Testimony
of
Mr. Joseph H. Pyne
Chairman and Chief Executive Officer, Kirby Corporation
Representing the American Maritime Partnership
On the Role of U.S. Ships and Mariners

Before the Subcommittee on Coast Guard and Maritime Transportation of the
House Transportation & Infrastructure Committee
U.S. House of Representatives
Washington, DC
May 21, 2013

Mr. Chairman and Members of the Committee:

Good morning. My name is Joe Pyne, and I am the Chairman and Chief Executive Officer of Kirby Corporation, the nation's largest inland and coastal tank barge operator. Kirby has revenues of approximately $2.5 billion per year and has a market capitalization of approximately $4.5 billion. We employ some 4,600 Americans and operate over 1,300 Jones Act vessels. Kirby has been in the marine transportation business since 1969. I am pleased to appear before you today on behalf of the American Maritime Partnership (AMP) to stress the importance of the domestic U.S.-flag fleet and the coastwise laws to our U.S. transportation system and the role that they play in meeting the economic, homeland, and national security needs of the United States.

Background on the American Maritime Partnership and Kirby Corporation

The American Maritime Partnership is the most broad-based coalition ever assembled to represent the domestic maritime industry. It serves as the voice of the U.S. domestic maritime industry. The organization's 450-plus members span the country and its territories and include vessel owners and operators, shipboard and shoreside labor, shipbuilders and repair yards, equipment manufacturers and vendors, dredging and marine construction contractors, trade associations, other coalitions, pro-defense groups, and companies and organizations in other modes of domestic transportation. These diverse but allied interests all recognize that a strong domestic maritime industry is critical for America's economic, national and homeland security and is best supported by maintaining the coastwise laws as the foundation of America's domestic maritime policy.

Kirby Corporation serves on the Executive Committee of AMP. Our company transports bulk liquid products throughout the Mississippi River System, the Gulf Intracoastal Waterway, coastwise along all three United States coasts and in Alaska and Hawaii. We transport petrochemicals, refined petroleum products, black oil products and agricultural chemicals by inland and coastal tank barge, and own and operate oceangoing tug and barge units transporting dry-bulk commodities in United States coastwise trade. The company also provides after-market service for medium-speed and high-speed diesel engines and reduction gears used in marine and power generation applications; distributes and services high-speed diesel engines, transmissions, pumps, and compression products; and manufactures and remanufactures oilfield service equipment, including pressure pumping units, for land-based pressure pumping and oilfield service markets.

The Jones Act is Crucial to Sustaining a U.S.-flag Domestic Industry

I am here today to tell you that because of U.S. coastwise laws—commonly referred to as the Jones Act—the domestic U.S.-flag fleet is alive and well, and with the continued support of Congress, it has a bright future.

More than 40,000 American vessels built in American shipyards and crewed by American mariners currently ply the coastwise trades. That industry sustains nearly 500,000 jobs, generates some $29 billion in labor compensation, and creates more than $100 billion in annual economic output, according to a study by PricewaterhouseCoopers for the Transportation Institute.

The coastwise laws of the U.S. are essential to the continued economic viability of the U.S. transportation system and to the maintenance of a U.S.-flag fleet to support that system. Those laws require vessels operating in the domestic trades—i.e., carrying cargo or passengers from one point in the United States to another point in the United States—to be (i) owned and operated by American citizens; (ii) built in the United States; and (iii) documented under the laws of the United States (which requires the use of American seafarers to crew the vessels).

At its essence, the Jones Act requires companies doing business in the domestic commerce of the United States to comply with American laws such as taxation, labor and employment, and immigration just as any business operating wholly within the United States would be required to do. It ensures a level playing field for all participants in the market. Notably, other transportation modes such as rail, aviation, and trucking have similar laws governing their domestic operations.

Today's domestic U.S.-flag fleet has proven its capabilities to meet the demands of the marketplace, and has the flexibility to meet the needs of shippers. This is nowhere more evident than in the domestic tanker and tank barge trades, where over the past decade billions have been invested in building new ships, barges, towboats, and tugboats for the marketplace. During the past five years, Kirby has invested over $2.1 billion in fleet replacement, acquisitions and capital improvements to its existing vessels.

Likewise, in the non-contiguous container trades, American carriers are investing in ships to meet shippers' needs. AMP member TOTE is not only building new state-of-the-art ships powered by liquefied natural gas (LNG) for the Puerto Rico trades—expected to be the largest ships of any kind in the world powered primarily by LNG—at General Dynamics NASSCO shipyard, but is also converting its two existing containerships to use LNG as their primary fuel source. TOTE's sister company, Foss Maritime, has also developed and built in Rainier, Oregon the world's first hybrid tug, which delivers the same amount of power and maneuverability as conventional tugs. These tugs dramatically reduce emissions and fuel consumption, and the design was awarded the EPA's Clean Air Excellence Award for Clean Air Technology in 2008.

