

Then, too, a foreign shipowner causing pollution might not be accessible to the secretary for collection of costs resulting from pollution. In this last example, bear in mind that we are speaking of all categories of ships—freighters, tankers, bulk cargo, and so on—which in international commerce constantly travel in and out of U.S. waters, and along with U.S.-flag vessels are potential sources of pollution.

The public interest will not be fully protected unless legislation pertaining to an obligation to remove an oil spill also provides a constant and reliable guarantee of an availability of funds—in other words, what we call financial capability. The bill ignores this fundamental condition and therefore might give to the Secretary of the Interior a meaningless right to recover his costs in removing a spill.

We urge that this pivotal concept of financial capability be incorporated in the bill. We would suggest incorporating a provision that: (1) Any vessel registered, enrolled, or documented under the laws of the United States or (2) Any foreign vessel entering a port of the United States must demonstrate its financial capability. Evidence of financial capability can take many forms which the legislation should recognize.

INSURANCE

The most common form of providing financial capability is insurance. Demonstration of adequate coverage could be made by filing with the appropriate governmental authorities, at the time of registry or entry, a certificate of insurance, or an appropriate protection and indemnity club certificate of entry or similar evidence of insurance coverage, including self-insurance. Such evidence would demonstrate coverage of the shipowners' potential liability for the cost of removing a spill in the territorial waters of the United States and would assure that funds are available to cover the cost of removing spilled oil.

Any such amendment concerning evidence of financial capability should also permit such capability to be established by other means, such as evidence of sufficient corporate net worth within the United States, a voluntary deposit of assets within the United States, or a guarantee from a U.S. company of sufficient assets.

We also would urge that this provision leave room for the acceptance of possible international alternatives which may be adopted under the auspices of the Intergovernmental Maritime Consultative Organization, more familiarly known as "IMCO." This could be done by granting to the Secretary discretion to accept any alternative contained in an international convention or treaty to which the United States becomes signatory.

LIMITATION OF LIABILITY

Assuming the necessity of financial capability, it is essential that a shipowner's liability for the cost of removing a spill be subject to some practical limit, unrelated to existing or traditional limits of a liability. Without a limit, it would be impossible for many shipowners to establish financial capability. Most shipowners would undoubtedly try to obtain insurance in commercial markets against the risk of liability for the costs of removing a spill. But if this liability is not lim-