

**MARITIME LAW ASSOCIATION OF THE
UNITED STATES.
MEETING OF DECEMBER 11, 1925.**

APPENDIX VI.

**AN ACT RELATING TO THE DOCUMENTING OF
VESSELS AND VESSEL CONVEYANCES AND
MORTGAGES AND FOR OTHER PURPOSES.**

(December, 1925, Draft)

Title of Act.

SECTION 1. This act may be cited as the "SHIP DOCUMENTING ACT, 1926."

Definitions.

SECTION 2. When used in this act—

(a) The term "vessel" means, according to the context, either (1) any vessel entitled to be registered, or enrolled and licensed, or licensed as a vessel of the United States; or (2) "vessel of the United States."

(b) "Document" means United States register, enrollment and license, or license of a vessel, either permanent or temporary, as may be indicated by the context.

(c) "Home port" means "home port" as fixed and determined as provided in Section 1 of the Act of Feb. 16, 1925, c. 235, subject to the provisions of Section 4 of this act.

(d) "Collector" means collector of customs, and, so far as concerns any acts to be done, includes his duly authorized deputy.

(e) "Recorded" means, so far as concerns rights dependent on recording, received by the Collector for recording and indexed.

(f) "Effective date of this act" means the date fixed herein for the act to go into effect.

Ports of Documentation.

SECTION 3. The Secretary of Commerce is authorized to designate such ports of entry as he deems advisable as additional

ports of documentation for vessels. All ports of entry which are ports of documentation on the effective date of this act shall continue to be such until discontinued as such according to law.

Home Port.

SECTION 4. The home port of a vessel shall be deemed to have been fixed and determined with the approval of the Commissioner of Navigation under Section 1 of the Act of Feb. 16, 1925, c. 235, if so fixed and determined either in accordance with rules or regulations issued by the Commissioner of Navigation or with his specific approval. No error in the fixing and determining of a home port under rules or regulations issued by the Commissioner of Navigation shall affect the validity of any document issued, provided the port is a port of entry which has been established as a port of documentation; the port shown as the home port in such document shall constitute the home port, but in case of such error the Commissioner of Navigation may order the home port to be changed to conform to such rules and regulations within such time as may be specified in the order after the vessel is next within any port where such documentation as is required can be taken out. If such order is not complied with within such time, or such extension thereof as the Commissioner of Navigation may allow, the owner or owners shall be liable to a penalty of not less than five dollars nor more than one hundred dollars for each seven days during which such order is not complied with after the expiration of the time allowed.

Issue of Temporary Document.

SECTION 5. The Collector issuing any temporary document shall notify the Collector of the home port shown in the document of the issue thereof, with such particulars as the Commissioner of Navigation may prescribe, and the issue of the temporary document shall be noted of record by the Collector at the home port.

Certificate for New Documentation.

SECTION 6. No permanent new document with a change of home port shall issue until there has either (a) been recorded at the proposed new home port a certificate to be entitled "Certificate

for New Documentation," issued by the Collector of the previous home port and mailed by him to the Collector at the proposed new home port, stating the owners of the vessel and the shares owned by them according to the record of title of the vessel at that port, with such other matter, if any, from the record as the Commissioner of Navigation may by rules or regulations prescribe, or (b) the Collector of the proposed new home port has received telegraphic advice from the Collector at the previous home port as to the owners of record and the shares held by them and that such a certificate has been mailed by him to the Collector receiving such advice. The certificate when received shall be recorded at the new home port. No temporary document with change of home port shall issue until the Collector has been advised by the Collector of the home port on which the document is to be based that a "Certificate for New Documentation" has been recorded, or telegraphic advice received by him, as above prescribed. In such advice to the Collector at the proposed port of temporary documentation the names of the owners and the shares held by them shall be stated. The Commissioner of Navigation may by rules or regulations prescribe the form of telegraphic advice provided for in this section and any other conditions to be complied with in connection therewith.

