it's all good.

But it's the same thing. I mean, he's worried about the future of his business because of these costs. There are farmers in Iowa who are losing business opportunities because coastal states will rather buy their products from Chile or Brazil or Canada. So I think if you get the folks who are hurt by these dispersed costs, then I know Rob is kind of the godfather of this movement in the Jones Act Reform Coalition. So I look forward to kind of hearing what he has to say about that, but I think that's how you start to make a difference, when you get all these people together because strange bedfellows can sometimes turn some heads in Washington. I think if you have farmers, energy companies, and small businesses all knocking on the doors of Members of Congress, then you actually have a fighting chance against this entrenched interest because what we've seen is that the people who benefit from the Jones Act are very well funded and very well organized because this is the issue where their bread and butter comes from. So anytime there's a conference like this or even an op-ed, they come swarming.

I think the way to actually fight against that is to not just have conferences like this but to get an ongoing coalition of all of these dispersed costs really to fight against this policy, both from an economic standpoint but also the kind of false national security narrative that's out there.

CHRISTOPHER A. PREBLE: Very good. Thank you. Rob?

ROB QUARTEL: And my understanding is we're going to be trying some of that rum tonight.

NICK LORIS: That's right. Yeah, yeah, yeah.

CHRISTOPHER A. PREBLE: Very good.

ROB QUARTEL: So notwithstanding all of the conversation around economic costs and benefits—and the Jones Act Reform Coalition formed in 1994 or '5. I can't remember what year. We had trade associations and individual companies representing a million U.S. companies whose economic interests were affected negatively by the Jones Act, but we could still not win the argument. And the reason we couldn't win it is because the opponents, the beneficiaries, threw up one thing that is almost unmeasurable where it was until 1992, which happened before that. But they forgot, which was that the Jones Act was written to help provide for a massive fleet for use in times of war, crews for these ships, and a shipbuilding industry that could build ships in time of war and in times of peace, provide shipyards that could keep going because the Jones Act was going to provide them a constant stream of orders of ships.

In 1992, '91, right after the Gulf War, which occurred when I was Federal Maritime Commissioner, I was able to spend a lot of time with Transportation Command, the Military Sealift Command, and all of the military side and follow the war closely because I was commissioner. I wrote a paper then called "America's Welfare Queen Fleet," and I called it that because of all the subsidies. This is probably the most heavily subsidized per capita per unit of economic activity of any industry, any industry in the understanding, with the least output.

So the opening paragraph, which I'm going to read you because I want to set it up is this is what the opponents to what we're trying to do here will throw back at us. "When Saddam Hussein invaded Kuwait, the United States responded just days later with the Military Sealift, the success of which is unparalleled. In just 45 days, the United States moved to Saudi Arabia, the equivalent of a city the size of Alexandria, Virginia, lock, stock, and barrel." So that part is true.

American commercial ships crewed by thousands of young well-trained Americans on the world's fastest, most modern ships, on the world's fastest, most modern ships. The American merchant marine threaded its way through the dangers of the naval mines laid off Saudi shores. The military was able to call on the service of this private fleet at only a moment's notice and paid no more than market rates. The success story was made possible by a farsighted, competitive merchant marine policy set in place years ago by the U.S. Congress.

So the point is none of how it happened was true, and that was we were able to figure that out by looking at the actual numbers. It's been a while since I've looked at the numbers, but there were about 460 ship trips to the Gulf War, which carried the equivalent of Alexandria, Virginia, in 45 days. Eighty of those were American-flag ships. The rest were either foreign-flag ships or U.S. government-owned ships, i.e., noncommercial, gray hull.

Of the 80 American-flag ships, six were part of the subsidized fleet. The other 80 were not under subsidies. A lot of them were oil tankers and things like that, which did not get at the time operating subsidies. Of the six, one—one—was a Jones Act ship. Well, sort of. It was a vessel that was serving Puerto Rico, sitting on the beach, almost beyond repair, which was then repaired in time for the war at the end, and it finally got in the service.

So the biggest myth about the Jones Act and the one which if you spend any time actually looking at numbers is the biggest lie is that the Jones Act is about national security. Now, some of the speakers here, anybody in this room will say, well, it's about national security. The Merchant Marine Act of 1920 was about national security, right? So the Merchant Marine Act of 1920 was written largely because during World War 1, we had no merchant fleet to speak of, and so we had to build ships, and we had to use foreign ships. Of course, it got cut off and back and forth. So the Congress decided they had to do something about that, and they wanted to create the capability to have an American fleet for the next war.

The Jones Act was not part of that conversation. As the bill made its way through Congress, it was not part of the hearings. As it made its way to the floor, it was not actually part of the floor conversation. The Jones Act was inserted by Senator Jones, Wesley Jones, who was one of the

primary authors of the 1920 Merchant Marine Act, which was for the purpose of national security, was really an attempt to solve a problem for his railroads, which carry cargo to Alaska.

Now, earlier laws had said you can't carry cargo in U.S. trade. It has to be a U.S.-flagged ship between two U.S. ports. There was a shipping line that was carrying it to—I can't remember if it was Fairbanks or one of the others—to one part of Alaska, and then they put it on a train and carried it to another point in Canada, and then they'd bring it back to the other side of Alaska. That trained happened to be non-U.S. I think the ships were American, and they were essentially evading the law, but there were also Chinese ships running up and down the coast serving Alaska as well.

So he put this piece, this little amendment, into the floor bill, and it passed on a voice vote with no conversation, all essentially intended to protect a constituent industry, not ships, not shippers, meaning the people who owned the cargo, but railroads. And that has been the actual impact of the Jones Act. The Jones Act in the natural hierarchy of the cost of moving goods, the cheapest ships—and the next may or may not be trucks, and the next may or may not be trains. And depending on the market, they move around in these places, and then you have airplanes, of course, along which we fly cows—because of the Jones Act.

