

alarm, both in this country and abroad. Speaking personally, I have rarely if ever seen a piece of legislation involving shipping matters which has been so universally criticized from the standpoint of its inevitable effects.

This area of limitation of liability is a highly complicated subject, and in view of the serious implications of the present bill, it would seem desirable and necessary to outline for the Committee the history and background of the problem.

The basic United States law, in general, permits a shipowner to limit his liability, but only if the damage is incurred without his privity and knowledge, to the value of the ship after the casualty, plus pending voyage earnings. This was enacted in 1851 (46 USC § 183, 184, 185, 187, and 189) in a form which closely paralleled the British law of that time, and it has remained substantially unchanged except for certain amendments in 1936. In this connection, I would like to point out that it is now frequently said—in error, I might add—that recovery is limited to the salvage value of the ship. And, indeed, in the President's Message of March 8, 1968, it is stated that "Prior law limited the owner's liability to the salvage value of the ship." And this statement again appears in the Department of Transportation-Interior Report to the President on Oil Pollution. I repeat, this is not an accurate statement of the law.

As a result of the *Morro-Castle* disaster, the so-called Sirovich Amendment (46 USC § 183 (b)) was enacted, which requires an owner of an oceangoing vessel to provide in addition to the value of the ship and the pending freight a minimum limitation fund of \$60 per ton of the vessel's gross tonnage which would be available to personal injury and death claimants. Thus, it is not correct to say that the owner's liability is limited to the salvage value of the ship. There is also \$60 per gross ton provided for death and injury claims as well as the value of the ship and the freight receipts for the final voyage.

We have consistently advocated liberalization of the fund. The shipowners have agreed that the \$60 figure should be raised and the fund increased. This general sentiment in the maritime community resulted in the International Convention Relating to the Limitation of the Liability of Owners of Seagoing Ships, which was negotiated at Brussels in 1957, and has been signed by 30 major maritime nations. The U.S. Delegation did not sign the Convention because of significant language differences between the Convention and that sought by our delegation. Also, the Brussels Convention has not come into effect because it has not been ratified by the required number of nations. The Convention established a maximum liability based on vessel tonnage. The limitation fund is computed at \$207 per ton where only personal injury and death claims are involved, and at \$67 per ton where there are only property claims. Where there are both personal and property claims, the fund is based on the figure of \$207 per ton, with \$140 per ton to be exclusively reserved for personal injury claims. If the \$140 per ton is insufficient to cover the personal injury claims, the unpaid balance is shared pro rata with the \$67 per ton which would otherwise be applied exclusively to property claims.

In 1962, legislation was introduced in Congress which would have provided the same tonnage limitations as the Brussels Convention and which would have enabled the United States to ratify the Brussels Convention. Recognizing the inadequacies of the present limitation of liability, the industry supported this legislation. Although the 1962 bill was favorably reported out of committee, no action was taken on the floor of the Senate. There is reason to believe that a new limitation of liability bill identical to the 1962 proposal may soon be introduced on the Senate side.

That, Mr. Chairman, is limitation of liability as it stands today. Subsection (e), under the language referred to, apparently would remove all limitation on liability for the cleanup of an oil spill.

Our objections to the provision of subsection (e) prescribing the removal of limitation of liability with respect to the cleanup of an oil spill are as follows:

1. The change as now proposed relating to cleanup would be a drastic step not in harmony with maritime history.

2. The law pertaining to limitation of shipowners' liability is of international significance. Action by the United States, as here proposed, should be undertaken only in concert with other maritime nations throughout the world.

3. So far as is known, no maritime country is without some legal system permitting limitation in relation to persons and property.