

S. HRG. 107-960

**NOMINATION OF REBECCA DYE TO BE
COMMISSIONER OF THE FEDERAL MARITIME
COMMISSION**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

JULY 31, 2002

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ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

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NOMINATION OF REBECCA DYE TO BE COMMISSIONER OF THE FEDERAL MARITIME COMMISSION

WEDNESDAY, JULY 31, 2002

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m. in room SR-253, Russell Senate Office Building, Hon. John B. Breaux, presiding.

OPENING STATEMENT OF HON. JOHN B. BREAUX, U.S. SENATOR FROM LOUISIANA

Senator BREAUX. The hearing will please come to order.

This morning, our first order of business is going to be a hearing on the nomination of Rebecca Dye to be our new Commissioner of the Federal Maritime Commission. We are delighted that she is here.

Our friend and colleague, Senator Ted Stevens of Alaska is here, and unfortunately, Senator Stevens has a voice problem this morning. I am sure it is only temporary, but we are asking him to save his voice. His statement, recognizing his strong support for Ms. Dye and her distinguished work as a counsel for the House Transportation and Infrastructure Committee's Subcommittee on the Coast Guard and Maritime Transportation, will be made a part of the record.

We want to move quickly so Ms. Dye can get back to work on the port security legislation and other matters that we are currently addressing. We are delighted to have you here, and if you would like to introduce any family members you have and present your statement to the Committee, we would be pleased to proceed.

Ms. Dye.

STATEMENT OF REBECCA DYE, NOMINEE TO BE COMMISSIONER OF THE FEDERAL MARITIME COMMISSION

Ms. DYE. Thank you very much, Senator, and thank you, Senator Stevens. I appreciate your coming.

My husband David, who is a former staffer on this Committee, and our Caroline are with me today. They have been a great help to me, and I appreciate your allowing me to recognize them.

Mr. Chairman and Members of the Committee, I am honored to appear before you today as President Bush's nominee to be a Commissioner of the Federal Maritime Commission. It is also a pleas-

ure to appear before this Committee after having worked with your exceptional staff on both sides of the aisle for many years. After arriving in Washington from my home State of North Carolina in 1979, I began my Federal career as a commissioned officer and attorney in the Coast Guard's Office of the Chief Counsel. I later served as a law instructor at the Coast Guard Academy in New London, Connecticut.

After 2 years as an attorney at the United States Maritime Administration, I joined the staff of the former Committee on the Merchant Marine and Fisheries in the House of Representatives as Minority counsel, and then in 1995, I became counsel for the Coast Guard Maritime Transportation Subcommittee of the Committee on Transportation and Infrastructure. I have been extremely fortunate during my career to have the support and encouragement of my family, good friends, and mentors.

Today, I would like to publicly thank my friends and mentors in the industry and on Capitol Hill, including former Congressmen Bob Davis, Jack Fields, Bud Shuster, and especially the Transportation and Infrastructure Chairman, Don Young, for his support and guidance over the years.

Mr. Chairman, as I am confirmed as a Commissioner of the Federal Maritime Commission, my 23 years of diverse experience in maritime law and policy will allow me to positively contribute to the Commission's vital mission. I am familiar with the specific legal authorities administered by the Commission, in particular the Ocean Shipping Reform Act. I am also familiar with the business needs and the general concerns of the various industry stakeholders regulated by the Commission.

Finally, my experience with the legal authorities and regulatory regimes administered by the Coast Guard and the Maritime Administration has given me a broad understanding of maritime transportation.

I recently heard Federal Maritime Commission Chairman Hal Creel make the point that few Americans appreciate the significant role that international ocean transportation plays in their lives. Even fewer Americans are aware of the importance of the country's international ocean shipping regime administered by the Federal Maritime Commission.

The United States relies on ocean transportation for 95 percent of cargo tonnage that moves in and out of the country. Each year, more than 7,500 commercial vessels make approximately 51,000 port calls and over 6 million loaded marine containers will enter U.S. ports.