So what it did was make shipping and domestic trades more expensive than truck or train. So the impact from a market standpoint is to move cargo off ships and put it on trucks and trains, and when you do that, ships have less business, and therefore, fleets are more expensive and operating costs and all the rest of this.

So, to me, first of all, it wasn't meant for the purposes of national defense, even though the Merchant Marine Act of 1920 was, and people in this room understand that not all laws named "reform," "save," or whatever do that or are intended to do that.

But the proof is also in the pudding. If the intent is to create a band of sailors, we may numerically—and there was a study done last year—have technically enough commercial sailors that if we had to call them up to run the ready-reserve fleet, we would have 1.75 turns. And sailors, they work in theory on three 8-hour shifts, and in theory, they operate 2 months on, 2 months off, or 3 months on, 3 months off. In a war, it's more like 3 on, 2 off. So you have to shift the numbers.

But the reality is we really don't have enough sailors. Over 25 percent of the sailors we have range in age from 60 to 90. There's no requirement that if they're called up, they go to war. And they didn't in any of the last couple wars. So, at one point, the maritime administrator had to actually ask for permission to bring in foreign sailors on U.S.-flag ships, and he got it. So it doesn't produce enough sailors because—oh, guess what? There are not enough ships.

Now, the opponents of change spend a lot of time in obfuscation, misdirection, and sometimes, dare I say, lying. So, for example, what you'll hear—and my friend from Hawaii made the point in a private conversation that he had invited the Senator from Hawaii to debate the Jones Act,

and she agreed and then the last minute, canceled, and sent a video in which she claimed a quarter million Americans' lives are dependent on the Jones Act.

Well, there are probably a quarter million Americans who work on the ports and in the docks and all the rest of that, but 98 percent of trade is on international ships coming to and leaving the United States. So, at best, 2 percent of the 240,000 people, 4,800, might be associated with a domestic shipping industry.

In the domestic shipping industry, you have barges, which is a successful industry. We are really good at making barges, and that's good because we have a lot of rivers. You have U.S.-flag ships, and then you have Jones Act. And Jones Act is a teeny-weeny piece of this. At the end of World War II, we had 2,000 ships. When I wrote this particular article, I think we had 300-and-some, and today, I think it's around 190 that are U.S.-flagged. Most of those are oil tankers. They can't carry troops. They can carry oil. We need a lot of oil when we go to these far places, so that's a good thing.

So we don't have the sailors because we don't have the ships, and we don't have the ships because we don't have the shipyards that can produce ships and markets that can be sustained at prices that can be sustained by markets or the business they don't have.

So, historically, we've subsidized shipyards. We've subsidized the operating companies for the sailors for whom they pay—well, in 1960-something, it was about \$160,000, which would be \$400,000-some per job. So the average American who at the time was making about \$35,000 take-home pay per household was subsidizing a guy making \$165,000 for his job out of his paycheck and his taxes. So the sailors are part of the cost problem. We don't have the numbers today.

So if you get back to the ships and the shipyards, there are primarily—there are a handful of shipyards left, and Mike Hansen up here knows, will talk about shipbuilding. They produce maybe—we may produce two and a half ships a year in the handful of yards we have that are commercial, and one of the things someone mentioned earlier, the Reagan thing, what he did was he eliminated shipbuilding subsidies. So we were subsidizing people, ship operating, and shipbuilding and still couldn't get a fleet out of that big enough to support a wartime effort.

So it wasn't written for national security purposes, and while we may want to argue that it's thought to be there, the numbers show it didn't serve us when the national security events came about.

So why doesn't the military oppose it? Because they're soldiers. They have to salute the politicians.

Why don't the politicians oppose it? Well, I know from my party—so I just spent the last 3 days with George Bush. I was the third person he hired. I was in the Ford campaign and the Ford White House and the Bush—you know, and this and that and commissioner. And the politicians

in the Republican Party, I can tell you, mainly want to get the endorsement of the one labor union that will endorse us, merchants, mates, and pilots. So they don't cross the unions, and they don't cross the Jones Act because it's teeny. It's a couple billion dollars a year impact, and most of us don't feel that 1 cent per gallon of gasoline. And the Democrats, you know, they're largely labor leaning, and I don't mean that as pejorative, but just as a political analyst.

So the heart of this is we know there's economic damage, and actually, the military knows it doesn't do a thing for them. But they got to salute, and that's what the task is before us in this whole issue of defense and the Jones Act.

CHRISTOPHER A. PREBLE: Great. Thank you all. I'm curious. We'll try and get a little bit of a conversation going, but again, I do want to leave time for questions.

The first thing that jumps out at me in hearing this is, as with many public policies, if you look at the state of affairs in the present and you look at where the situation was when the policy was first enacted, you measure the success or failure of the policy by whether things are better.

However, if they're not better, then the immediate reaction is "Well, it would have been worse were it not for the policy in question." So I ask the three of you—and Steve mentioned 96 Jones Act ships. Colin Grabow pulled together some data. Just throw out some numbers. Since 1983, 300 U.S. shipyards have closed. There were once 35 shipyards that could build naval ships. Now there are seven. The numbers of qualified crews, we're talking about something like a few thousand. It's tiny and smaller than it was when we started.

So how are we to believe or are we to believe that the situation would be considerably worse were it not for the Jones Act? Any one of you.

STEVE ELLIS: Well, I mean, as I said, there's not much left to protect—

CHRISTOPHER A. PREBLE: Right.

STEVE ELLIS: —for this protectionist policy, but then the flip side of that is there could be significant benefit of even—I mentioned about the container ships taking U.S. goods from U.S. port to U.S. port, the foreign container ships. I mean, that's untapped capacity. That would be more efficient. It would also take containers, trucks off the road in congested areas, and you would have more efficient—and then also, I think it would—maybe they'd be foreign built, but it could even start developing like a hub-and-spoke system, and you'd actually have feeder ships that are going along, which would actually provide more opportunities for mariners.

CHRISTOPHER A. PREBLE: For mariners, right. Yeah.

