

# SHIP

## TECHNOLOGY

### Is it time for the US to set the Jones Act adrift?

Julian Turner

October 29, 2018

The Jones Act: an arcane law that should be consigned to the maritime history books, or a timeless piece of legislation that continues to strengthen US national security, and protect both maritime workers and the environment?

Outside of shipping circles, the question has been raised periodically, most recently in 2017 when President Donald Trump suspended the law for ten days to allow US-registered ships to deliver relief supplies to Puerto Rico during Hurricane Maria.

Under the Jones Act, the transportation of goods between US ports and on US waterways, known as cabotage, can only be carried out by a vessel that is US-owned, crewed (75% must be American citizens), registered and built.

Similar presidential directives were issued during Superstorm Sandy in 2012, and Hurricanes Irma and Harvey in 2017. During the latter disaster, which disrupted critical nationwide oil supplies from the Texas Gulf coast, President Trump's waiver of the act allowed foreign vessels to transport petroleum products between the Gulf coast and eastern seaboard.

Curiously, in a country such as the US, where the concept of the competitive free market as a key driver of human progress is sacrosanct, the Jones Act serves to protect the US shipping industry from foreign competition, something its critics say raises transportation costs and undermines efficiency.

“Justified on national security grounds as a means to bolster the US maritime industry, the unsurprising result of this law has been to impose significant costs on the US economy while providing few of the promised benefits,” stated a recent report by Washington-based libertarian think tank the Cato Institute.

#### **America first: support for the Jones Act**

The Jones Act, or to give it its precise name, the Merchant Marine act of 1920, was enacted in the aftermath of WWI, following the destruction of the US fleet by the German navy. Its aim was to bolster US maritime commerce and both the civilian and military industrial bases.

The withdrawal of merchant fleets for wartime use left the US with insufficient vessels to conduct trade and later to transport war supplies and materials, as well as troops to Europe. Thus, primarily, the act was passed to prevent the US from having insufficient maritime capacity in future conflicts.

The Jones Act states: “It is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the US 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.”

Nearly a century later, supporters of the Jones Act in the US Congress argue that the law still has a vital role to play in strengthening US border security and preventing international terrorism and that abolishing it risks handing control of US ports, domestic shipping and shipbuilding to foreign powers.

Vocal advocates, such as Senator Duncan Hunter (R-CA), have also argued that the requirement that all transport between US ports be carried on US-built ships provides invaluable support to the US shipbuilding industry in the face of fierce competition from foreign shipbuilders and suppliers.

The act also contains important information pertaining to sailors’ safety and employment rights and also requires that all US vessels comply with Environmental Protection Agency (EPA) regulations.

Importantly, its supporters argue that it achieves all these goals without placing an undue burden on US consumers and taxpayers.

### **Too high a price? Protectionism and transportation costs**

In a stinging critique of senator Duncan Hunter’s support for the Jones Act, Bloomberg’s opinion editor James Gibney begs to differ, arguing that US taxpayers and consumers are paying the price for a century-old law “that deserves to die”.

“Despite the protectionist grip of the law on coastal commerce, the US shipbuilding industry and coastal shipping continue to sink,” he writes. “From 1983 to 2013, more than 300 US shipyards shut down. The number of oceangoing Jones Act-qualified ships of more than 1,000 tons has shrunk by more than half since 2000. Even as the US economy has more than quadrupled since 1960, the amount of freight carried by US coastal commerce has fallen by almost half.”

The Jones Act’s critics – and there are many – argue that the near-century-old law is outdated and protectionist, unfairly benefitting the few – among them US companies and labour unions, and their supporters in Congress – and shielding the US shipping industry from international competition, resulting in higher energy and transportation costs, and lower levels of efficiency and innovation.

It is a view shared by the late senator and presidential candidate John McCain, who described the Jones Act as “an antiquated law that has for too long hindered free trade, made US industry less competitive and raised prices for American consumers”.

According to the Cato Institute, US-built coastal and feeder ships cost between \$190m and \$250m, compared with \$30m for a similar vessel in a foreign shipyard, meaning that US firms buy fewer ships – relying instead on outdated legacy fleets – and US shipyards build fewer vessels.

### **National security and environmental impacts**

On the key issue of national security, the Cato Institute’s report, titled ‘The Jones Act: A Burden America Can No Longer Bear’, states that “closer scrutiny finds the law’s national security justification to be unmoored from modern military and technological realities”.

“The argument a century ago, and since, has been that a domestic shipbuilding industry is essential for national defence. Maybe so – but if that is the goal, the Jones Act is sorely failing to accomplish it,” reports the *BBN Times*. “Instead, the navy can’t afford the extra ships it wants, the number of available US civilian ships and the knowledgeable workers to run them is shrinking, and military operations have had to find ways to make use of foreign ships.”

According to the World Shipping Council, maritime shipping “is the world’s most carbon-efficient form of transporting goods – far more efficient than road or air transport”, producing 10–40g carbon dioxide (CO<sub>2</sub>) to carry one ton of cargo one kilometre, compared with 60–150g for trucking, whose tonnage, according to the US Department of Transportation, is forecast to grow 44% by 2045.

Therefore, the argument goes, higher maritime transportation costs as a result of the Jones Act also lead to collateral damage to the nation’s already overstretched and deteriorating infrastructure, as well as the accumulated health and environmental toll caused by CO<sub>2</sub> emissions.

In addition to being suspended by presidential decree in response to natural disasters, the Jones Act has been amended several times, most recently in 2006. In an increasingly politicised debate, many now argue that, almost a century after it was enacted, it is time for it to be repealed – leaving the US shipping industry to sink or swim.