

ADEQUATE LEGISLATION SUPPORTED

Needless to say, as representatives of seamen both licensed and unlicensed, we are aware of the need for adequate legislation in this area and will continue to support all reasonable efforts to eliminate or minimize the serious hazards created by oil pollution.

BILL WOULD SUBJECT SEAMAN WITHOUT FAULT TO CRIMINAL PENALTIES

We are concerned, however, that S. 2760, adopted by the Senate and now under consideration by the House, makes it a crime for any licensed officer or other seamen who may "discharge or permit the discharge of oil," and this goes to even one drop of oil, without the normal and usual requirement that such conduct be either grossly negligent or willful. Licensed officers are also subjected, under this proposed legislation, to the revocation or suspension of their licenses if they "discharge or permit the discharge of oil," again without the requirement that such conduct be grossly negligent or willful.

It should be observed that the Oil Pollution Act of 1924 recognized the principle that an essential element of the commission of the crime of "discharge" of oil is willful intent to commit the proscribed conduct or gross negligence. The 1924 act defined the term "discharge" as "any grossly negligent, or willful spilling, leaking, pumping, pouring, emitting or emptying of oil * * *" S. 2760 would eliminate such elements of willfulness or gross negligence.

The effect of the proposed legislation is that if a licensed officer or other seaman causes or permits the discharge of oil (absent a finding of certain exonerating emergency conditions) he is guilty of a crime despite the fact that he may be wholly without fault, despite the fact that the equipment aboard the vessel may be latently defective, unreliable, or obsolescent and despite the fact that the officer or other seamen may take all reasonable steps to prevent oil discharge. And, gentlemen, practically, every vessel in the world is built to discharge oil. They are designed that way.

We are certain that the Congress would not wish to impose such an intolerable burden on American maritime officers and other seamen who have a long history of loyal and dedicated service aboard vessels of the American merchant marine.

A brief analysis of the oil pollution control provisions of S. 2760 is in order.

The definition of "discharge."

Section 19(a) (7) of S. 2760 defines "discharge" as:

Any spilling, leaking, pumping, pouring, emitting, emptying or dumping oil.

Section 2(3) of the Oil Pollution Act of 1924 defines "discharge" as:

Any grossly negligent or willful spilling, leaking, pumping, pouring, emitting or emptying of oil.

The 1924 act definition thus differs in two respects from S. 2760 in that the former includes the qualifications "grossly negligent, or willful" and in that it does not include "dumping."

The report of the Senate Committee on Public Works (90th Congress, first session, report No. 9017) states that the terms "grossly negligent or willful" were eliminated because—