The Commission's regulation of international liner transportation is an important component of our Nation's economic vitality, and it was greatly strengthened by this Committee's effort in the development and enactment of the Ocean Shipping Reform Act of 1998. The Ocean Shipping Reform Act substantially amended the Shipping Act of 1984, the primary statute administered by the Commission. The goal of the amendment contained in the Ocean Shipping Reform Act was to encourage the free flow of U.S. exports and imports through our greater reliance on the marketplace. The Commission concluded in its recent report on the effect of the Ocean Shipping Reform Act on international maritime shipping that the

Act is working well. It has been an enormous benefit to international ocean shipping.

As you know, Mr. Chairman, the most significant changes authorized by the Ocean Shipping Reform Act involve service contracts between ocean carriers and shippers. Under the Reform Act, service contracts may be kept confidential. While the contracts are required to be filed with the Commission on a confidential basis, the contracting parties may keep important rate information private if they wish. Liner conferences and agreements among common carriers cannot dictate service contract terms or prohibit members from offering service contracts.

This approach to service contracting allows market-based forces to set shipping rates, but also preserves a regulatory role for the Commission. It allows ocean carriers to be responsive to the needs of their customers, and has resulted in a dramatic change in the way ocean cargo is shipped internationally. Recent statistics show that in some trade lanes companies are shipping about 98 percent of their cargo under shipping contracts.

If confirmed by the Senate, I will be fair-minded and objective in the execution of the market-oriented statutory directives of the Ocean Shipping Reform Act. I will also do all I can to guarantee that shippers, common carriers, ocean transportation intermediaries, and ports regulated by the Commission are provided with a fair market environment in which to operate.

Pursuant to the Commission's other statutory authorities, I will work to eliminate unfair shipping practices by foreign governments, and protect cruise ship passengers against undue financial risk.

Finally, Mr. Chairman, I will do all that I can to assist in a concerted effort to ensure homeland security.

Mr. Chairman, thank you very much for holding this hearing today, and I will be delighted to answer any questions you may have.

[The biographical information of Rebecca Dye follows:]

A. BIOGRAPHICAL INFORMATION

1. Name: Rebecca Feemster Dye; Maiden name: Rebecca Lynn Feemster Nickname: "Becky".
2. Position to which nominated: Commissioner, Federal Maritime Commission.
3. Date of nomination: June 12, 2002.
4. Address: (Information not released to the public).
5. Date and place of birth: May 8, 1952, Charlotte, North Carolina.
6. Marital status: Married. Husband's name: David Gary Dye.
7. Names and ages of children: Caroline Lytton Dye, age 13.
8. Education: August, 1966-June, 1970, Hunter Huss High School, High School diploma awarded June, 1970; September, 1970-June 1972, University of North Carolina at Greensboro, No degree awarded; August, 1972-May, 1974, University of North Carolina at Chapel Hill, Bachelor of Arts awarded May, 1974; August, 1974-May, 1977, University of North Carolina School of Law, Juris Doctorate awarded May, 1977.
9. Employment record: January 1995-Present, Counsel, Committee on Transportation and Infrastructure, 2165 Rayburn House Office Building, U.S. House of Representatives, Washington, D.C. 20515; February 1987-January 1995, Minority Counsel, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Washington, D.C. 20515, (Committee was abolished in 1995); June 1985-February 1987, Attorney, Legislation Division, Office of the Chief Counsel, Maritime Administration of the Department of Transportation, Washington, D.C., 1400 7th Street, S.W. Washington, D.C. 20590; August 1983-June 1985, Law Instructor, United

States Coast Guard Academy, New London, Connecticut; June-August 1983, Attorney, Office of the Assistant Counsel for Legislation, Department of Transportation, Washington, D.C. 20590; 1980–1983, Attorney, Legislation Division, Office of the Chief Counsel, United States Coast Guard Headquarters, Washington, D.C.; 1979–1980, Assistant Division Chief, Legal Administration Division, Office of the Chief Counsel, United States Coast Guard Headquarters, Washington, D.C.; 1978–1979, Attorney Project Coordinator, Legal Services of North Carolina, Raleigh, North Carolina; 1977–1978, Special Counsel, Broughton Psychiatric Hospital, Morganton, North Carolina; 1977, Instructor, Dyslexia School, Dallas, North Carolina; 1976–1977 (Part-time), Sales Clerk, Belk-Leggett Co., Durham, North Carolina; 1975–1976, (Part-time), UNC Law School Library; 1975 (Part-time) Instructor, Reading Research Foundation, Lafayette, LA.