And, consider the domestic offshore oil and gas service sector, where American companies continue to design and build some of the most sophisticated offshore supply vessels in the world. Hornbeck Offshore, an AMP member, last year expanded its DP-2 new generation offshore supply vessel (OSV) new build program to 20 ships, with options for 44 more OSVs. While these 20 coastwise-qualified vessels are being built at two shipyards in the United States for the Gulf of Mexico offshore services sector, Hornbeck expects these coastwise qualified ships to also service the deepwater and ultra-deepwater drilling activity in Brazil and Mexico. These ships will represent an approximately $900 million investment by Hornbeck.

Investments like this are occurring in virtually every segment of the domestic U.S.-flag industry—dredging and marine construction; tugboats, towboats and barges; passenger vessels; and tank and dry cargo vessels. Thousands of workers in American shipyards and related businesses build these vessels, helping to sustain the shipbuilding industry base. Thousands of American seafarers are employed on the new vessels, providing a pool of seafarers to meet military sealift requirements.

The domestic U.S.-flag maritime industry has demonstrated time and again that it can, and will, continue to meet America's transportation needs.

The Jones Act is a Jobs Engine

A few minutes ago, I touched on the issue of jobs created and sustained by the Jones Act. The PricewaterhouseCoopers study referenced above finds a half-million U.S. jobs attributable to the Jones Act. I can speak from my company's direct experience about those jobs and the employment opportunities our industry represents. These are good paying, career jobs, with attractive benefit packages.

For example, more than half of Kirby's employees—some 2500 Americans—are mariners on our vessels. Their average salaries range from almost $45,000 a year for a deckhand in our inland fleet to over $130,000 a year for our captains and pilots. Our company provides them with a comprehensive package of benefits including health and disability insurance, pension plans, 401(k) matching contributions and other benefit programs.

Training and career development is a vital component of working at Kirby. Kirby has its own training center that includes classrooms, dormitories and dining facilities, as well as training vessels and a state-of-the-art vessel simulator. That center provides all the training most vessel employees need from the day they are hired until they retire. Kirby can take a high school graduate with no experience whatsoever and provide him or her with the paid training and work opportunities to climb our career ladder to a job paying approximately $100,000 a year within a span as short as 3-5 years.

I have heard some Jones Act critics say that the Jones Act exists to protect only a few maritime unions. The fact is that the American maritime industry, like many domestic industries, is comprised of a union and non-union workforce. In fact, there are both union and non-union jobs within Kirby. In truth, while seafarers and shipyard workers who belong to unions play a critical role in America's maritime industry, the majority of seafarers and shipyard workers employed in the Jones Act segment of America's maritime industry are non-union. So support for the Jones Act is about American jobs—both non-union and union jobs—in the companies, in the shipyards, and on the ships. All American jobs are important, and all American workers employed in the Jones Act segment of America's maritime industry, whether they belong to a union or not, contribute to the economic, homeland and military security of the United States.

The jobs Kirby provides do not end with our own payroll. I know the shipyards will also speak today, but building and maintaining Kirby's fleet of 1,300-plus American vessels means our company alone keeps hundreds of shipyard workers employed. Kirby spends over $50 million each year just for vessel maintenance and repair, and provides many additional jobs through our newbuild program. A recent example is the construction of two oceangoing tug-barge units that Kirby will use to deliver coal to power plants in Florida. That project is now wrapping up, but during the height of construction over 800 shipyard workers went to work at a shipyard in Orange, Texas each day to build these vessels.

The Domestic U.S.-Flag Maritime Industry is Key to the United States' Military Strategy

The domestic U.S.-flag fleet supports U.S. national and homeland security. Rear Admiral Mark Buzby, Commander of Military Sealift Command, put it best last year when he said:

> When it comes to backing the Jones Act, from my standpoint, it's a no-brainer. We need a strong maritime industry, and part of a strong industry is highly trained merchant mariners, so many of whom are employed on Jones Act ships. We need a strong shipbuilding industry . . . . We need the current shipping capacity to move the lifeblood of this country where it needs to go, when it needs to go. The Jones Act supports all these things. It's vital to our national security.

The domestic maritime industry has long been recognized as an important element to the nation's military strategy, by Republicans and Democrats alike, all of whom recognize that defense of a nation is far more important than any perceived benefits of allowing foreign ships to operate in domestic waters.

While some critics argue that the Jones Act no longer provides national security benefits to our country, we strongly believe they are wrong. But do not take our word for it. Take it from the U.S. Government Accountability Office (GAO), an independent, nonpartisan agency that works for Congress, which in a recent report on the Jones Act said "the military strategy of the United States relies on the use of commercial U.S.-flag ships and crews and the availability of a shipyard industrial base to support national defense needs."

