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90-55 FISHING IN U.S. TERRITORIAL WATERS

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HEARING
BEFORE THE
SUBCOMMITTEE ON
MERCHANT MARINE AND FISHERIES
OF THE
COMMITTEE ON COMMERCE
UNITED STATES SENATE
NINETIETH CONGRESS

FIRST SESSION

ON

S. 2324

TO AMEND THE ACT PROHIBITING FISHING IN THE
TERRITORIAL WATERS OF THE UNITED STATES WITH
RESPECT TO THE PENALTIES PROVIDED THEREUNDER

SEPTEMBER 18, 1967

Serial No. 90-55

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FISHING IN U.S. TERRITORIAL WATERS

HEARING
BEFORE THE
SUBCOMMITTEE ON
COMMERCE

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(II)



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The following are the names of the persons who have been elected to the various offices of the Association for the year 1912. The names are given in the order in which they appear in the list of names.

OFFICERS FOR THE YEAR 1912

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Vice-President: [Name]
Secretary: [Name]
Treasurer: [Name]
Committee on Finance: [Name]
Committee on Education: [Name]
Committee on Publications: [Name]
Committee on Correspondence: [Name]

FISHING IN U.S. TERRITORIAL WATERS

MONDAY, SEPTEMBER 18, 1967

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met at 10 a.m., in room 5110, New Senate Office Building, Hon. E. L. Bartlett (chairman of the subcommittee) presiding.

OPENING STATEMENT BY THE CHAIRMAN

Senator BARTLETT. The committee will be in order.

We are meeting this morning to open, and hopefully close, hearings on S. 2324, a bill introduced by me on August 22, last, with Chairman Magnuson as cosponsor. The purpose of the bill is to amend the act prohibiting foreign vessels from fishing in the territorial waters of the United States, although it does not make any substantive changes. (The text of S. 2324, with agency comments, follows:)

[S. 2324, 90th Cong., first sess.]

A BILL To amend the Act prohibiting fishing in the territorial waters of the United States with respect to the penalties provided thereunder.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to prohibit fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States and by persons in charge of such vessels", approved May 20, 1964 (78 Stat. 194; 16 U.S.C. 1081-1085), is amended as follows:

(1) in subsection (b) of section 2 strike out "including" and insert in lieu thereof a comma;

(2) in subsection (c) of section 2 strike out "including" in each place it appears therein; and

(3) strike out subsection (e) of section 3 and insert in lieu thereof the following:

"(e) Such person so authorized may seize any vessel, its tackle, apparel, furniture, appurtenances, cargo, and stores, or any part thereof, if such vessel is used or employed contrary to the provisions of this Act or the regulations issued hereunder or if it reasonably appears such vessel has been used or employed contrary to the provisions of this Act or the regulations issued hereunder."

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., September 15, 1967.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning S. 2324, a bill to amend the act approved May 20, 1964, relating to fishing in the territorial waters of the United States.

The act of May 20, 1964 (78 Stat. 194-196; 16 U.S.C. 1081-1085), prohibits fishing in the territorial waters of the United States and in certain other areas by

The staff member assigned to this hearing: Dale F. Pocock.

vessels other than vessels of the United States, except as provided in the act or as provided by international agreement to which the United States is a party.

Section 2(b) of the act provides: "Every vessel employed in any manner in connection with a violation of this Act *including* its tackle, apparel, * * * shall be subject to forfeiture * * *." Section 2(c) uses similar terminology in prescribing the applicability of seizure and forfeiture provisions of law. Finally, section 3(e) provides that persons authorized to enforce the statute may "seize any vessel, *together with* its tackle, apparel * * *".

This legislation is apparently directed at eliminating any possibility that the use of the words emphasized above precludes the taking of action against tackle, apparel, etc., independently of the taking of action against the vessel.

Although this point has never been at issue, on August 4, 1967, the U.S. attorney for the district of Alaska initiated a complaint for forfeiture against the dories, tackle, apparel, cargo, and certain stores of a Russian fishing vessel seized for breach of the provisions of 16 U.S.C. 1081 and 1091. Without the question being put before the court, the action was dismissed on motion of the U.S. attorney following a stipulation whereby the action would be dismissed with prejudice upon the payment to the clerk of the court of \$20,000.