The "Certificate for New Documentation" shall issue on the request of the owner of record or, if there is more than one owner, of the managing owner, or of owners of more than a half interest. It shall, when issued, be noted on the record. After the issuing of such certificate no further instruments shall be recorded unless the certificate is, prior to new documentation, cancelled with the approval of the Commissioner of Navigation.

Recording of Conveyances.

—At Home Port.

SECTION 7. (a) No bill of sale, conveyance, mortgage, hypothecation (except bottomry created during a voyage by a loan of money or materials necessary for the prosecution of the voyage), or assignment of a mortgage, which includes a vessel of the United States or any portion thereof, shall be valid in respect to such vessel against any person other than the grantor, mortgagor, hypothecator or assignor, respectively, and his legal representatives and devisees on his death and any person having actual

notice thereof, until such bill of sale, conveyance, mortgage, hypothecation or assignment is recorded at the office of the Collector of Customs at the home port of the vessel. Nothing contained in this paragraph with reference to bottomry shall be construed to affect the priorities of a preferred mortgage given by the Ship Mortgage Act, 1920.

—*Concurrent Recording of Mortgages, etc.*

(b) The place for recording any bill of sale or conveyance by the owner or owners, according to any outstanding document, of the whole or any part of a vessel shall be the office of the collector at the home port of the vessel as specified in said document. On the recording of any such bill of sale or conveyance there may also be recorded, at the same office, the following instruments and no others prior to new documentation: Any notices of claims of lien, any bills of sale or conveyances or mortgages of any interest of any owner as shown by the vessel's last document, any mortgage by any vendee named in any bill or bills of sale or conveyances which have been recorded, provided such mortgage is presented for recording concurrently with any bill of sale or conveyance so recorded, and any assignment, discharge or release or partial discharge or release of any then existing mortgage or claim of lien on the vessel or any part thereof.

—*No papers to be Recorded after Certificate for New Document.*

(c) All rights of recording are subject to the proviso that after a "Certificate for New Documentation" has issued and remains uncanceled no instruments shall be recorded until new documentation has been taken out. The right of recording is also subject to the further conditions stated in this section.

—*Affidavit of Citizenship.*

(d) Except as provided in subdivision (e) hereof there shall, as a condition of the right to record any bill of sale or conveyance, be incorporated in the instrument and recorded therewith or separately recorded therewith an affidavit of the vendee showing such United States citizenship as to entitle him, or him together with the other owners of record, to United States documentation for the vessel; and as a condition of the right to record any mortgage

or assignment of mortgage there shall be similarly recorded an affidavit of the mortgagee or assignee showing United States citizenship qualifying him to take such mortgage, or, if there is not such citizenship, such approval of the United States Shipping Board as entitles him to take such mortgage.

—*Consent of Shipping Board, Mortgagees, etc.*

(e) There may be recorded at the office of the Collector of the home port of a vessel as shown in her last document any bill of sale or conveyance of the whole of the vessel to a grantee who is not a citizen of the United States, provided there is recorded therewith the approval of the United States Shipping Board to such sale or conveyance and also, if there are any mortgages, hypothecations, or claims of lien of record on the vessel, the consents in writing, duly acknowledged, of the holders of all such mortgages, hypothecations, and claims of lien, and provided the outstanding document is concurrently surrendered.

—*Ships from Foreign Registry.*

(f) On any documentation of a vessel which at the time when title was acquired was not under United States documentation any bills of sale or conveyances upon which title is based shall be recorded at the office of the Collector of the home port of the vessel according to the document to be issued.

—*Payment of Fees.*

(g) The Collector shall record all instruments which are herein provided to be recorded on compliance with the conditions stated and on payment of recording fees.

Last Document to continue in Force for Purposes of Conveyance.