10. Government experience: None other than those listed above.

11. Business relationships: Member of Board of Directors for Coast Guard Federal Credit Union (early 1980s); Member of Board of Directors of House of Representatives Child Care Center (early 1990s).

12. Memberships: North Carolina State Bar; White House Military Social Aides Association; St. Francis Episcopal Church, Potomac, MD; Palisades Swim and Tennis Club, Bethesda, MD; Montgomery County Republican Party Association

13. Political affiliations and activities: (a) List all offices with a political party which you have held or any public office for which you have been a candidate. None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years. None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. \$1,000—Bush for President.

14. Honors and awards: Coast Guard Commendation Medal Coast Guard Achievement Medal.

15. Published writings: “Slick Work: An Analysis of the Oil Pollution Act of 1990,” published in 1992 by the *Journal of Energy, Natural Resources and Environmental Law*, Co-authored with Cynthia M Wilkinson and Lisa Pittman.

16. Speeches: During the last 5 years I have been asked infrequently to give remarks concerning current developments in Congress. I speak from brief notes for these appearances, and do not keep copies of my notes or the dates of appearances.

17. Selection: (a) Do you know why you were chosen for this nomination by the President? I believe I received this nomination based upon my qualifications and experience relating to the responsibilities of the Federal Maritime Commission.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment? I believe my nearly 23 years of experience in matters concerning maritime law and policy qualify me for this position.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate? Yes.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. None.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. None.

3. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. None.

4. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. In my positions as Counsel for the Committee on Transportation and Infrastructure and for the former Committee on Merchant Marine and Fisheries, I was employed to develop legislation to carry out the legislative agenda of the Members of Congress for whom I worked.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. I am unaware of any potential conflicts of interest at this time. If any potential conflicts arise at any time I will recuse myself from consideration of matters involved.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediment to your serving in this position? Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county, or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details. No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? If so, provide details. No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None.

E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines set by congressional committees for information? Yes.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistleblowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the committee with requested witnesses, to include technical experts and career employees with firsthand knowledge of matters of interest to the committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

F. GENERAL QUALIFICATIONS AND VIEWS

1. Please describe how your previous professional experience and education qualifies you for the position for which you have been nominated. I believe my nearly 23 years of experience in positions directly related to maritime law and policy, including the laws enforced by the Federal Maritime Commission, qualify me for the position of Federal Maritime Commissioner.

2. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills? If confirmed, I believe that my training and experience has prepared me to carry out successfully the duties of a Federal Maritime Commissioner.

3. Why do you wish to serve in the position for which you have been nominated? If confirmed, I believe that my experience and other qualifications will allow me to discharge successfully the responsibilities of the position for which I was nominated. I believe it is an honor to serve the President and the people of the United States in the position for which I have been nominated.

4. What goals have you established for your first 2 years in this position, if confirmed? If confirmed, my goal will be to enforce faithfully the laws and other mandates of the Federal Maritime Commission.

5. Who are the stakeholders in the work of this agency? The stakeholders of the Federal Maritime Commission include the U.S. Senate, the U.S. House of Rep-

representatives, the executive branch, vessel common carriers, shippers of cargo, shipping intermediaries, United States ports, and United States labor.

6. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question No. 10? If confirmed, the proper relationship between my position and agency stakeholders would be to consider all relevant viewpoints provided by the stakeholders on matters before the Commission, and to exercise independent judgment, based on the law and other mandates of the Commission, to address those matters.

7. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you? I have employed a collegial, team approach to personnel management. No employee complaints have been brought against me.

8. Describe your working relationship, if any, with the Congress? Does your professional experience include working with committees of Congress? If yes, please describe. I have been employed for over 15 years in Congress, with two different Committees in the House of Representatives. During that time I have worked regularly with the Committee on Commerce, Science and Transportation and other committees of the Senate. My work relationships have been courteous and professional.

9. Please explain how you will work with this Committee and other stakeholders to ensure that regulations issued by your board/commission comply with the spirit of the laws passed by Congress. If confirmed, I will fully consider all viewpoints of stakeholders, including those of the Members of this Committee, and ensure that I am fully informed on the law and the facts concerning any regulation considered by the Commission.