NICK LORIS: That's kind of how I feel. I think that they could have actually been stronger and more robust without the protectionism, rather than just kind of keeping this small base and

letting it slowly atrophy, because you do subject them to competition. And I think that's ultimately what you want.

There's a good chance it could have died off, but I think there's also a very good chance that given an opportunity to truly innovate and know those price points at what you're economically competitive, that you might have a more robust industry.

ROB QUARTEL: So I agree with all that. I think you do sort of have to address the military requirement head on.

CHRISTOPHER A. PREBLE: Right.

ROB QUARTEL: If the military truly believes they need to have more ships, what have they done about it, knowing that they don't have enough in the so-called Jones Act fleet nor in the U.S.-flag fleet? So what happened was Reagan eliminated the operating subsidy, and he eliminated the shipbuilding subsidy, which is why someone mentioned that dip.

CHRISTOPHER A. PREBLE: After '83.

ROB QUARTEL: Yeah, after '83. And a set of people will say, "Well, that killed it off." Well, the other side of that is they couldn't survive without it, and it wasn't making them any bigger either. They were actually shrinking as all that was happening.

I think it was the '90s, and I think it was the Clinton administration. It's been a while since I— but they created the so-called VISA program, which was a re-upping of these operating subsidies for ship operators. Now, in the old days, a ship operator had to have an American-flag ship and American crew, largely, to get the subsidy.

And, by the way, it's not just ships that get this kind of military subsidy. So the airlines have a program called CRAF, where they are paid a certain amount of money to be able to convert a plane into a carrier for use in a war. And I will go back to that in a minute too because interesting data around that.

But if they want a bigger fleet, what they thought they had to do was subsidize more U.S.-flag companies to come in. The big problem in the Gulf War was that U.S.-flag companies didn't want to go to the war because they would lose their market share in the international markets in which they were operating. So now the VISA program has been crafted. So the American-flag operators can use foreign-flag ships and pretend they're American, and these guys, it's sort of like in the Civil War. If you were drafted, you could pay someone else to take your place. So that's essentially what U.S.-flag operators are doing under the program. We are subsidizing for them to provide ships. That they're handing the money to some foreign-flag company after they've gotten it from us for them to do it. So it's exactly like the Civil War draft.

Now, one question you might say is why do they worry about American sailors and American ships, and the reason is, in theory, it's because they want people who are loyal to the United States. In all of those hundreds of trips that were run by—probably, it wasn't a hundred. It's probably just around a hundred—about 25 or more percent of the—

CHRISTOPHER A. PREBLE: In the Gulf War.

ROB QUARTEL: In the Gulf War, for example. There was one incident with a foreign-flag operator. They manufactured a couple for a report, but there was really only one where a crew, a German crew, refused to go into the war. And it was because an American company under CRAF, the airplane program, refused to fly the crew to the war to put on the ship. So that was the one incident, which was really triggered by an American company. As I say, they manufactured a few others, but the loyalty thing, the allies are where they are because where we are historically because we are allies, and we jointly fight wars and everything else.

Now, if you have a future war, as someone else alluded to in a conversation, we don't know what would happen.

CHRISTOPHER A. PREBLE: I have two questions that sort of flow from that, Rob, a little bit. First of all, I have a question about—there are obviously many, essentially countless different products and services and industries that are militarily relevant in the time of crisis.

ROB QUARTEL: Right.

CHRISTOPHER A. PREBLE: Again, I'm an ex-Navy guy, so I have a particular bias. I am from Maine. I have a bias towards the sea.

ROB QUARTEL: And Bath, Bath.

CHRISTOPHER A. PREBLE: Yeah, yeah. Bath. All on the table, right? It's all on the table.

And yet we have a viable—more than just viable aviation industry in this country. There's nothing like the Jones Act that is protecting American aircraft manufacturers in the way that the Jones Act professes to protect the shipping industry. Well, how do we explain that? Why is that? Is it that aircraft aren't really as relevant, or is it something else? It sounds to me like the way you described it. I'm a historian, so I love hearing stories about where policies actually come from, so that was helpful.

But, again, are we to believe that there's something unique about ships and shipping that explain this, or does that not hold water? Does that not bear scrutiny?

ROB QUARTEL: Do you guys want to—

CHRISTOPHER A. PREBLE: Hold water. I'm going to stick with the "hold water" metaphor.

ROB QUARTEL: Well, I'm not a professional historian, but you know that man wrote about ships and navies being critical—

CHRISTOPHER A. PREBLE: Yes.

ROB QUARTEL: —to national survival, both from an economic standpoint and others. In fact, the maritime industry is critical. As I said, I think it's 92 percent today of all goods come via ship from overseas, and that's a big chunk. It's about 25 percent of the economy, if I remember correctly, somewhere in that range. So a lot of American jobs depend on trade that comes in and out on ships, and the balance of it, which you described it exactly accurately in terms of capacity bumping—you know, it kind of works against us in some ways. But airplanes were only first used in World War I. They weren't thinking of airplanes as sort of a strategic asset so much at that moment. It was something new.

But that does raise the other question, which I started talking about. If you want to build a fleet to carry your goods—and they're still going to need a fleet to carry these massive amounts of fuel and machinery and all that, and they fly some, but they mainly don't—then they should be thinking about what that new policy is. How do you build a fleet? And they've talked about everything from literally building a fleet or paying the cost of ships that would be able to be swapped in and out, and some of our ships can be. There have been a lot of schemes, but I personally think it's a great time to be looking at the shipping market.

I think ships are probably at a pretty low cost right now. I mean, you could go out and buy a bunch of ships. You could buy a couple hundred ships and put them in commercial use and retrofit them. They would be newer than the ships we have. The ships we have, I think around 30, 31 years old, on average. It's like the average ship in the world, fleet is probably around 12. The average life, the useful life of the ship is 20. So we're way past that. They should be thinking about how to solve the problem.