SECTION 8. The vessel's last document and the status of the vessel as a vessel of the United States thereunder shall continue in force for the purpose of bills of sale, conveyances, mortgages and instruments and the recording thereof specified in Section 7 of this act, but for no other purpose after change of ownership in whole or in part except as so continued under other provisions of law. The document to be recited in any such bill of sale, con-

veyance and mortgage shall be the last document issued for the vessel. If a mortgage so recorded is a preferred mortgage the indorsement thereof on the vessel's last document or, if for any reason not so indorsed, on any new document issued, shall constitute an indorsement under, and a full compliance with the indorsement provisions of, the Ship Mortgage Act, 1920.

R. S. 4192 and Subsection C, subdivision (a) Ship Mortgage Act, 1920, repealed.

SECTION 9. Section 4192 of the Revised Statutes and subdivision (a) of Subsection C of the Ship Mortgage Act, 1920, and Section 2 of the Act of Feb. 16, 1925, c. 235*, are hereby repealed and the provisions of Section 7 of this act substituted in the place thereof.

Passing of Title by Will or Descent.

SECTION 10. When the title of a vessel or any interest therein has passed by will or descent there may be filed with the Collector at the home port of the vessel as shown by her last document a certified copy of that portion of the record of the court where the will was probated or the estate administered which establishes the vesting of title in the legatee or distributee. Such certified copy shall be retained on file and shall be open to examination, and such portion thereof as is pertinent to the passing of title shall be recorded with a reference sufficient for identification to the certified copy of the court record on file. There may be a similar filing and recording of the record of any other court proceedings by which any interest in a vessel of the United States is transferred. The provisions of law as to the recording of conveyances of vessels shall apply to such transfers except that no recording shall be necessary to the vesting of a title on a sale of a vessel on proceedings *in rem* in admiralty. In any bill of sale given by a United States marshal of a vessel of the United States there shall be recited in the bill of sale either the last document of the vessel or the vessel's official number, if such document or number is available to the marshal, but any failure so to recite shall not affect the validity of the bill of sale or the right of the purchaser to have the bill of sale recorded.

*Home Port Act 1925.

Documentation when Vessel Not in Home Port.

SECTION 11. The presence of a vessel at her home port shall not be necessary to the issue of a permanent register, enrollment and license, or license, but the same may be issued while the vessel is in any port of documentation of the United States; oaths required to be taken for either temporary or permanent documentation and all other acts required to be done as incidental to such documentation may be taken or done at any port of documentation of the United States, except that the signing of the document shall be by the Collector at the port from which it issues; such document may be issued on advice, telegraphic or otherwise, from Collectors of other ports of documentation as to oaths which have been taken and the acts which have been done at said ports and, where documentary evidence of such acts is required, stating that such documentary evidence has been mailed, and subject to such other conditions if any, as may be prescribed by the Commissioner of Navigation.

Surrender of Documents at Port other than Home Port.

SECTION 12. The surrender of any outstanding document may be made at the office of the Collector at any port of documentation of the United States; if the surrender is at any port other than that from which the new document is to issue, the Collector at whose office the document is surrendered shall advise the Collector of the port from which a new document is to issue of such surrender and also the Collector from whose office the surrendered document was issued, who shall note the surrender on his record; such advice may be by telegram; a surrender when advised to the Collector of the port from which a new document is to issue shall have the same effect as if the surrender were made at that port. When a document is surrendered, its surrender shall be noted on the document and the document shall then be forwarded directly to the Commissioner of Navigation for cancellation.

Sale when Vessel not in U. S.—Continuation of Status.

SECTION 13. Section 4166 of the Revised Statutes is hereby amended to read as follows:

“When any vessel documented under the laws of the United States, or any part of such vessel, is sold or transferred to a citizen of the United States qualified to hold title in the vessel

as a vessel of the United States, while she is without the limits of the United States, her last document and her status as a vessel of the United States thereunder shall continue in force, for the operation of the vessel and otherwise, until seven days, or any extension thereof as hereinafter provided, after her arrival at any port, other than a port of emergency call, where she can be newly documented in accordance with the laws of the United States under her new ownership. The Commissioner of Navigation may extend said period of seven days by permit issued either by him or by his order by the Collector at the home port as shown in the vessel's last document. Such permit shall be noted by the Collector on the record of title of the vessel. The provisions of Section 4170 of the Revised Statutes shall not apply while the document and status of the vessel is continued as provided in this section."

