

## CRIMINAL PENALTIES FOR "DISCHARGE"

Section 19(c) of S. 2760 provides for the punishment upon conviction of any owner or operator "or any employee thereof" for willful violation of the prohibition against discharging oil by a fine not exceeding \$2,500 and/or imprisonment not exceeding 1 year.

Under the 1924 act, section 4(a)—"Any person who violates section 3(a) of this act"—was subject to the same criminal penalties. However, as has already been noted, the criminal act there was based on either willfulness or gross negligence.

The Senate committee report on section 19(c) of S. 2760 specifically states that the criminal penalties could be applied to the "\* \* \* master, officer, or other employee on board the vessel or an employee or agent working on or in a shore installation \* \* \*." (P. 23.)

## S. 2760 DISCRIMINATES AGAINST SEAMEN

There is nothing in the history of the application or enforcement of the 1924 Oil Pollution Act or in any of the studies or reports of Congress or of any agencies concerned with the problem of oil pollution that would warrant this extraordinary punishment of the officers and other personnel of vessels.

It is not suggested so far as we have been able to ascertain that there has been a pattern of flagrant disregard by such personnel of the requirements to avoid oil pollution of the waters. Shipowners and operators who may be responsible for causing oil pollution would under S. 2760 suffer certain financial penalties and costs and possibly imprisonment but there is nothing in S. 2760 which would exclude them from continuing in the operation of their business. On the other hand, offending licensed officers and other seamen, whether or not their conduct is negligent or willful, would be subject to the penalty of having their licenses or papers revoked or suspended, thus effectively depriving them of their means of earning a livelihood and also irrevocably blasting their seafaring careers.

This discriminatory approach of S. 2760 against seaman is compounded by the fact that under that bill an employee of a shipowner or operator working on a shore installation who may violate the prohibition against pollution by discharge of oil, even if convicted would not be deprived of his opportunity to continue working in the same capacity. Since such employee is not subject to Coast Guard regulation, as are seamen, he would not be subject to a revocation or suspension of license as would seamen. This is really placing the seamen in double jeopardy. Nor can it be gainsaid that the discharge of oil by shoreside installations can be more dangerous to the health and welfare of metropolitan communities and adjoining busy waterborne traffic than isolated instances of oil discharge from a vessel at sea.

The license of a marine officer and the papers of other seamen are legally indispensable to their employment as such. The temporary or permanent revocation of that license or papers outlaws such a person from the maritime officers' service. What appalls us is the very thought that the career of a licensed marine officer or other seamen with an otherwise splendid background of accomplishment and achievement in the service of the American merchant marine may be destroyed upon