The problem, manpower, is yet another problem, interesting thing. So the Navy is researching, like everybody else, autonomous vehicles and autonomous airplanes. They're going to be throwing autonomous aircraft and autonomous everything, tanks, doing tanks—I used to be on the Army Science Board, so we were way back thinking about these things—throwing that in. And they're going to be throwing ships in. So that would reduce the manning requirement.

And then shipbuilding, this is a question for the defense theorists. How likely is it that we will be able to build ships in any war going forward? Now, Afghanistan is now the longest war in American history. I think that's, however many, 15 years or something. We could have built ships for that.

CHRISTOPHER A. PREBLE: Yes.

ROB QUARTEL: And any given ship would have been 25 percent of the cost of the war so far, given the cost of building a ship. Ships here cost three, four, five, six times what a ship costs in

the world market because we don't have long production lines, because we don't have demand, and it's just this vicious cycle. You can't build a ship at a world price because no one will finance it. It has to be an American company essentially financing it. They're not going to pay for something that can't be sold in the global market. That if it is sold, it's sold for 20 cents on the dollar. So it's just this big vicious cycle. So I think the military should be thinking about how to address their problem.

CHRISTOPHER A. PREBLE: And, Nick, you raised this a little bit, and you guys talk about in your paper, about actually having the military come forward and explain what would be required, under what circumstances. Talk a little bit more about that.

NICK LORIS: Yeah. I mean, that's honestly just what we want, is just to have an open, honest, transparent conversation about what DoD needs and how best to get that.

CHRISTOPHER A. PREBLE: It's also about under what set of circumstances. There are certain assumptions in terms of how long you will have to mobilize these resources to get them to a particular place, over what distance, so it's a question of sort of the urgency of it and the time.

And it seems to me that the other side has to rely on what seem to me to be some pretty sort of dystopian counterfactuals of this is what we have to worry about. We heard someone today invoke the Falklands War, but of course, the most recent naval war that we fought where this came into effect, in the Gulf War, we can see that those dystopian counterfactuals were not true, or if anything, they do not contribute—they would not support continuation of the Jones Act. They cut in the opposite direction, it seems to me.

NICK LORIS: Yeah. And I think the unfortunate thing, as to what Rob was saying, is that, unfortunately, sometimes they are told what politicians tell them to do rather than actually being sincere, and then proponents of the Jones Act pay huge sums of money to retire officials to write op-eds. And then that makes them look good from a national security perspective, but again, it's just all this—

CHRISTOPHER A. PREBLE: Right.

STEVE ELLIS: Also, from the Pentagon's perspective, it's not worth the fight.

CHRISTOPHER A. PREBLE: Yes.

STEVE ELLIS: There's no upside for them to come out and say, "Oh, we don't really need the Jones Act."

CHRISTOPHER A. PREBLE: Right.

ROB QUARTEL: Right.

CHRISTOPHER A. PREBLE: One other thing, I think it was Bryan Riley from NTU brought up this morning about the potential for greater foreign investment in the American shipbuilding industry. So the concern expressed that if the same sort of protections were not afforded, the handful of American shipbuilders that are building Jones Act ships, then there would be foreign investors coming in and representing a national security threat. He pointed out we have already a process for reviewing foreign ownership of American assets, the CFIUS process, which has now been essentially reformed and updated most recently, something that I started to look into a little bit.

Anyone want to comment on that at all? Do we not already have regulations and oversight in place that would mitigate the most harmful effects of that?

STEVE ELLIS: As Bryan and you raised, yeah. I think that's absolutely the case, and obviously, if that does become something of a concern, it's something that could be dealt with in the context of a Jones Act repeal or reform to make sure that that isn't a problem.

But, again, we're not building ships. You know what I mean?

CHRISTOPHER A. PREBLE: Right, right.

STEVE ELLIS: So it's less of an issue in that respect.

ROB QUARTEL: So I also think it's worth talking about some definitions too. We do build ships. We build tugboats, and we build service boats for oil platforms and things like that. Those are smaller. We build research vessels, and we actually have various tiers of shipbuilding industry. There's a very robust barge building industry. It's basically steel bending. We're good at that. We could sell barges all around the planet. We probably do.

We have a pretty robust middle tier that builds small ships, and a barge is flat. A ship has a hull. Then there are the yards that build what you would call deep-draft ocean-going ships, and that's what you really need for military. That's what we really don't have, and that's what's dropped from 2,000 to under 200 today. Of those, only a certain percentage can be used. So I think you have to sort of decide where you want to go on that.

And another piece of history, in the '90s, the Clinton administration was negotiating a treaty, a shipbuilding treaty—I think someone even alluded to that in one of the earlier speeches too—on eliminating shipbuilding subsidies from around the planet.

CHRISTOPHER A. PREBLE: Yeah. Right.

ROB QUARTEL: Our position was we did not subsidize ships, even though we had a direct subsidy for buying a chip and even though the Jones Act subsidizes ships by closing the market, but they were very close. There was a guy named John Stocker, who was head of the Shipbuilders Association of America, something like that, and they really headed really close to

basically eliminating all of this. The medium-tier yards that I was talking about, they were all for it because they knew they could compete. But the big yards killed it.

CHRISTOPHER A. PREBLE: Right, right.

ROB QUARTEL: So they were close. There was always competing interests in this town.

CHRISTOPHER A. PREBLE: Okay. Anything else that I haven't raised before I throw it open to the audience that's chomping at the bit to talk about this? Is there anything else?

ROB QUARTEL: No.

CHRISTOPHER A. PREBLE: All right. I will throw it open to the audience. We have a few rules here at the Cato Institute. First of all, wait to be called on, and wait for the microphone for the benefit of those who are watching online in particular. Announce your name and affiliation, if you have one. We know you have a name. You may not have an affiliation. The Jeopardy rule applies here at the Cato Institute, which means frame your question in the form of a question, please.

Who would like to be first off here? Oh, don't be shy. All right. Here, right there.

ED CATTELL: Ed Cattell. In years past, there was quite a bit mentioned about what was called the effective American-control fleet. These were the Panamanian, Liberian ships, now Vana too, I guess—

ROB QUARTEL: Yeah.

