countries may be enacted in reprisal. The consequences of alleged violations under the bill, although not willful, are arrest and incarceration possibly without process, and loss of one's license which would mean the loss of one's livelihood for self and family, all in consequence of an unintended act of negligence or even without a suspicion of negligence. It is inconceivable that such harsh and perhaps unconstitutional consequences could be the legislative intent.

API has proposed that shipowners be required to produce proof of financial capability to pay the severe financial burdens proposed under the bill. The MLA urges that such a provision not be enacted into the law. Such a requirement is not a workable way to cope with the problem at hand, unless it is done on the basis of an international convention. If required unilaterally by our government, not only from U. S. flag vessel owners but owners of foreign flag vessels trading into our ports, retaliatory measures could well be expected to be taken by other nations. The lack of uniformity could create almost insoluble problems in providing insurance coverage. However, should it be deemed advisable that proof of financial capability be required, a usual certificate of insurance or certificate of entry with a recognized insurance carrier or club should be acceptable, provided however, that compulsory insurance should not be required. Such a requirement affecting the ships of many nations is unnecessary and arbitrary. The *in rem* rights against the vessel are preserved in the proposed legislation.

The costs of insurance to cover the liability without fault as suggested under the bill could well be prohibitive, if obtainable at all (see transcript of testimony of April 24, 1968 hearing, pp. 452 and 470 B). This combined with the fact that H.R. 14000, as drafted, negates any right on the part of a shipowner to limit its liability creates an uninsurable situation, because exposure to risk cannot reasonably be measured.

II. LIABILITY TO THE UNITED STATES FOR CLEAN-UP COSTS SHOULD BE SUBJECT TO A SHIPOWNER'S RIGHT TO LIMIT LIABILITY—BUT THE UNITED STATES LIMITATION LAW SHOULD BE BROUGHT INTO CONSONANCE WITH THE INCREASED LIMITS OF THE 1957 CONVENTION.

As above stated, the MLA supports reasonable legislation designed to prevent oil pollution and provide a proper measure of liability therefor. However, the majority view is that MLA is unalterably opposed to the destruction of a shipowner's right to limitation of liability.

All maritime nations provide for some form of limitation of a shipowner's liability, the major ones by adhering to the principles of the 1957 convention. Such right is rooted in the universally recognized principle that it is a paramount consideration for maritime nations to preserve the continuity of maritime commerce as a matter of vital national interest.

Perhaps it would be helpful to the Committee to briefly review the history of limitation statutes. Limitation of shipowners' liability was adopted in France in 1681 and in England in 1734. The first Congressional act in the United States was passed in 1851. Such act was later amended in 1936 to provide an additional fund to be available in instances of death and injury to passengers, crew members and others.

The principle of shipowner's limitation of liability is recognized in the report of the Committee on Commerce, United States Senate—87th Congress, 2d session, Report No. 1602, dated June 15, 1962, Calendar No. 1562—submitted by Senator Bartlett to accompany a bill, S. 2314, in the 87th Congress relating to the limitation of liability of shipowners in the following terms:

> "The law of every maritime nation permits owners to limit liability to some extent. The concept springs from the practical economic need to insulate shipowners from the ruinous liability that could result from maritime disasters. It recognizes that the ship, unlike other property, normally operates in distant areas where the owner cannot personally see to its safe navigation and management, and that the ship is subject to unusual perils and hazards of the sea. Because of these considerations and to encourage, as a matter of public policy, investment in shipping, the shipowner may be relieved in part from the consequences of torts, such as negligence in navigation, unless the casualty is a result of his own fault or privity."

To deprive the United States shipowners of their right to limit liability as is provided under the present bill would be a further step in the direction of placing the United States Merchant Marine at a fatal disadvantage in international commerce.