It is the view of the Department of Justice that enactment of this legislation is desirable as a clarification of the scope of the seizure and forfeiture provisions of the statute being amended.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

WARREN CHRISTOPHER,
Deputy Attorney General.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 15, 1967.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR SENATOR MAGNUSON: Your committee has requested a report on S. 2324, a bill "to amend the Act prohibiting fishing in the territorial waters [of] the United States with respect to the penalties provided thereunder."

The present law (16 U.S.C. 1081-1085) prohibits foreign fishing vessels from engaging in the fisheries in our protected waters, and subjects a vessel, "including its tackle, apparel, furniture, appurtenances, cargo, and stores," to seizure and forfeiture if a violation occurs. The bill deletes the word "including".

We understand that the purpose of this change is to make it clear that the forfeiture provision applies to the tackle, etc., separately from the vessel. In other words, either the vessel or its tackle, etc., or both, may be seized and forfeited. The bill also makes a similar change in subsection 3(e) relative to seizures. We believe that the statute now permits such a forfeiture. We would not object, however, to such a clarifying amendment.

It has also come to our attention that two other clarifying changes in the law are desirable.

Section 2(b) of the act provides that all fish taken or retained in violation of this act or the monetary value thereof shall be forfeited. It is possible that the offending vessel may take some fish beyond our protected waters and some within our waters. It is, of course, generally impossible for our law enforcement officers to distinguish where the fish were taken. It is contended that if the vessel is found to be taking fish in our protected waters, it is presumed that all fish on board were taken in those waters. The offending vessel must prove otherwise. While we believe that this contention is a reasonable one, we also believe it desirable to amend the section to make the forfeiture provision apply to all fish on the offending vessel, regardless of where the fish were taken, and that the forfeiture be made permissive rather than mandatory. This may be done by changing lines 9 and 10 on page 1 of the bill to read as follows:

"(1) strike subsection (b) of section 2 and insert in lieu thereof the following:

"(b) Every vessel employed in any manner in connection with a violation of this Act, its tackle, apparel, furniture, appurtenances, cargo, and stores and all fish on board such vessel taken or retained or the monetary value thereof shall be subject to forfeiture.' "

A corresponding change is needed in subsection 3(f) of the act. This can be done by adding at the end of the bill a new paragraph (4) as follows:

"(4) in subsection (f) of section 3 change the first sentence to read as follows: "Such person so authorized may seize, whenever and wherever lawfully found, all or any part of the fish on board a vessel in violation of this Act or the regulations issued thereunder.'"

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

DEPARTMENT OF COMMERCE,
September 26, 1967.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Department with respect to S. 2324, a bill to amend the act prohibiting fishing in the territorial waters of the United States with respect to the penalties provided thereunder.

The act referred to above is the act of May 20, 1964, which, inter alia, makes it unlawful for any vessel, except a vessel of the United States, or for any master or other person in charge of such a vessel, to engage in the fisheries within the territorial waters of the United States, its territories and possessions and the Commonwealth of Puerto Rico, or within the 9-mile contiguous fishery zone of the United States. S. 2324 would amend the act of 1964 with regard to the penalties that may be imposed for violations of the act.

We understand that the primary purpose of S. 2324 is to assist in the enforcement of the act of 1964 with regard to the seizure of a vessel or its gear when such vessel is engaged in operations in violation of the act. It had been the intention of the sponsors of the act of 1964, we are informed, to provide in certain instances for the seizure and forfeiture of an offending vessel's gear (tackle, apparel, furniture, appurtenances, and stores) and cargo as penalty for violating the act's provisions. However, the Justice Department reportedly has interpreted the 1964 act to mean that when violations occur the whole vessel, and not just its gear or cargo, is subject to seizure. Since in many instances the seizure and forfeiture of a multimillion-dollar fishing vessel would be an excessive penalty, the need has arisen to provide for penalties to fit the violation and thereby to render enforcement of the 1964 act more meaningful. S. 2324 would amend the 1964 act to allow for such partial seizure; its purpose is to clarify that act rather than to establish a new policy for the United States.