Repairs and Alterations—Continuation of Status.

SECTION 14. Whenever a vessel of the United States is to be altered in form or burden, by being lengthened or built upon, or from one denomination to another, by the mode or method of rigging or fitting, there may be issued, either by the Commissioner of Navigation or by his order by the Collector at the home port as shown in her last document, a permit for the document of the vessel and her status as a vessel of the United States thereunder to continue in force for all purposes, other than the operation of the vessel, for such time as is specified in the permit or any extension thereof thereafter granted. Such permit and any extension of time thereunder shall be noted by the Collector on the record of the vessel's title. During the time allowed under such permit the status of the vessel as a vessel of the United States shall continue for said purposes, including those specified in Section 8 of this act, and the provisions of Section 4170 of the Revised Statutes shall not apply during such time.

Documentation in name of Corporation or Partnership.

—*Corporations: Affidavits required.*

SECTION 15. (a) A vessel owned by a corporation shall be documented directly in the name of the corporation with the same force and effect as if the document were issued to an individual

owner. Such affidavit as is required for the recording of any instrument and such oath of citizenship as is required for documentation shall be by such officer or agent of the corporation as is permitted by law to make oath of ownership. If under the laws of the state of incorporation a secretarial officer bears the title of clerk such officer shall be deemed to be included within the term "secretary," and "vice-president" shall be deemed to be included within the term "president," and such clerk and vice-president are included among the officers permitted by law to make affidavits and oaths of ownership and citizenship.

—*Validation of Existing Documents to Corporations.*

(b) Any vessel document outstanding on the effective date of this act issued in the name of a corporation or the president or secretary of a corporation shall, from and after said date, if the corporation on said date has the qualifications required by law for it to hold title to the vessel and operate her as a vessel of the United States in the trade designated by the document, have the same force and effect as if said document had been, immediately upon this act going into effect, duly issued to the corporation, and the prior or subsequent death, removal, resignation or disqualification of the officer to whom the documentation was issued shall not affect the validity of said document.

—*Partnership or Unincorporated Association—Affidavits Required.*

(c) A vessel owned by a partnership shall be documented in the name of the general partners as partnership owners. If a vessel is owned by an unincorporated association or trust and there are trustees or other representatives of the association in whom, according to the agreement of association or trust or by statute title to property held by the association or trust vests, the vessel shall be documented in the name of such trustees or representatives and documented anew in case of change, otherwise in the name of the members of the association jointly, with new documentation on change of membership.

In the case of a partnership such affidavit as is required for the recording of any instrument and such oath of ownership and citizenship as is required for documentation shall be by one or more of the partners or by an agent of the partners duly authorized by power of attorney in writing. In the case of an un-

incorporated association such affidavit and oaths shall be by the chief or vice chief executive officer of the association or by its chief secretarial officer, or, in the case of a trust, by one of the trustees.

—*When Master may make Affidavits.*

(d) When the documentation is merely a change as between permanent or temporary documentation or between registry, enrollment and license, or license, or is incident to a change of home port, all without change of ownership, the oaths of ownership, citizenship of the owners, and as to such other matters as are required by law, may be made by the master, whether the vessel is individually owned or owned by a corporation, partnership or unincorporated association or trust.

Validation of Prior Conveyances and Documentations.