10. In the areas under the board/commission jurisdiction, what legislative action(s) should Congress consider as priorities? Please State your personal views. At this time, I do not have any personal legislative priorities that I believe should be considered by the Congress with respect to Federal Maritime Commission. Congress recently enacted comprehensive amendments to the international ocean shipping system in the Ocean Shipping Reform Act of 1998, and, if confirmed, my first priority will be to implement and enforce that Act and the other laws and mandates administered by the Commission.

11. Please discuss your views on the appropriate relationship between a voting member of any independent board or commission and the wishes of a particular President. I believe that a member of an independent board or commission should consider all relevant viewpoints and exercise his best independent judgment, based on the law and other mandates of the commission, on any matter before that board or commission.

Senator BREAU. Thank you very much, Ms. Dye, for your statement. You mentioned being concerned about homeland security in your last sentence. Do you think the FMC has a role in homeland security in any way?

Ms. DYE. Yes, Mr. Chairman. The FMC has been participating in the cargo container security meetings that are being held at the Department of Transportation. As you know, information-sharing and integration and analysis is going to be one of the cornerstones of our homeland security effort. The Federal Maritime Commission can play a role in sharing the wealth of information that they collect.

The Federal Maritime Commission licenses freight forwarders and non-vessel-operating common carriers, which are the shipping intermediaries, in some cases that actually oversee the loading and the sealing of containers.

The Commission, in their licensing efforts, requires experience for 3 years back on these transportation intermediaries, and they also require a bond for them to perform in the United States, so that information I think would be very valuable in a container analysis data system.

There are about 2,150 U.S. freight forwarders, and nearly 3,000 non-vessel-operating carriers that are licensed presently by the FMC, so that would be a great advantage.

Senator BREAU. Well, I appreciate that answer. We had a previous hearing on the Chairman-to-be, Mr. Blust, and Mr. Creel joined us as well. We talked about that information. If it just stays with the FMC and is not somehow shared with some of the law enforcement agencies, whether it is the FBI or the new Homeland Security Department, it is very important information, and should not just be pigeonholed and put in a box somewhere at the FMC.

You have access to information that could be exceedingly valuable, and I think we should make sure we have a system whereby it is shared by those who need to have it shared.

Ms. DYE. Yes, sir.

Senator BREAU. We probably have some additional questions we might submit to you, but for the moment I think that will suffice with my questions.

I take it that Senator Stevens, if he has questions, they would be submitted in writing, and we will operate under that format.

Senator Rockefeller, from the great maritime State of West Virginia.

Senator ROCKEFELLER. Mr. Chairman, I was searching the map this morning once again looking for oceans and ports in West Virginia, and I failed to come up with any, so I only have to assume that I am going to vote for this nominee.

[Laughter.]

Senator BREAU. Thank you, Senator Rockefeller.

Ms. Dye, thank you so much. I hope that soon we will be able to call you Commissioner Dye. We will bring it to a vote just as soon as the Chairman is able to schedule it. We look forward to working with you in the future.

Ms. DYE. Thank you very much, Senator. I appreciate it.

Senator BREAU. Thank you.

[Whereupon, at 9:45 a.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF SENATOR TED STEVENS

Mr. Chairman, thank you for holding this hearing to consider the nomination of Rebecca Dye to be a Commissioner on the Federal Maritime Commission (FMC).

Ms. Dye was nominated on June 13, 2002, by the President to serve as an FMC commissioner for the remainder of a 5-year term expiring June 30, 2005. Ms. Dye is fully prepared to serve as a Federal Maritime commissioner from her years as an officer in the U.S. Coast Guard, both as a legislative attorney in the Chief Counsel's Office in Coast Guard Headquarters and as a Law Instructor at the Coast Guard Academy in New London, Connecticut.

In addition to her service to her country in the Coast Guard, Ms. Dye has distinguished herself as the Counsel for the House Transportation and Infrastructure Subcommittee on Coast Guard and Maritime Transportation, working for my good friend Chairman Don Young.

Ms. Dye is an excellent choice for this position and will serve our Nation's maritime interests well. I strongly recommend that this Committee move her nomination forward.