ED CATTELL: —that were American-owned, American-controlled.

ROB QUARTEL: Right.

ED CATTELL: They just didn't have American flags. My impression is that more recently, that fleet has turned into giant VLCCs, bulk carriers.

ROB QUARTEL: Yeah.

ED CATTELL: They're not really ships that the military can use. Is that correct?

ROB QUARTEL: I admit I don't know the current figures, but it makes a lot of sense. And you are correct.

Well, the military does need—they need fuel. They consume two big things, liquid bulk. One is fuel, and the other is water from the Army Science Board. So I wouldn't be surprised if that's the case.

The economics for container shipping are not there in general. That's why there's so many ships running around at a cheap price right now, and of course, we have these massive, massive 20,000 container ships coming online. We may have a port that can hold them, and that, by the way—that's an opportunity for American shipping.

In Europe and Asia and all the rest, you have transshipping. Transshipping is when—you think of direct shipping; it goes to a port. And everything comes off. You put it on railroads or trucks, and it gets dispersed. We have a very large port, not far south of here, which is Norfolk, Newport News. They're at the end of the rail corridor, basically, and L.A. as at the end of the corridor, most of these places. And the military, by the way, studies that. They really want to know that they can get the stuff from depots and out.

In Europe—and it's going to happen here for the same reasons—and mainly Asia, these big ships are going to come in, and then they're going to put it on other smaller ships. And then they're going to disperse it by water because that's cheaper than trying to do it by rail or truck. Some of those may go to other places and disperse by barge or by something else, and the process works in reverse. So small loads will get consolidated into medium-size ships, and they'll get consolidated into big ships. And it reduces travel and everything else. Of course, it also reduces labor costs because these big ships—one of these giant carriers can run with probably 17 people, probably less. The Japanese have been running ships with 11, 12, 13 people for 30 years—versus there's probably still a ship in the U.S. Jones Act fleet that requires by law 30 people. I don't know for a fact, but I'd be willing to bet.

CHRISTOPHER A. PREBLE: Yeah. I was going to ask a related question. You addressed it a little bit, Rob.

ROB QUARTEL: So you're probably right.

CHRISTOPHER A. PREBLE: It is not obvious to me that the types of ships that are being constructed in compliance with the Jones Act are the types of ships that we actually will need today and into the future, and then that raises the question about sort of not merely the suitability of those ships, but the adaptability of the yards that we have to build different types of vessels that will be more relevant in the future.

ROB QUARTEL: So the main companies that order ships that the military could use would be Crowley Maritime, which has some containers and a lot of oil and product, and then Matson Navigation and then Totem—it's got a different name now—out on the other side of the—and Matson goes back and forth to Hawaii and around. The issue there is they're building—when they order a ship, it's the kind of ship that can be used, but they have no excess capacity because it costs so much for them to ship.

CHRISTOPHER A. PREBLE: Right, right.

ROB QUARTEL: So they don't have one standing by. Literally, it's what happened in the Gulf War. If they get a call, they're going to lose a market.

CHRISTOPHER A. PREBLE: Other questions? Right here in front, and I see you over there, sir.

ATTENDEE: Jay Vaughn [ph], no affiliation.

This is primarily directed for those at the Heritage. Heritage is a pro-military think tank. I just wanted to know if you're aware that every year, the Navy League has their Sea-Air-Space event over at the Gaylord Hotel over at National Harbor. Have you heard of that? I went to the last one, and they had a session on the Jones Act. And every speaker was pro Jones Act.

ROB QUARTEL: Right.

CHRISTOPHER A. PREBLE: Right.

ATTENDEE: So I was just wondering if you were aware of that and whether you could have influence to change some of that.

CHRISTOPHER A. PREBLE: Yeah. I mean, I had a related question. I do think this is mostly for you, Nick, because Heritage has done a lot of work on this, and I'm sort of curious what the reaction has been, sort of weighing in on this as a national security issue and how you've responded to that.

NICK LORIS: Yeah. So I am on our domestic policy team. So I work on energy policy, as I mentioned earlier, but I think that's one area where Heritage is trying to bring more credibility to this argument to the table that this is not a national security benefit, that it actually hinders national security. And we do have a lot of ex-military, retired military who are universally opposed to this policy, and so it's our goal to get those people in front of as many people as possible to talk about why this is wrong.

I think in private conversations, a lot of these guys will say, "Yeah, it's done," but as Steve mentioned, publicly they're either being paid to say something else, or the juice isn't worth the squeeze for them. And that's unfortunate. But we try consistently, and it's been a white whale of our organization since well before I came to the Heritage Foundation 10 years ago. You're fighting an uphill battle because of the benefits versus the cost there.

CHRISTOPHER A. PREBLE: I think related, Rob, so you mentioned being part of this coalition going back to, what, '94, '95. Is that right?

ROB QUARTEL: Yeah.

CHRISTOPHER A. PREBLE: And so what happened? You obviously didn't succeed that last time around. So what happened?

ROB QUARTEL: That's right. Well, believe me, I have other things to be doing too.

[Laughter.]

ROB QUARTEL: Just one more quick comment on the Heritage thing and your point, the pro-Jones Act forces have a very active lobbying effort and PR effort ongoing, and it's been ongoing ever since—maybe it was '96 that I headed up this organization, Jones Act Reform Coalition, JARC, because they were taken. They were blindsided by it. What happened was a group of North Carolina farmers, who had been unable to get grain during a snowstorm, they used to get it by ship, and then they could no longer get the grain ships. They wanted specific ships. This is the only business you will ever see where they don't care what the customer wants. You're the customer. You should take what we got.

So there are specialized ships to carry grain, and the grain shippers and the buyers and sellers want it in those ships, but there were like two left. And I don't think there are any left today. There are specialized ships that carry salt or rocks, minerals, and specialized oil tankers. The industry's response to the farmers on getting grain by ship was, "Well, we'll clean out an oil tanker for you."