—*R. S. 4137, 4138, 4313 and 4315 Repealed.*

SECTION 16. Sections 4137, 4138, 4313 and 4315, as amended, of the Revised Statutes are hereby repealed, but such repeal shall not affect or impair the validity of any document issued prior to the effective date of this act to a corporation or to any president or secretary of a corporation or the continuance of such documentation as provided by Section 15 of this act as a documentation running to the corporation. Subject to any right or title which on the effective date of this act has vested or accrued, all documents which prior thereto have been issued to any corporation or to the president or secretary of any corporation, and all conveyances and mortgages and the recordings thereof duly based on such documentations, and proceedings incidental thereto, shall, notwithstanding the death, removal, resignation or disqualification of such officer, have full force and effect as of the dates thereof, provided the corporation was otherwise qualified to hold the title or interest in the vessel as a vessel of the United States.

Loss of Status—Notation by Collector—Rights of Third Parties without Notice.

SECTION 17. If a documentation is defective on account of the failure to comply with the formalities prescribed by law for such documentation, or if a vessel after documentation loses her status as a vessel of the United States because of any failure on the part of her owner or owners to observe or comply with any

provision of law, the Secretary of Commerce may so notify the Collector at the home port of the vessel, and there shall be notation thereof made by the Collector on the record of the title of the vessel.

Rights of third parties acquired after the effective date of this act in good faith and for value in a vessel for which a document is outstanding shall, in the absence of such a notation on the record of the title of the vessel at the time of the acquisition of such rights, not be affected or impaired because of such defect in documentation or loss of status prior to the acquisition of such rights, and the vessel, so far as concerns the rights of such third parties and the taking by them of any bill of sale, conveyance or mortgage thereon or assignment of mortgage, and the recording thereof and the indorsement of any preferred mortgage so taken, shall be deemed to have the status of a vessel of the United States under the outstanding document. Provided, however, that such rights shall be subject to any existing liability of the vessel to forfeiture for violation of any laws of the United States, other than those relating to the documentation of vessels, except in so far as the interest of the holder of a preferred mortgage is free from such liability for forfeiture under the provisions of subdivision (c) of Subsection O of the Ship Mortgage Act, 1920.

Restoration of Status.

SECTION 18. If a vessel loses her status as a vessel of the United States for failure to observe or comply with any provision of the navigation laws, except those rendering the vessel liable to forfeiture, the Secretary of Commerce may restore her status on the payment of all penalties imposed by law which have not been lawfully remitted and on such other terms and conditions, if any, as he may prescribe, provided that the vessel is so owned and the conditions in other respects are such that she would be entitled to such status, except for such failure. This section shall not preclude the restoration of a vessel to the status of a vessel of the United States in any other manner permitted by law.

Certificate of Record of Title—Recording of Certificate.

SECTION 19. On the request of any party claiming a title or interest in a vessel according to the record of title of said vessel at any port there shall, for the purpose of enabling such title or interest to be perfected, be issued by the Collector at said

port an attested certificate of the record of title of the vessel at said port. Such certificate may be recorded at the office of the Collector of the then home port of the vessel and on such recording all instruments which were recorded at the office of the Collector issuing such certificate, and the recordings thereof, and all documentations of the vessel at said port and indorsements of preferred mortgages shown by such certificate, and proceedings incidental to such documentations, shall have the same force and validity as if said instruments had been recorded and documentations issued, indorsements of preferred mortgages made and incidental proceedings taken at a port or ports at which they could, at the times thereof, have been recorded, issued, made or taken with full effect and validity; provided, however, that no rights or title which at the time of the recording of such certificate have accrued or vested shall be impaired or affected by the provisions of this section.

Such certificate of record of title shall include all matter of record affecting or relating to the title of the vessel or claims thereon, with date of instruments, names of parties and of shares or interest covered thereby, time of recording of instruments, dates of issue of documents, time and particulars of indorsements on documents, and such other particulars if any as the Commissioner of Navigation shall prescribe.

This section is in supplement of and not in limitation of Section 3 of the Act of Feb. 16, 1925, c. 235*, and no validation under that section shall be in any respect affected or impaired by any provision of this section.

