

COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON

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There is for consideration by this office the claim of the Isthmian Steamship Company for \$1328.30, representing expenses alleged to have been incurred in the maintenance and repatriation of a part of the crew of the Steamship Bessemer City stranded off Lands End, England, November 1, 1936. The Bessemer City was owned and operated by the Isthmian Steamship Company and the return of the shipwrecked seaman from Swansea, England, to Montreal, Canada, was upon the Steamship Steel Engineer owned and operated by the same company, and from Montreal to New York, by rail. The Department of State approved the claim in the amount of \$1,311.72, payable from the appropriation "Contingent Expenses, Foreign Service, 1937", there being cited in support of such approval the decision of the Supreme Court in the case of the Alaska Steamship Company v. United States, 290 U. S. 256, the State Department being of the opinion that the limitation placed upon appropriations for payments of this nature in the act of April 7, 1934, 48 Stat. 533, is not permanent legislation.

In 3 Comp. Gen. 148, it was held:

"As soon as the owners of a wrecked vessel take up the burden of subsisting and transporting the members of the crew they cease to be destitute seamen and such owners may not be reimbursed from public funds for any part of the cost of subsistence and transportation of such seamen to a port of the United States."

By decision of the United States Supreme Court in the case of Alaska Steamship Company v. United States rendered December 4, 1933, it was held that the owner of a wrecked vessel who meets the conditions of section 4578, Revised Statutes, as amended, regarding the transportation of destitute seamen, is entitled to compensation for transporting members of his crew, at least in the absence of evidence that the vessel had earned freight on her voyage or had been salvaged either with or without the aid of the seamen. Subsequent to the decision of the Supreme Court the Congress passed the act of April 7, 1934, 48 Stat. 533, containing the following language:

"For relief, protection, and burial of American seamen in foreign countries, in the Panama Canal Zone, and in the Philippine Islands, and shipwrecked American seamen in the Territory of Alaska, in the Hawaiian Islands, in Puerto Rico, and in the Virgin Islands; and for expenses which may be incurred in the acknowledgment of the services of masters and crews of foreign vessels in rescuing American seamen or citizens from shipwreck or other catastrophes at sea; \$6,000; Provided, That no part of this or any other appropriation shall be available for making payment to steamship owners or operators for transporting a destitute or shipwrecked seaman if the last previous service of the destitute or shipwrecked seaman was on a vessel of such steamship owner or operator and was not terminated by desertion."

A reference to the hearing before the subcommittee of the House Committee on Appropriations discloses discussion as to the probable amount of prior claims which might be presented under the decision in the Alaska Steamship case, but for the proviso inserted in the above quoted statute. It is a general rule that a provision contained in an annual appropriation act may not be construed to be permanent legislation unless the language used therein or the nature of the

provision renders it clear that such was the intention of the Congress, as for instance, when the word "hereafter" or other words indicating futurity are used, and when the provision has no relation to the appropriation, the provision may be construed as permanent legislation. In the above act of April 7, 1934, however, no words of futurity were used and the proviso is inseparably connected with the appropriation. It has not been repeated or reenacted subsequently and must, therefore, be held to be applicable only to appropriations then in existence and not to affect appropriations for fiscal years subsequent to 1935. 5 Comp. Gen. 810.

The present claim, however, is not for allowance for the reason that the requirements of section 4578, Revised Statutes, as amended by the act of May 7, 1930, 46 Stat. 261, were not met prior to the relief furnished by the owners of the wrecked vessel, in that no request was made by the Consul to furnish such transportation and other relief, no agreement was entered into between the Consul and the claimant as to the amount to be paid, and no evidence furnished that the Consul issued a destitute seamen's certificate covering the transportation so furnished. 3 Comp. Gen. 148.

Also, the owners of a wrecked vessel voluntarily spending money for subsistence and necessaries, or other relief, for the crew of a wrecked vessel are not entitled to recover such amount from the United States. American Seantic Line v. United States, 5 Fed.

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Supp. 410.

Accordingly, said claim must be, and is, disallowed.

(Signed) R. W. Wilson

Acting Comptroller General  
of the United States.