The U.S.-build and rebuild requirement helps to sustain the nation's shipbuilding, repair and maintenance industrial base capabilities to meet commercial and military needs. The crewing requirement ensures a pool of American seafarers who are trained and ready at a moment's notice to crew vessels in support of military sealift. And the American ownership requirement of the law ensures that American citizens control vessels and logistics assets that could be made available to the U.S. government in time of war or national emergency.

In a study on *The Contribution of the Jones Act to National Security*, Dr. Daniel Goure of the Lexington Institute said "the relevance of the Jones Act to national security now and in the future must be judged in light of continuing threats America faces overseas and this nation's requirements for naval power and sealift." Dr. Goure concluded that "the greatest danger to the role and function of the United States as a seafaring nation is the decline of its maritime industry and merchant marine."

Because of the Jones Act, I can tell you that the United States continues to have a dynamic shipbuilding industry, a robust U.S.-flag fleet, and a highly skilled American seafaring workforce.

The Coastwise Laws Help to Protect the Homeland

Another largely overlooked element of the domestic U.S.-flag maritime industry is the role it provides in helping to protect the American homeland. In a post-9/11 world, our nation faces a host of new threats. That was never more evident than the recent Boston Marathon bombings. The Jones Act provides a layer of protection to this nation that many do not recognize and also provides capability to assist in times of national emergency. Let me explain.

Securing our borders is a difficult task under the best of circumstances. Imagine how hard it would be to handle that task if foreign vessels were free to roam our domestic commerce every day with foreign workers on board those vessels. While foreign cargo and passenger vessels do call at U.S. ports every day, they enter the country on a temporary basis and in specific secured locations. Allowing foreign vessels with foreign crews to operate permanently in domestic commerce – inland waterways, lakes, coastal – would significantly alter the landscape, dramatically increasing homeland security risks and creating a more porous U.S. border.

Also, as we have noted, the coastwise laws at their core ensure compliance with American laws, including immigration, employment and other laws that were designed to support U.S. homeland security. For example, seafarers serving on American vessels must pass rigorous background checks for both their Coast Guard credentials *and* their Transportation Worker Identification

Credentials (TWIC). Foreign seafarers do not have to meet the same requirements, and in fact, are not required to get TWIC cards at all. The coastwise laws also help to ensure that the ownership of vessels resides with Americans.

Recognizing the value of the coastwise laws to homeland security, Dr. Goure at the Lexington Institute astutely noted:

> The task of securing our U.S. seaports and foreign cargoes is daunting by itself. It makes no sense to allow foreign-owned ships operated by foreign crews to move freely throughout America's inland lakes, rivers, and waterways. Were the Jones Act not in existence, DHS would be confronted with the difficult and very costly task of monitoring, regulating, and overseeing all foreign-controlled, foreign-crewed vessels in internal U.S. waters.

American mariners in our ports and waterways are eyes and ears for homeland security. Coast Guard and law enforcement personnel can only be in so many places, but security trained and vetted American mariners can spot and report potential trouble as they go about their daily tasks. We could not expect such vigilance from foreign crews. And, it is worth emphasizing that the commitment of the American mariner goes beyond security. American mariners have a respect for and commitment to protecting our environment. Many mariners live near the waters they ply, so they feel a personal responsibility to protect their homes and communities and keep them clean and viable for the enjoyment of their families and future generations.

Future Opportunities for the Jones Act Industry

The domestic maritime industry consistently responds to market demands; after all, companies like Kirby exist to serve their customers' transportation needs. History shows that where there has been a need for vessels, they have been built. Where there is a demand for cargo movements, carriers have put vessels in service. Looking forward, AMP sees numerous opportunities for the domestic maritime industry.

In the U.S. non-contiguous trades, American companies are investing hundreds of millions of dollars to build new containerships and roll-on/roll-off cargo vessels. I have already noted TOTE's new LNG-powered containerships at General Dynamics NASSCO. But Pasha Hawaii has a combination container/roll-on-roll-off cargo ship under construction at VT Halter Marine's shipyard in Pascagoula, Mississippi that is anticipated to enter the trade in 2014. It has also been reported publicly that Crowley Maritime Corp. is planning to build containerships for the Puerto Rico trades. The implementation of the North American Emission Control Area, which brings in stricter controls on emissions from ships operated in U.S. waters, will create additional needs to recapitalize the U.S.-flag fleet in the non-contiguous domestic trades.