It would appear that passage of S. 2324 would have little impact on U.S. foreign and domestic trade. Accordingly, the Department of Commerce interposes no objection to its enactment.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

JOSEPH W. BARTLETT, *General Counsel.*

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., September 15, 1967.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your letter of August 25, 1967, in which you request the comments of this Department on S. 2324, to amend the Act prohibiting fishing in the territorial waters [of] the United States with respect to the penalties provided thereunder."

Section 2, subsection (b), of the act of May 20, 1964 (78 Stat. 194, 195; 16 U.S.C. 1082), provides in pertinent part that every foreign vessel found fishing in waters in which the United States claims for its vessels the exclusive right to

fish shall be subject to forfeiture " * * * including its tackle, apparel, furniture, appurtenances, cargo, and stores * * *." Subsection (c) provides that all provisions of law relating to the seizure and forfeiture of a vessel including its equipment, cargo, and stores for violation of the customs laws shall apply to the act to the extent that they are applicable and consistent. Subsection (e) of section 3 of the act provides that an authorized person may seize an offending vessel, together with its equipment, cargo, and stores.

The bill would amend subsections (b) and (c) of section 2 and subsection (e) of section 3 of the act to add a provision for the seizure and forfeiture of any part of the offending vessel, its equipment, stores, or cargo.

As the policy considerations involved in amending the penalty provisions of the act do not relate to matters within the Treasury Department's jurisdiction, except for purposes of enforcement, we are expressing no views thereon. If the bill is enacted into law we anticipate no administrative difficulties in carrying out our responsibilities under it.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

FRED B. SMITH, *General Counsel.*

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., Sept. 20, 1967.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Department would like to take this opportunity to express its views on S. 2324, a bill to amend the act prohibiting fishing in the territorial waters of the United States with respect to the penalties provided thereunder.

The proposed bill would amend the seizure provisions of Public Law 88-308. The language of the present law is susceptible to the interpretation that only seizure of the whole offending vessel with her equipment, cargo, and stores is authorized. The proposed amendment is directed to specific flexibility of penalty by declaring that the vessel and her equipment and so forth, or any part thereof, is subject to seizure. Inasmuch as the proposal is not in derogation of the existing authority and the greater flexibility of penalty will permit perhaps more appropriate assessment for various circumstances, the change is deemed desirable.

The proposed amendment will have little or no impact at the Coast Guard enforcement level because of the impracticality of partial seizure at sea. Therefore, no greater operational or administrative burden will be placed upon the Coast Guard nor will additional forces be required.

In view of the foregoing, the Department of Transportation has no objection to enactment of S. 2324.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

JOHN L. SWEENEY,
Assistant Secretary for Public Affairs.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., September 21, 1967.

Hon. WARREN G. MAGNUSON,
Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your request for comment on S. 2324, a bill to amend the act prohibiting fishing in the territorial waters of the United States with respect to the penalties provided thereunder, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The bill makes no substantive changes concerning the law prohibiting fishing in the territorial waters of the United States in certain areas by vessels other than vessels of the United States and serves the purpose of clarifying the language of the present law.

The Department of the Navy, on behalf of the Department of Defense, has no objection to the enactment of S. 2324.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report on S. 2324 for the consideration of the committee.

Sincerely yours,

R. WEZESINSKI,
Captain, U.S. Navy,
Director, Legislative Division
 (For the Secretary of the Navy).

Senator BARTLETT. The first witness this morning is Mr. Harold E. Crowther, Director, Bureau of Commercial Fisheries. Mr. Crowther?

STATEMENT OF MR. HAROLD E. CROWTHER, DIRECTOR, BUREAU OF COMMERCIAL FISHERIES, U.S. DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY MR. DAVID B. FINNEGAN, ATTORNEY ADVISER, OFFICE OF LEGISLATIVE COUNSEL, U.S. DEPARTMENT OF THE INTERIOR, AND MR. WALTER KIRKNESS, DIVISION OF RESOURCES DEVELOPMENT, U.S. DEPARTMENT OF THE INTERIOR

Mr. CROWTHER. Mr. Chairman, I have with me this morning Mr. David Finnegan, attorney adviser of the Legislative Counsel's Office, Department of the Interior, on my right, and Mr. Walter Kirkness.

I am very pleased that Mr. Kirkness has chosen to come with the Bureau just recently.