Preferred Ship Mortgages.

—*Conveyances not to be Recorded Unless:*

SECTION 20. No bill of sale or conveyance of the whole or any part of a vessel covered by a preferred mortgage which has been given after the effective date of this Act shall be of any force or validity or be recorded nor shall the document of said vessel be surrendered unless

—*with Consent of Shipping Board.*

(a) With the approval of the United States Shipping Board if the sale or conveyance is otherwise than to a grantee legally

*Home Port Act 1925.

qualified under the laws of the United States to take and hold title to said vessel as a vessel of the United States;

—with Consent of Preferred Mortgagee.—Exceptions.

(b) With the consent in writing of the holder of the preferred mortgage acknowledged by him and recorded at the office of the Collector of the Home Port of the vessel as shown in her last document, provided, however, that such consent of the holder of the preferred mortgage shall not be required if it is provided in the mortgage that a sale or conveyance may be made without such consent, nor in case of a forfeiture of the vessel or its sale by order of any Court of the United States or any State thereof or of any foreign country, nor to the surrender of a document incident to new documentation without change of ownership, nor to the giving of any subsequent mortgage subject to the preferred mortgage, nor to the passing of title by will or descent or the surrender of the outstanding document incident to new United States documentation required because of such passing of title provided the new owners are citizens of the United States qualified, as shown by affidavit filed or recorded as provided in Section 7 of this Act, to so document the vessel.

—Redemption without Consent.—Jurisdiction in Equity to Enforce.

(c) It is further provided that if the holder of the preferred mortgage given after the effective date of this act refuses to consent to any sale or conveyance which would be invalid without such consent under the foregoing provisions, the mortgagor shall, as a statutory right which cannot be waived, be entitled to redeem said preferred mortgage by tender to the mortgagee of the full amount of the mortgage money as expressed in said preferred mortgage together with all accrued interest and interest for sixty days in advance at the rate of six per centum per annum; and upon such tender by the mortgagor the mortgagee shall immediately execute a release of said preferred mortgage and deliver said release to the said mortgagor upon payment of the full mortgage money with interest as hereinabove provided. If in any case the mortgagee shall refuse to execute the release upon tender as herein provided jurisdiction in equity is hereby given to the United States District Court for the District in which the said mortgagee resides to compel such execution of the release as

aforsaid and to assess damages against the mortgagee resulting from or caused by such refusal.

Amendments to Ship Mortgage Act 1920.

SECTION 21. Portions of the Ship Mortgage Act, 1920, are hereby amended or repealed as follows:

—*Definitions.*

(a) The word "documents" wherever it appears in said act is hereby amended to read "document."

(b) Paragraphs (1), (2) and (3) of Subsection B are hereby repealed and there is substituted therefor the following:

" 'Document' means United States register, enrollment and license, or license, either permanent or temporary as may be indicated by the context."

—*Vessel of U. S.—Consent of Shipping Board. Continuation of Status.*

(c) Paragraph 4 of Subsection B is hereby amended to read as follows:

"The term 'vessel of the United States' means any vessel documented under the laws of the United States, including, so far as relates to rights hereafter acquired by third parties in good faith and for value, any vessel for which a United States document is outstanding, unless at the time of such acquisition there is on the record of the vessel's title at her home port as shown in said document a notation that the document is defective or that the vessel has lost her United States status thereunder. Whenever the approval of the United States Shipping Board or the consent of the holder of a preferred mortgage is required for the surrender of a document, the outstanding document shall continue in force for the purposes herein stated until the required approval and/or consent has been given. The continuance herein provided for is for the effective enforcement of the requirements for such approval or consent and to preserve the United States status for the protection of the interest of the mortgagee, and shall not be construed as conferring on the owner any right to continue to operate the vessel, or any other right, which he would not otherwise have."

—*Received and Indexed.*

(d) Paragraph (2) of subdivision (a) of Subsection D is hereby amended by striking out the word "recorded" and inserting in the place thereof the words "received by the Collector for recording and indexed."

