

PENALTY PROVISIONS

Mr. CRAMER. I have some questions, but I will try to keep to a minimum, because I do think there are a few that need to be asked to help clarify the record a little bit.

For instance, as I understand it, under House bill 15906, in addition to liabilities, cleaning up, there is also, on page 4, subsection (c), willfully violating, \$2,500 fine or imprisonment for a year, criminal liability; again, (d), owner or operator who violates provisions of this section or any regulation issued thereunder shall be liable for a civil penalty of not more than \$1,000, right? And (e) is any vessel other than a public vessel in violation of this section or any regulation shall be liable for civil penalty of not more than \$10,000.

Now, that is in addition to what you basically have been discussing, right in the way of penalties, requirements, and so forth?

Mr. CHECKET. Yes, sir.

Mr. CRAMER. What happens to the enforcement when someone other than the owner or operator are responsible?

Let me give you an example. How about members of crews, ships strangers to the salvors or others who have dealings with the ship, or others colliding with her?

Mr. CHECKET. I think I understand what you mean, sir. We would certainly support any legislation that would assess the fines or monetary penalties or penal provisions against the party who was found to be at fault in the pollution; that is, other than the owner or operator of the vessel who actually discharged the oil.

Mr. CRAMER. We got into the \$10,000 under (e). You have any vessel other than a public vessel involved in violation of this section or any regulation shall be liable for civil penalty of not more than \$10,000.

That is without regard to whether there is any responsibility in the handling of that vessel. I do not know whether an act of God is excluded under that or not think it is applicable. In a way, even an act of God would be included.

Is that not the way you read it? I am having difficulty reading it otherwise.

Mr. CASEY. Mr. Cramer, I believe that—and I am referring really more to H.R. 14000 rather than the bill you referred to, the section is a little bit different—but both (c) and (d) refer back to (b). In other words, (b) establishes what is the unlawful discharge of oil. There are exceptions in (b) for unavoidable collision on emergency affecting life and property, and so forth.

In the report of the Senate committee explaining the (b), they do say that (b) imposes liability without fault.

Now, strangely enough—

Mr. CRAMER. Absolute liability.

Mr. CASEY. Although there are exceptions, the implications you have to establish have to come within one of the exceptions.

Mr. CRAMER. Unavoidable accident.

Mr. CASEY. Negligence. If it is avoidable—

Mr. CRAMER. You have the burden of proving it comes within the exceptions.