[Laughter.]

ROB QUARTEL: Now, it may be, technically, that there's no phenols or any kind of smelly stuff left in the ship and it's perfectly fine, but they didn't want it. But that was all they got. This was like the Hawaiian cattlemen.

So it's agriculture, big agriculture and small agriculture, hog farms all around, chicken farms, everything else. They couldn't get the grain. They ended up getting it on trains, and then it snowed one winter, so that they couldn't get it in, in time, to feed their stuff. Now, we all know hog farmers have other issues like pollution. Then the Hawaiian Cattlemen Association, Akzo Salt was part of it, the Farm Bureau. I mean, anybody who would like to have shipped, the timber industry—the oil industry, interestingly, didn't join because they, of course, are very concerned about their PR. They supported us behind the scenes, but I don't ever remember us getting any money. And it was because they sort of—you've alluded to this, which is that is it worth the fight. It's not going to change.

One year, Trent Lott said to me, "Rob, you've made more money for lobbyists in this town than you possibly know on the Jones Act." I've created a whole bevy of lawyers when we started this organization, the Jones Act Reform Coalition, and we were outspent easily 20 to 1. We did get legislation introduced several times. McCain introduced legislation.

CHRISTOPHER A. PREBLE: Introduced it. Yeah, yeah.

ROB QUARTEL: We got a hearing for the first time on the Jones Act that was open and balanced.

CHRISTOPHER A. PREBLE: See, that story to me, there is a national security angle on stories like that, which is if you believe, as I do, that one of the things that makes us secure is our dynamic economy, our competitive economy, and our multiplicity of sort of logistical ways to get things from place to place—again, navigable rivers and roads and all those sort of things—anything that you have in place that disrupts what otherwise would be a very sort of dynamic networked market is a national security risk. You are undermining that.

ROB QUARTEL: But the military is used to doing workarounds.

CHRISTOPHER A. PREBLE: Yeah. No, I understand that. Right.

ROB QUARTEL: This is all a bit workaround.

CHRISTOPHER A. PREBLE: Yeah, workaround.

ROB QUARTEL: The only people who get waivers, by the way, are people like the Jones Act carriers when they can't get a ship in time. They want to get somebody else's ship and waiver it in.

CHRISTOPHER A. PREBLE: Sir, you had a question—I'm sorry. Did you want to add—

NICK LORIS: I was going to add just one quick anecdote to your point about them being well funded and well organized. I remember I wrote one blogpost for Heritage's website like 5 or 6 years ago. So I'm a guy in my mid to late 20s, and I got responses left and right. They brought four-, five-star generals in to meet with me, and I was like, "Oh boy, I don't know what I just did." It scared me a little bit. But, I mean, that's who they are. We brought all our security folks in, and it was a cordial conversation. But it was a very much "agree to disagree," but that's what they do.

ROB QUARTEL: Well, they have a bevy of hired generals.

CHRISTOPHER A. PREBLE: Sir.

WILLIAM HEMSLEY: Thank you. William Hemsley, Legislative Structures.

In terms of national defense and the means and ends, therefore, could you explore for me your perception of the tension between the Jones Act and the Defense Production Act of 1950?

ROB QUARTEL: And the which one?

WILLIAM HEMSLEY: The Defense Production Act.

CHRISTOPHER A. PREBLE: Defense Production Act. It's out of my area. Do any of you know anything about that?

ROB QUARTEL: Nope.

STEVE ELLIS: I can't.

CHRISTOPHER A. PREBLE: Do you know? Tell us more.

ROB QUARTEL: Tell us what you're thinking and where you're going.

CHRISTOPHER A. PREBLE: Do you know, sir?

NICK LORIS: Exception to the rules.

WILLIAM HEMSLEY: Essentially, the DPA breaks into three parts: how to permit the military to rapidly obtain capital assets of some significance, complexity, and time delay. Under the statute, the President can make a presidential determination that even for a prolonged period of time, he might want to, in this instance, allocate to the Department of Defense the authority to go into ship production, and the question I had latently was, If they did that on the DoD side and then leased the ship out to Jones Act operation, what would that do to the capital asset structure that the shippers would be looking—the ship operators? I'm sorry.

CHRISTOPHER A. PREBLE: That's a good question.

ROB QUARTEL: And it's actually something that I think has been explored obliquely several times.

In the past, they've considered acquiring your own ships, and there's a set of ships that are run, that are owned by the military to manage supply and other things. And they are essentially manned by—probably half of the active seamen today and officers are on those ships that the military owns, and the commercial seamen are on those ships. So it's not the commercial fleet that's keeping them busy. It's this one.

The issue is a little bit about free markets and is it a temporary solution. If I were going to do it—and I had the authority or didn't like the President, this current President—and I'd say, "Well, just open them up and spend some money on helping people buy ships," I think you could buy a fleet today and throw it into commerce, but you're right. You'd probably have Matson Navigation would want to expand, and you have Crowley and all these others who are currently Jones Act operators. They want a piece of the pie. You have new guys.

My friend over here and I just might do it, you know, raise a couple hundred million dollars and buy a bunch of ships on the world market. You could do it, I think.

Yes, it would be disruptive. Yes, it would create a domestic—I think it would incent a domestic shipping market. Railroads would oppose it. Maybe the ATA would oppose it, the truck guys. Farmers would support it. Everything has pros and cons, like my friend here from Rice was

talking about. All these pieces balance out somewhere. So it would be much better if you could set up the free market to work.

CHRISTOPHER A. PREBLE: All right. I'm going to turn my body deliberately to the left so that I can take a question from this side of the audience. Yes, sir, on the aisle there.

ROB QUARTEL: They're on my right.

CHRISTOPHER A. PREBLE: Yes. Yes, sir.

ATTENDEE: Thanks. A number of speakers have alluded to the great amount of international trade this country engages in and the large fraction of that that goes by ship, and also others have commented on the sizes of ships now. They've grown enormously. A speaker this morning talked about the need to dredge harbors just to make them functional.