—*Mortgagor's Affidavit.*

(e) Paragraph (3) of subdivision (a) of Subsection D is hereby amended by inserting after the words "filed with the record of such mortgage" the words "or attached to such mortgage and to be recorded therewith," and by adding at the end of said subdivision the words

"such affidavit shall be by the mortgagor, or, if the mortgagor is a corporation, by its president, vice-president or secretarial officer or by any officer or agent authorized by vote of its board of directors to make such affidavit in its behalf; or, if the mortgagor is an unincorporated association or trust, it shall be by its president, vice-president, secretarial officer or one of the trustees."

—*Endorsement by Collector or Consul.*

(f) Subdivision (d) of Subsection D is hereby amended to read as follows:

"Such indorsement shall be made (1) by the Collector of the port where the mortgage is recorded according to law, or (2) by the Collector of any port of the United States in which the vessel is found, if such Collector is directed to make the indorsement by the Collector of the port of recording, or (3) if the vessel is found in a foreign port, by the United States consul at that port if so directed by the Collector of the port of recording; and, if the vessel is found in a port of the United States, no clearance shall be issued to the vessel until such indorsement is made. The Collector of the port of recording shall give such direction by letter or by telegram. Whenever any new document is issued for the vessel, such indorsement shall be transferred to and indorsed by the Collector upon the new document."

—*Notice of Lien at Home Port.*

(g) Subdivision (a) of Subsection G is hereby amended by striking out therein the words "port of documentation" and inserting in the place thereof the words "home port of the vessel as shown in her last document" and by striking out therein the words "covered by a preferred mortgage."

—*Discharge of Mortgage. Recording and Endorsement. Penalty.*

(h) Subdivision (b) of Subsection G is hereby repealed and there is hereby substituted in the place thereof the following:

"Upon the discharge of the indebtedness secured by a mortgage on a vessel the owner of the vessel shall be entitled to have from the holder of the mortgage an instrument of discharge duly executed and acknowledged by such holder. Such discharge shall be promptly recorded by the owner, and the owner or owners shall be subject to a penalty of not less than five nor more than twenty-five dollars a day for failure so to do, but with the right in the Secretary of Commerce to remit such penalty for good cause shown. If the mortgage is a preferred mortgage the Collector upon such recording shall indorse on the vessel's document, or direct the Collector at any port where the vessel is found to indorse the fact of such discharge, and the vessel shall not be cleared until it is so indorsed."

—*Acknowledgments. Court Records.*

(i) Subdivision (b) of Subsection H is hereby amended by inserting therein after the word "mortgage" the words "hypothecation, assignment of mortgage, discharge of mortgage," and by adding at the end thereof "except that the certification of any copy of a court record by virtue of which any interest in a vessel is transferred shall be in lieu of such acknowledgment."

—*Copy of Record Required. Repealed.*

(j) Subdivision (c) of Subsection H is hereby repealed.

—*Copy of Record to be Furnished.*

(k) Subsection I is hereby amended by striking out therein the words "a certified copy as required by subdivision (c) of Subsection H" and inserting in the place thereof the words "a

certificate, or if so requested, a certified copy, of the record of title of the vessel at said port or of such portion thereof as may be requested."

—*Intervention by Preferred Mortgagee.*

(1) Subsection L is hereby amended by adding at the end thereof the following:

"In any proceeding *in rem* in admiralty against the vessel the holder of any preferred mortgage may intervene for the protection and enforcement of his mortgage lien. If the court is satisfied from the record, or on a preliminary hearing, that the rights of all parties who have appeared in the proceeding are subordinate to the lien of the preferred mortgage, the holder of the preferred mortgage shall, if so prayed for in his intervening petition, have the same rights as to foreclosure, including the appointment of, and operation of the vessel by, a receiver, as if the mortgagee were proceeding by an original libel *in rem* for foreclosure."

