

LIABILITY WITHOUT FAULT

Mr. CASEY. Mr. Chairman, I subscribe wholeheartedly to the position that the American Petroleum Institute has taken in two principal and important areas. First, that if this bill purports to impose liability without fault, that it is unfair and contrary to established legal precedents. We feel that the bill should provide for unlawful discharges only in the case of negligence.

Indeed, a reading of the bill, were it not for the statement in the report of the Senate committee, would lead me to the belief that an unlawful spilling under 19(b) would be one resulting from an avoidable accident since the section uses the word "unavoidable" or, in other words, a happening which, but for the lack of reasonable care, would not have occurred.

I note yesterday that the Secretary of the Interior said, in effect, let the fellow who made the mistake clean it up rather than the Federal Government. We subscribe to that, but a mistake in itself connotes negligence in the act of passive action.

NO LIMITATION OF LIABILITY

Aside from the question of liability without fault, the most significant change that is made in the cleanup section derives from the use of the words "notwithstanding any other provision of law which purports to remove the historic limitation of liability enjoyed by shipowners for generations," because 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 countries adopted it. Both the British and American merchant marine was failing fast, but there were investments in other areas and much less risky

Consequently, it was found necessary, in the interest of attracting capital to the owning and operating of vessels to protect against extraordinary perils of the sea.

Today, the situation facing the American merchant marine is worse than it was 100 years ago. To remove all limitation of liability for any risk, including oil spillage, would be the last nail in the coffin of the American merchant marine today.

Thus, we strongly urge retaining some form of limitation.

INTERNATIONAL APPROACH

Now, Mr. Chairman, I am going to skip, in the interest of time, to point out merely that we feel that this entire question is derived from the consequences of the *Torrey Canyon* and, indeed, the *Ocean Eagle* are matters that can be handled on an international basis under the intergovernmental maritime consulting organizations.

This organization has established numerous committees, both in the legal and practical aspects of what can be done to avoid similar accidents, what can be done when an accident happens.

There is a forthcoming meeting of the legal group called the Comité Maritime International, on May 2 and 3, where there will be a number of suggestions put forth before that group on an interna-