

two essential principles of liability based on the concept of negligence and the right of limitation of that liability, where there is no privity. The P. & I. associations support the recommendations because they accept that, as the law now stands, the position of governments in regard to oil pollution is not really satisfactory. They must be given the right to recover costs reasonably incurred by them in preventing or mitigating the damage caused by pollution—and the costs recoverable must not be unduly limited, but must be such as to give adequate protection save only in the quite exceptional case.

The assumption of an additional risk of this nature would, as I have earlier pointed out, result in higher premiums, but it would nevertheless be insurable.

Before I conclude my statement, there is one point upon which I think I should comment.

EVIDENCE OF FINANCIAL CAPABILITY

You have heard testimony of the representatives of the American Petroleum Institute about evidence of financial capability. I am authorized to say that so far as the P. & I. associations are concerned, the only evidence of financial capability which an owner would be able to provide would be production of a normal certificate of entry in one of the associations; such a certificate of entry would be subject to all the rules of the association, and there could be no question of ever waiving the defenses open under the terms of such policies. You will hear from my colleague, Mr. Miller, that a similar situation exists so far as the open market policies are concerned.

I would like to thank you once again for the opportunity to speak to you today. I hope what I have said has been clear, but of course if there are any questions you would like to ask me, I will only be too happy to answer them to the best of my ability.

Mr. WRIGHT (presiding). Mr. Shearer, your testimony has been quite comprehensive and extremely helpful to the committee. There is one other thing you have introduced for our consideration, the juxtaposition we would find ourselves in with respect to the law if we were to enact legislation as proposed in the bill.

POSSIBLE EFFECT ON NATION'S FOREIGN TRADE NOTED

Additionally, you have introduced an element which perhaps had escaped our basic consideration in our earnest attempt to abate pollution, that being what effect it might conceivably have upon the foreign trade of the United States.

RIGHT OF GOVERNMENTS TO RECOVER COSTS

Now, as I understand it, assuming that we feel we should go ahead with legislation of some sort, do you believe, from the standpoint of that segment of the insurance industry which deals with maritime insurance, it is an acceptable proposition that governments have a right to recover such costs as may be reasonably be incurred, but that there should be a limitation and that the question of liability without fault is a wholly unacceptable one?