



# P E R S P E C T I V E S

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## **100 Years Old and Useless!**

*What once was good has become anachronistically bad*

We all were able to witness a television treat last week when we saw three centenarians (folks over 100) appear on camera to share the horror of their childhoods as they witnessed, in person, the Tulsa Race Riots which President Biden more correctly labeled a “massacre”. Those brave individuals who shared their stories spoke to the history of the Tulsa Massacre with mental clarity, philosophical presence and a cogency that belied their chronological ages. That is proof positive that much can be gained in wisdom and perspective when one is fortunate enough to live more than a century.

As a general rule, living that long, as an individual or as an institution, can be of great value over time. The vivid remembrances of the Tulsa Massacre of 100 years ago as brought to life by those few survivors is of great value to us as we set our moral compass for the society we wish to become. On the other hand, the opposite is also true: sometimes surviving 100 years or more can be a bad thing, leading to outcomes that limit, befuddle or downright complicate a fully functioning society. For example, a statute like the Jones Act. While the testimony of those Nashville survivors is extremely useful, the continuing tyranny of the Jones Act is just plain useless—or worse!

The Jones Act was passed to protect the US Merchant Marine, a facet of our society that was hugely important in the last century, but which barely even exists today. Specifically, Section 27 of the federal Merchant Marine Act of 1920, is a “cabotage law” (a law dealing with ships at sea) that requires ships carrying merchandise or passengers between U.S. ports to be U.S.-built and flagged, and 75 percent owned and crewed by Americans. This is a series of well-intended (at the time) but extremely counterproductive measures to protect union jobs at a massive cost to our new maritime states of Alaska and Hawaii. Over the last eight decades, even the union members have long since moved on to other occupations.

Basically, the Act restricts access of foreign flagged ships (meaning the country that maintains jurisdiction over the ship) which are carrying cargo or passengers from docking directly between two US ports without a stop at a foreign jurisdiction between them. If you think it is a terrible nuisance, you’d be right. In last week’s column we pointed out the challenges this law created for the cruise industry which necessitated Congress to pass, and President Biden to sign, the Alaska Tourism Restoration Act as a giant loophole to the Jones Act. Without such a loophole, Alaska tourism by ship would have been hobbled.

If you live in Hawaii instead of Alaska, you’d be even more upset. The Grassroots Institute recently released a study concluding that the Jones Act overall costs Hawaii \$1.2 billion annually, eliminates 9,100 jobs in Hawaii at a cost of \$400 million, and reduces Hawaiian tax revenues by approximately \$150 million. The “surcharge” for container shipments due to the Act versus international shipping rates is 16 percent and for bulk cargo it is a whopping 59 percent. That’s a lot of damage for a small state like Hawaii to absorb. It also explains why there is far more cruise ship activity in the Caribbean than there is in Hawaii, even though one could argue that the Hawaiian Island chain has as much variety and beauty as those of the Caribbean.

Based on Alaska and Hawaii’s experience, the Jones Act is worse than useless—it’s downright destructive. Why, and how did this come about?

In 1920, much what we received by ship in the US came aboard ships that flew the American flag, and the seamen that manned those ships were Americans. To preserve the seaman's union power on the docks, the Jones Act was intended to make it uneconomic for any other country to use its vessels to carry passengers or freight into US ports from other US ports, thereby conferring an enormous economic advantage for American flagged vessels.

Today, it is a rare ship that flies the American flag for a variety of reasons, and there are scant union jobs to protect. The Jones Act is a pure anachronism with no present purpose or justification. As the purpose for the Act has long ceased to exist, there is no continuing public purpose for the restrictions it imposes on shipping. It complicates the business plans of all cruise ships and makes American ports far less attractive for those tourist-gorged vessels. It has been the source of major financial penalties for the states of Alaska and Hawaii. And now, it is interfering with windmills!

Here's the problem: Europe reportedly has more than 6,000 offshore windmills to tap the strong ocean winds and convert it to electricity back on shore, with plans to build many thousands more. The Biden Administration has set 2,000 offshore windmills for construction primarily along the East and West coasts. The Jones Act, however, would make it illegal to rent or buy one of the specially designed crane ships that are required to erect those offshore windmills. There isn't a single crane ship flagged by the US. Looks like the Biden Administration will need to create yet one more exception to the Jones Act, as Biden's commitment to offshore wind is clear and pressing. Just as some sort of exception should be created for Hawaii to ameliorate the economically harmful effects of the now 100-year-old and very useless Jones Act.

One very odd "bright light" on the horizon regarding this anachronistic law is that it is commanding significant bipartisan support, a most rare feat in the current political environment. Liberal Congressman Ed Case (D-Hawaii) has introduced legislation, with the support of conservative Senator Mike Lee (R-Utah), to radically revise the coverage of the Jones Act particularly as to non-contiguous US geography like Hawaii, Alaska, Guam, US Virgin Islands and Puerto Rico. The reader may recall that the government of Puerto Rico blamed the Jones Act for difficulty getting desperately needed relief supplies after their last massive natural disaster (Hurricane Maria of 2017) and last year's Hurricane Isaias.

Let's stop creating piecemeal exceptions to the Jones Act and "retire" (repeal) the darn thing all together. Congressman Case has three separate bills on the subject. Even better, a full repeal could possibly be an example that bipartisan legislation can still emerge from both houses. While being old can be a good thing, being "useless" is not.

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