—*when consent of Shipping Board Not Required.*

(m) Subdivision (a) of Subsection O is hereby amended by adding at the end thereof the following:

"Provided, however, that no such approval or consent shall be required to any surrender of document incident to new documentation without change of ownership, nor shall any approval of the board be required to a surrender of document on a sale of the vessel or any part thereof to a citizen of the United States qualified to hold title in the vessel as a vessel of the United States, if there is recorded at the home port of the vessel as shown in her last document a consent in writing to such sale acknowledged by the holder of record of the preferred mortgage. Such consent shall be recorded by the Collector as a part of the record of the vessel's title."

—*Status continued to Protect Rights of Preferred Mortgagee.*

(n) Subdivision (b) of Subsection O is hereby amended by adding at the end thereof the following:

"Nor shall the interest of the mortgagee in the vessel as a vessel of the United States be affected or impaired by any

act or omission to act of the owner, or his representatives or agents, by which the vessel loses, so far as concerns said owner, her status as a vessel of the United States, and the vessel shall, notwithstanding such act or omission to act, continue to have such status under her last document so far as concerns the right and interest of the mortgagee therein, including the right to enforce and foreclose the mortgage as a preferred mortgage on a vessel of the United States and to have her newly documented as such a vessel on a sale thereof on foreclosure, unless the mortgagee was a party to or authorized or consented to such act or omission. Provided, however, that nothing herein contained shall be construed to authorize or permit the operation of the vessel by the mortgagee, after such act or omission of the owner, as a vessel of the United States until she has been newly documented or restored to full status as a vessel of the United States."

Sections 21 and 22 not Retroactive.

SECTION 22. The provisions of subdivision (a) of Subsection O of the Ship Mortgage Act, 1920, as amended by this act, shall continue in effect only as to the surrender of a document of a vessel covered by an outstanding preferred mortgage given before the effective date of this act, and as to approval and consent required because of the vessel being so covered, the provisions of Sec. 20 of this act being substituted therefor as to any preferred mortgage given after the effective date of this act.

Preferred Mortgagee not Required to Take New Mortgage on Sale by Court.

SECTION 23. That portion of subdivision (c) of Subsection O of the Ship Mortgage Act, 1920, which reads as follows:

"but the court shall, upon the request of the mortgagee, the libellant, or any intervenor, require the purchaser at such sale to give and the mortgagor to accept a new mortgage of the vessel for the balance of the term of the original mortgage. The conditions of such new mortgage shall be the same, so far as practicable as those of the original mortgage and shall be subject to the approval of the court. If such new mortgage is given, the mortgagee shall not be paid

from the proceeds of the sale and the amount payable as the purchase price shall be held diminished in the amount of the new mortgage indebtedness”

shall have no application to any preferred mortgage given after the effective date of this act and there shall be no rights or obligations under said portion of said subdivision as between the holder of such a preferred mortgage and other parties; and said subdivision (c), so far as relates to any preferred mortgage given after the effective date of this act, is hereby amended to read as follows:

“(c) Upon the sale of any vessel of the United States covered by a preferred mortgage, by order of a district court of the United States in any suit *in rem* in admiralty for the enforcement of a maritime lien other than a preferred maritime lien, the vessel shall be sold free from all pre-existing claims thereon.”

Fees.

SECTION 24. The following fees shall be paid: For, etc.

(Determine upon fees in conference with Commissioner of Navigation and fill in.)

Other fees shall be as now provided by law. All fees for certificates and recordings and all charges for telegraphic communications shall be paid to the Collector in advance by the party requesting the same.

Inconsistent Laws Amended to Conform.

SECTION 25. Any provisions of the statutes of the United States which are inconsistent with any of the provisions of this act are hereby amended to conform therewith.

Act in Effect 30 days after Passage.

SECTION 26. This act shall go into effect at the end of the thirtieth day after its approval exclusive of the day of its approval.