CHRISTOPHER A. PREBLE: Right.

ATTENDEE: And along with that goes the need to buy cranes and have huge piers. The whole thing expands. A consequence is you don't need as many ports as you used to for a given amount of trade, and so the number of ports we've had has just shrunk over time as the—the ships have gotten bigger, but also, as coastwise trade, which involves smaller ships carrying less, stop shortages and has eroded. So my question is, I mean, that has done away with an awful lot of ports that used to be available for security reasons. I would like someone to comment on that.

CHRISTOPHER A. PREBLE: I think that speaks a little bit to what you were talking about in terms of the—

STEVE ELLIS: Right. As I was saying, the U.S. coastwise trade in Great Lakes has fallen 45 percent since 1960, and the Jones Act, I think, also, again, has been one of the issues for inhibiting the development or the continued or even expansion of that market. When you look at every other form of transportation—railroad, trucking, pipeline—it's all gone up in that same time frame—and river navigation as well.

So there's a couple things that I want to flag. We were talking about the dredging earlier. I was here for that panel. One, the Foreign Dredge Act is absolutely ridiculous. It makes the Jones Act look more—

CHRISTOPHER A. PREBLE: Look reasonable.

ROB QUARTEL: It's the brother law.

STEVE ELLIS: The other thing is, though, that ships can come in light-loaded. Just because the ship has a certain draft—and they're building ships that are much, much deeper than U.S. ports

can sustain, so you can light-load ships, but then also I think that if you got rid of the Jones Act or significantly repealed it, you would actually see some of this coastwide trade going to some of these smaller ports.

The other thing I would flag is the dredging in this country, the maintenance dredging—so not the construction, as I mentioned the construction for deepening is 65 percent federal, 35 percent local. It's a slight in cost share if you're only going a little bit less. But all the maintenance dredging is paid for by the harbor maintenance tax, which is an ad valorem tax on the value of products being imported. Actually, Congress doesn't appropriate to that level of what they actually generate each year. It's an offset for the deficit. So that was the one thing that I would flag is that there's actually more—it's an unwillingness of Congress to appropriate for all the maintenance dredging needs.

Now, a lot of this are these tiny little ports on the Great Lakes that I don't think are necessary to be dredged, but anyway, I just wanted to clarify that point.

ROB QUARTEL: So I can add a little to that too. I agree with all that. I think it's worth noting, going back to this issue of what does the military actually need, not what they're stuck with, what they need. They need not just container ships or oil ships. They also need what are called "ROROs," roll-on/roll-off. The end of the ship comes down. It creates a platform. They roll vehicles up on it and just sail it away.

I don't know how many of those we have anymore, much less Jones Act-qualified, and this is part of the pretentiousness of the debate—and you may hear some of this later—about, well, we've got all this vast fleet. Well, you can't use them. Part of the Jones Act fleet is landlocked in the Great Lakes. They can't be used.

But I do think we should go back and get the military to say what they really need. On small ports, again, when I was on the Science Board, one of the issues is the military wants to know how deep every possible ship landing is on the entire Planet Earth. So when they get up there, how deep a ship can they do? Believe me, they are not going to use 20,000 or 10,000 TEU ships. These are big ships. They're going to use the class of ships that we just replaced that, by the way, would go to mid-tier ports. So there is a need. They have a different need in all of this.

STEVE ELLIS: Also, this sort of pushes towards all the deepenings and everybody wanting to be able to have the container ship. It's 35 percent is coming from the Port Authority or from the state or whatever. Those are investments that should be made on the land side, like it actually is where—that's where we lag the world dramatically is our efficiency on the land side of our container ports and how quickly we can move products through.

CHRISTOPHER A. PREBLE: Off, out of the port, you're saying.

STEVE ELLIS: Yeah, exactly. Yeah, exactly. But, unfortunately, when you look at the funding sources, the Corps, that's not what they can do, and so they're pushing the deepenings.

On the military side about knowing the harbor, just one little fun fact, in the Clinton administration, the first U.S. warship that went into Port-au-Prince was a Coast Guard buoy tender because the Navy wouldn't go in until somebody already like marked the channel.

CHRISTOPHER A. PREBLE: A little Coast Guard-Navy humor there. Very good.

[Laughter.]

NICK LORIS: This gets back to the earlier question too. Think about the Defense Production Act too. It is just getting to a sincere debate and requirement as to what is actually needed for national security purposes because, DPA, this administration was talking about to bail out coal and nuclear plants, which would be disastrous for the taxpayers and ratepayers. So I think if you can actually use the DPA in a way that gets to what the military needs for sincere national security purposes, that's great. If you don't, it could be a slippery slope for subsidizing a whole bunch of economic—

CHRISTOPHER A. PREBLE: Lots of mischief. Lots of mischief.

NICK LORIS: Right.

CHRISTOPHER A. PREBLE: Right there, John. And then I see you on the wall there. I might have time for—let's group these questions together. So go ahead, John. I got one over on the wall, and I got this gentleman right there in the front. Go ahead, John.

JOHN KING: Okay. John King. I wanted to spin off on what Rob was saying as soon as we go into the shipbuilding business. On Nicholas' side, you made the point earlier about setting the requirement on the military side and that's what maybe Heritage had done. I was thinking about maybe the part of the Jones Act is simply separating the arguments, and even if we only use one Jones Act ship, say, in the Persian Gulf War, if the military decides they need, say, the total number that was employed during the first Persian Gulf War, that's the quantity that maybe you separate and create some kind of subsidy kind of thing for a military convertible ship, like the way the Brits did in the Falklands, and then that separates the whole argument on the purely commercial domestic side of the Jones Act as a way to go away.

CHRISTOPHER A. PREBLE: Sir, you there, and then if you could get that gentleman on the wall. We'll group these questions together, and then you guys can answer the questions that you want to. Up there, right there on the wall in the yellow tie. Go ahead, sir.