Senator BARTLETT. Tell us more about that. In what capacity is Mr. Kirkness with you?

Mr. CROWTHER. Mr. Kirkness is working in the Division of Resources Development. He will begin in that capacity. Then, as he determines what his interests are, we will determine where best his skills will be used. We will make the necessary changes. He has already been of great assistance to us. We are extremely pleased to have him as a staff member.

Senator BARTLETT. Let me say the Federal Government is fortunate indeed. For many years Mr. Kirkness was commissioner of the department of fish and game in Alaska, when Alaska was a territory and after Alaska had become a State.

The Alaska cabinet post was held by Mr. Kirkness until quite recently. Everyone who has a true interest in the Alaska fisheries was sorry to see him leave. I am glad, though, that the Federal Government now has the benefit of his services.

Do you have a prepared statement, Mr. Crowther?

Mr. CROWTHER. Yes, Mr. Chairman; it is a fairly brief one. With your permission I would like to read it.

Mr. Chairman and members of the committee, I appreciate this opportunity to make a statement concerning S. 2324 to amend the act prohibiting fishing in the territorial waters of the United States with respect to the penalties provided thereunder.

The act of May 1964 was enacted for the purpose of prohibiting fishing by foreign vessels in our territorial waters or waters over which the United States has the same right regarding fisheries that it has in the territorial sea. It permits the U.S. Government to seize the vessel, the fish thereon, and its gear, et cetera, and to impose certain penalties when a foreign fishing vessel is found fishing illegally in such waters.

Since enactment of this act, there has been a total of five seizures of foreign fishing vessels involving violations of our territorial waters or of our contiguous fishing zone, which was established by law in October 1966, and under which the United States exercises the same exclusive rights in respect to fisheries in the zone as it has in the territorial sea. Three of the five violations involved our territorial sea and the remaining two were violations of our contiguous zone.

With regard to these seizures, some questions have been raised concerning the interpretation of the law.

Section 2(b) of the act reads:

Every vessel employed in any manner in connection with a violation of the Act, including its tackle, apparel, furniture, appurtenances, cargo and stores shall be subject to forfeiture and all fish taken or retained in violation of this Act or the monetary value thereof shall be forfeited.

Section 2(c) has similar language.

Under the present language in these subsections, the vessel is said to "include" its tackle, apparel, furniture, and so forth.

The amendment under consideration deletes the word "including." We understand that the purpose of this amendment is to make it clear that the forfeiture provision applies to the tackle, apparel, et cetera, separately from the vessel. In other words, either the vessel or its tackle, apparel, et cetera, or both, may be seized and forfeited. We believe that the statute now permits such a forfeiture, but we would not object to an amendment buttressing this authority.

The bill also makes a similar change in subsection 3(e) of the act relative to seizures. Again, we believe that this authority now exists, but we do not object to clarifying the act.

It has also been brought to our attention that another change in the act is desirable.

Section 2(b) of the act provides that "all fish taken or retained in violation of this Act or the monetary value thereof shall be forfeited." It is possible that the offending vessel may take some fish beyond our protected waters and some within our waters. It is, of course, generally impossible for our law enforcement officers to distinguish where the fish were taken. It is contended that if the vessel is found to be taking fish in our protected waters, it is presumed that all fish on board were taken in those waters.

The offending vessel must prove otherwise. While we believe that this contention is a reasonable one, we also believe it desirable to amend this section to make the forfeiture provision apply to all fish on the offending vessel, regardless of where the fish were taken, and that the forfeiture be made permissive rather than mandatory.

A corresponding change is needed in subsection 3(f) of the act.

That is the end of my statement, Mr. Chairman. I would be pleased to answer any questions which you might have.

Senator BARTLETT. Let me have a clarification of what you mean in reference to section 2(b). You interpret the law as now providing that all fish found on the offending vessel must be forfeited?

Mr. CROWTHER. I think the way it is stated now, all fish taken or retained in violation of the act. This would mean a proportion, but it is almost impossible to determine which were taken in violation of the act, and which were actually taken under permissive conditions.

It is our contention that we should say all fish aboard regardless of where taken should be subject to forfeiture.

Senator BARTLETT. But that forfeiture should not necessarily be mandatory?

