

PACIFIC AMERICAN STEAMSHIP ASSOCIATION,
April 29, 1968.

H.R. 14000 (S. 2760)—Amend Federal Water Pollution Control Act

HON. GEORGE H. FALLON,
Chairman, Committee on Public Works,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We wish to associate ourselves with the testimony of Ralph E. Casey, President of American Merchant Marine Institute on the above bill given before your Committee on April 24, 1968. This bill is identical to the Senate-passed S. 2760.

We request this letter be placed in the record.

Our views are fully concurred in by Pacific Maritime Association, whose interest lies in the personnel aspects of this bill.

The American Merchant Marine Institute's statement pointed out and we concur, that so long as the Senate Committee Report (S. Report No. 917) on S. 2760 interprets Section 19(b) of the bill to mean that it is a violation of law to discharge or spill oil *regardless of fault*, and since the test of "gross negligence and willful discharge" is being removed in H.R. 14000 by repealing the present law (1924 Oil Pollution Act), there exists in Section 19(b) a serious inequity and ambiguity as to what degree of fault constitutes a violation. *Section 19(b) should be, therefore, amended to clearly provide gross negligence or willful misconduct as the test for a violation.* Alternately, the definition of "discharge" in Section 19(a) could be amended to include gross negligence as part of the definition. This will remove the ambiguity between Section 19(b) and Section 19(c) which latter Section sets up a criminal fine of \$2,500.00 for oil spills created by *willful* violation of Section 19(b). It will also clarify the kind and degree of violation for which civil penalties can be levied in Section 19(d). As Section 19(d) now reads, such civil penalties and libels are not assessable for a *willful* violation as in Section 19(c) but for the ambiguously worded violation described in Section 19(b), which as noted above, the Senate Report interprets to be a "without fault" liability.

A further reason for amending Section 19(b) is its impact upon suspension or revocation of Coast Guard licenses for officers aboard a vessel adjudged to be in violation. It would be the height of injustice to authorize Coast Guard in Section 19(g) to revoke a master's or engineer's license for being on duty on a vessel adjudged *without fault* to be in violation. We feel the vulnerability of a licensed officer's livelihood should not rest upon such a remote involvement with the violation.

Finally, we share fully the apprehension of American Merchant Marine Institute that a vessel's ability to limit liability in a pollution situation is circumscribed by the language in Section 19(e) where it restricts limitations only to "acts of God" and specifically removes all other criteria for limitation by the words "notwithstanding any other provision by law". *These words should be deleted.* Limitation of vessel liability in the Admiralty Statutes (Section 197 et seq. of USC 46) is a keystone element encouraging investment of capital in U.S.-flag shipping. To sweep away such limitation by disclaiming it in H.R. 14000 would be a step backward into abyss of economic frustration which already beckons too many U.S. shipowners.

We urge the adoption of the above amendments to H.R. 14000 and S. 2760.

Sincerely yours,

RALPH B. DEWEY, *President.*

DEPARTMENT OF STATE,
Washington, D.C. May 3, 1968.

HON. GEORGE H. FALLON,
Chairman, Committee on Public Works,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: My letter of April 26 reported comments by the British, Danish, Norwegian and Swedish Embassies on behalf of their Governments concerning H.R. 15906 and S. 2760, both bills concerning oil pollution which are now under consideration by your Committee. We have now been informed by the Embassy of the Netherlands that the Netherlands Government shares generally the views of the other four Governments concerning these bills, in particular, their views with respect to unilateral action by the United States on liability for oil pollution in advance of the results of IMCO consideration and the concepts included