JUSTIN LeBLANC: Great. Thank you. Justin LeBlanc with Crossroads Strategies, representing Seattle-based commercial fishing interests.

Your discussion about the applicability or the utility of Jones Act subject vessels to national security arguments is interesting, of course, because the Jones Act is also applicable to commercially built fishing vessels, including large-scale commercial fishing vessels, that the hull is filled with factories and bunkhouses. So their utility for moving cargo is nonexistent.

In order to end this with a question mark, have any of you in your analysis thought about the particular application of the Jones Act to the fishery sector as opposed to arguably the much larger shipping sector?

CHRISTOPHER A. PREBLE: Thank you for bringing that up too. Finally, you, sir. Go ahead.

CMDR JOSH TAYLOR: Commander Josh Taylor, military fellow at CSIS. It seems to me that the question regarding the defense underpinnings of the Jones Act is perhaps built on a bit of a fallacy. It seems to me that it's built on the assumption that the United States will fight a foe by itself in a vacuum, and we haven't fought a near-peer competitor solo since the Civil War.

So my question is, given that fact, are there mechanisms through NATO that we can charter NATO-member vessels under Article 5? And I'm pretty sure there are. My main concern is that these similar mechanisms don't exist for scenarios in the Pacific, which is of a concern, if you could address that.

CHRISTOPHER A. PREBLE: Three great questions. Take any one that you wish.

ROB QUARTEL: You guys want to go first?

CHRISTOPHER A. PREBLE: Yeah. Do you want to take any of those?

This is a Washington audience, so we answer the question we want to answer.

STEVE ELLIS: They're all good questions.

NICK LORIS: Or don't answer any of them.

STEVE ELLIS: I'll take the last one. So I think one is when you're bringing that up, it makes me think again about the Foreign Dredge Act, so going to the last question first, and that is the largest—leaving aside China, which has significant dredging operation, but it's the Netherlands and Belgium.

CHRISTOPHER A. PREBLE: Belgium, yeah.

STEVE ELLIS: So it's just that here, these are our NATO allies that we're essentially precluding from competing in our own domestic production.

CHRISTOPHER A. PREBLE: And they have capacity.

ROB QUARTEL: Yeah, exactly. Much more capacity than we do and better cost, as was demonstrated earlier. But we do live in a world where steel from Canada is a national security threat. That's also something.

Anyway, I do think that is certainly sort of pooling or even treaties and agreements and things along those lines could clearly be done that could meet that capacity and make sure that we're able to meet with what the military's needs are.

Then the other thing is—and this would kind of get to—I think Cato would appreciate this. We keep going back to the Persian Gulf War. Notice we're not talking about the Iraq War, and some of that is because that was one where we got international consensus on our side that then made it much more likely to have allies come in and also deals with how we pick our battles and our wars.

CHRISTOPHER A. PREBLE: Yes, absolutely. Well said. I do like that.

NICK LORIS: I'll just quickly add on the first question. Yeah, I agree. I think the more you can separate it out and have sincere national security benefits, those should be paid for by all the taxpayers. And the more you can separate that out, I think the better off we would be.

CHRISTOPHER A. PREBLE: Very good.

ROB QUARTEL: Yeah. Yes, we used to think about fishing. I would guess that you—but if you left the United States and you caught fish and you delivered them to Japan, you would not have to be a U.S.-flag Jones Act ship or U.S.-flag ship. But if you bring it back to the United States, they have to be on a high-cost, expensive Jones Act fishing boat.

JUSTIN LeBLANC: Or in U.S. waters.

ROB QUARTEL: Yeah, or in U.S. waters. That's right.

So the law applies broadly to all ships, okay? The sister law, the Passenger Vessel Act, which is the Jones Act equivalent, and then the dredging—and the pieces are very similar. On the passenger side, we actually sort of had the passenger people interested in this coalition too, but they decided they might be able to get it passed without us. At the time, there were two—two U.S.-flag passenger ships still in operation in the mid-'90s, both over 40 years old. One of them sank on the way to Hawaii, and the other one was—I think it was refitted or something. It's still sitting on the dock, I think, in San Francisco or somewhere. So, really, there's all sorts of workarounds on passenger ships, just like there are in fishing and everything else. And passenger ships, we have the trips to nowhere out of Florida.

I'm from Florida originally. Cruise ships would like to go to the Bahamas and this and that, and they couldn't be U.S. flag. They had to be U.S. flag, but they were going to start in the U.S. and then go on a trip. And there just weren't the ships, so they created workarounds.

I do think at the core of this—and this is back to our friend in the corner—is what the military needs, and they are—I think they are classic, in the Washington sense, that they do not want to rock the boat, and they don't know whether it's worth it.

You remember Trent Lott said to me, thinking about the lobbyists—he also said this not going to go away until John Breaux and I, Trent Lott, and Ted Stevens and Dan Inouye are all gone from the Congress. Well, they're all gone, and it's still here, okay?

So, as Mike Hansen pointed out earlier, there is a new Congressman from Hawaii who is anti-Jones Act. Well, that's a big deal because we have not had anybody from those states who really would take it on. Alaska opposed it because they were the original victim of the Jones Act.

Sarah Palin opposes it, and I'll tell you what, when Sarah Palin tweets on the Jones Act, this industry quakes. But it is a huge PR effort. They are everywhere.

I helped Jeb Bush in the primaries last year. I was coming down to see him one day, and as I'm leaving, there's a group of your admirals who had just briefed him about the national security implications of the Jones Act, how important it was. I recognize all of them. They're all on the payroll.

We have to get the military to be honest because we know they have to stand up and say what they really need, and then we have to say what we're willing to deliver in a commercial market. It's really pretty straight forward, I think.

CHRISTOPHER A. PREBLE: All right. With that, it's 2:30. I've got to consult my agenda to make sure I get this exactly correct here. So we have a break for the next 15 minutes. Please be back here at 2:45, and we'll hear about charting a new course, options for reform. Thank you all very much. Please join me in thanking our panelists.

[Applause.]