AMP also believes that at some point the development of a marine highway system in the United States will occur. It is an efficient method of moving cargoes and getting vehicles off roadways. Several factors, however, currently affect the development of a marine highway system in the near term. For example, domestic cargoes are subject to the Harbor Maintenance Tax, which can

lead to the double taxation of international cargoes transshipped via a marine highway system. Additionally, handling charges for cargoes can also increase costs. Nevertheless, with congestion on the nation's highways increasing and a transportation infrastructure that is in need of major upgrades (during tough budget environments at the federal and state levels), AMP believes that the marine highway system eventually will be developed, creating new opportunities for the domestic U.S.-flag maritime sector.

One of the strongest segments seeing increased demand for tonnage is in the energy sector, where there has been a significant rise over the past 3-5 years in the development of resources in this country. Companies like Kirby, as well as Crowley Maritime, Bouchard Transportation, American Petroleum Tankers, Overseas Shipholding Group, and others, are collectively committing billions of dollars to acquire U.S.-flag tankers, tank barges and towing vessels for the movement of petroleum products and crude oil in the domestic trades, both inland and coastal. We see demand for tankers and tank barges increasing as the U.S. continues to ramp up crude production, and we believe you will see Jones Act operators continue to make investments in new construction to meet that demand.

The opportunities are not limited to crude oil and refined products. The U.S. has developed significant natural gas resources that have the potential to create major new markets for the domestic maritime industry. For example, Hawaii Gas is developing a proposal to transform Hawaii's economy to one powered by natural gas instead of oil-powered electricity generation. Puerto Rico has also expressed a desire to move from oil-powered electricity generation to natural gas. It is anticipated that these areas will need U.S.-flag LNG vessels to carry sufficient volumes of domestically-produced natural gas. Additionally, the expansion of LNG-powered vessels globally is expected to increase the demand for U.S.-flag LNG bunkering vessels on our waterways.

We understand that market dynamics can increase short-term pressure on the transportation system to handle increased energy demands, but we do not believe that is unique to maritime. It is happening in the rail sector, where the need for tank cars has risen significantly over the past two years to meet the demands of refiners and producers looking to move crude stranded in the heartland because of the lack of pipeline infrastructure. It is happening in the pipeline sector, which is developing and building new capacity to handle increased Bakken, Eagle Ford and Permian Basin crude production; reversing pipelines to adjust to the lack of importation of crude; and adding capacity to existing lines to increase volumes being transported over existing rights-of-way. Just as is occurring in these other sectors, the U.S.-flag tanker and tank barge markets will adjust.

It should be noted, however, that energy markets are extremely fluid and dynamic, and are affected by forces such as the global economy and geopolitical issues. Very few people saw the United States on the path to energy independence five years ago, or predicted that shale oil production would increase so dramatically in the past three years. In fact, it was not that long ago that there was a shortage of natural gas in this country and industries were ramping up to import natural gas.

I say that to point out that the current pressure on the maritime transportation segment in the energy markets is not a justification for Congress to intervene and waive the Jones Act, as a few have suggested. On the contrary, to ensure continued investment by American companies to meet market demands on an ongoing basis in all domestic maritime sectors, Congress must send a clear signal that it will not waive the Jones Act. Without this clear message, uncertainty may undermine vessel owners' willingness to make the long-term investments necessary to ensure this country's future security.

Conclusion

The domestic U.S.-flag maritime industry is one of the most robust, dynamic, and productive in the world today, numbering more than 40,000 vessels, employing more than 500,000 workers, and contributing more than $100 billion to the U.S. economy. AMP member companies are continuing to invest in this country, creating jobs in virtually every sector of the economy. That is only possible because of the Jones Act.

You asked in your invitation letter for AMP's "views on what is necessary to maintain a U.S.-flag domestic fleet." Our response is twofold: remain steadfast and vocal in your support for the Jones Act; and reject overtures by those seeking to change or repeal the law for their own benefit and to the detriment of the critically important domestic maritime sector. For our industry to remain strong and continue to grow, we need certainty that the playing field will not change. The people who invest in Kirby and other Jones Act companies need confidence in their investments. Uncertainty creates headwinds that make it tougher for our businesses to move ahead. It is important to understand that vessels are assets with a 30- to 40-year life span. Those of us who have been in the business for a long time can remember times of prosperity and times where our vessels were tied up and underutilized. Right now, some segments of the market are tighter than others due to unprecedented new opportunities, but the marketplace can and will adjust to the demand. I am here to tell you that where the need exists, there are a number of American companies who have the financial strength to invest in equipment to meet that need. Please help us keep the confidence we need to continue investing in America by telling the world America's security is not for sale and the Jones Act will remain the foundation of our U.S. fleet.

Thank you for the opportunity to present our views on the importance of U.S.-flag ships, American mariners, and domestic shipbuilding to the Committee.

# # #