

4. The removal of limitation would play havoc with the current insurance market. In fact, discussions with underwriters indicate that owners will be unable to secure insurance against such risks without some limitation of liability.

5. If limitation of liability is removed, the American owners will be hit first and the hardest. American-flag tankers are employed almost exclusively in the coastwise trade between Texas and the North Atlantic and would, therefore, be in waters adjacent to the shores of the United States a much greater percentage of the time than foreign ships.

6. The most conclusive objection is that an operator subject to absolute liability without fault could be driven from the seas. The small operator (one, two or three tankers) could not financially survive the impossible burden of *total* cleanup costs for even one disaster.

Mr. Chairman, over a century ago, limitation of liability was adopted as a national maritime policy by both Great Britain and the United States to limit catastrophic losses from the perils of the sea. Both the British and American merchant marines were failing fast, for there were investments in other areas just as lucrative and much less risky. Consequently, it was found necessary, in the interest of attracting capital to the owning and operating of ships, to protect against the extraordinary perils of the sea.

Today, the situation facing the American merchant marine is as bad or worse than it was a hundred years ago. Three-quarters of our fleet is over 20 years of age. No adequate replacement program is yet on the horizon. Unless radical measures are taken fast, there is a good prospect that the present fleet of approximately 975 vessels will shrink to four or five hundred vessels in the years immediately ahead. Action by the Congress to remove all limitation of liability upon any risk, including oil spillage, would be the last "nail in the coffin". Thus, we strongly urge retaining some form of limitation.

SUSPENSION OR REVOCATION OF LICENSES

I have already alerted some of the labor unions representing ships' officers to the dangers inherent in the provisions of subsection 19(g). Under this section, the Commandant of the Coast Guard may suspend or revoke a license issued to an officer of any vessel found violating the provisions of subsection 19(b). Senate Report No. 917 offers the following explanation of this provision:

"The 1924 act authorizes the Coast Guard to suspend or revoke a master's license or the license of any officer of a vessel found violating the act. The bill would continue this authority."

The above explanation naively forgets that in order to establish a violation under the 1924 act, either gross negligence or willfulness had to be established. Under the present bill, a violation could apparently occur "regardless of fault". I hope the Committee will appreciate the seriousness of the predicament in which our merchant officers will be placed should the bill pass in its present form.

AUTHORITY TO ISSUE REGULATIONS

And finally, Mr. Chairman, I should like to offer a brief comment with respect to subsection 19(h). In that section the Secretary of the Interior is authorized to issue regulations which, among other things, would permit the discharge of oil from a vessel under certain circumstances. It has recently been brought to my attention that situations do develop, particularly where a vessel is temporarily stranded, when it becomes advisable, in the opinion of the experts, to deliberately pump oil from the vessel into the sea. The theory is, I believe, that by lightening the vessel it may be freed and thus eliminate the danger of vastly greater damage in the event it should break up.

I merely wish to mention this kind of situation at this time, although I am sure that the Secretary would cover such situations in the regulations he is authorized to issue under subsection 19(h).

INTERNATIONAL APPROACH

Mr. Chairman, I cannot say too strongly that this entire matter of oil pollution is one which properly should be dealt with in an international basis. You will recall that at the time of the *Torrey Canyon* disaster great pressures built up in both England and France for the enactment of unilateral oil pollution legislation.