Mr. CROWTHER. It should not be mandatory. We think it should be permissive because there may be occasions where the discretion of the court would be very helpful to us.

Senator BARTLETT. Going back to subsection 3(e) of the act intended to be amended, you don't believe there is any reasonable doubt, even now, as to how that subsection should be interpreted?

Mr. CROWTHER. It is the view of our solicitors that the act as now written would permit the United States to require forfeiture of the cargo, of the gear, or any of the furniture or whatnot on the vessel.

Senator BARTLETT. Or divorcement of the one from the other?

Mr. CROWTHER. Yes, sir.

Senator BARTLETT. Does that opinion of your legal people coincide necessarily with the opinions of the other Federal Government lawyers?

Mr. CROWTHER. There is some difference of opinion and some doubt. That is the reason we have taken the position we have no objection to this change, if it would clarify, even though our attorneys do believe that we do have this authority now.

Mr. Finnegan, do you have any opinion?

Mr. FINNEGAN. Senator, to our knowledge none of the other agencies or Government lawyers have written any opinions of anything formal. There may be a great deal of discussion on this subject. I am not sure that any of the agencies necessarily disagree with this position. I don't think the problem has been put forth in any specific instance where we have had to apply it.

Senator BARTLETT. I am quite sure you are right. There is nothing in written form issued regarding this.

Do you believe the provisions of the bill before us this day, Mr. Crowther, would apply likewise to Public Law 89-658, which was approved October 14, 1966, and which brought into being the contiguous fishing zone?

Mr. CROWTHER. Yes; it would apply to that.

Senator BARTLETT. You have no doubt about that at all?

Mr. CROWTHER. I have no doubt.

Senator BARTLETT. You mentioned there have been five seizures. In any of these cases has the Department of the Interior, or more specifically the Bureau of Commercial Fisheries, been asked to submit its advice as to what the penalty should be?

Mr. CROWTHER. We have not been specifically requested, Mr. Chairman, on this. We did have one of our officers aboard the Coast Guard arresting vessel. I am sure that his views of what took place were given. But we were not asked specifically what our views were in regard to the penalties.

Senator BARTLETT. The penalties in each case have been fines and fines only, including the last case of the Russian trawler where the

gear was seized and then redeemed upon the payment of \$20,000, is that right?

Mr. CROWTHER. That is right, sir.

Senator BARTLETT. So the Department of the Interior has no objection to the enactment of this bill?

Mr. CROWTHER. We believe that if there is any doubt in the minds of the attorneys of the various agencies, that this will help to clarify it. It seems like a wise provision to me.

Senator BARTLETT. Especially perhaps—do you agree with this statement?—because whatever attorneys in the several departments here concerned might decide on their own motion, the judge of the court might have a contrary view and his will prevail.

Mr. CROWTHER. That is correct. In fact, Mr. Finnegan has made that statement in a conversation this morning, that we have no assurance, even though our solicitors have a view, that this will be the view of the court.

Senator BARTLETT. Let's go one step further. You have no objection. Do you recommend the enactment of this legislation?

Mr. CROWTHER. I think that is a true statement, we do recommend enactment of the bill.

Senator BARTLETT. Thank you, gentlemen.

The next witness is Mr. Burdick Brittin, Deputy Special Assistant for Fisheries and Wildlife, U.S. Department of State. And you are accompanied by whom?

STATEMENT OF MR. BURDICK H. BRITTIN, DEPUTY SPECIAL ASSISTANT FOR FISHERIES AND WILDLIFE, U.S. DEPARTMENT OF STATE, ACCOMPANIED BY STUART BLOW, OFFICE OF THE SPECIAL ASSISTANT TO THE SECRETARY OF STATE FOR FISHERIES AND WILDLIFE

Mr. BRITTIN. Good morning, Mr. Chairman. I am accompanied by Mr. Stuart Blow, Office of the Special Assistant to the Secretary of State for Fisheries and Wildlife.

As you know, sir, Mr. McKernan, of course, would liked to have been here. He is down at Mexico City at the present time on negotiations.

The Department did not submit a formal report. The statement I am going to read now, sir, represents the position of the Department on the bill.

Senator BARTLETT. Through the low, middle, and highest echelons?

Mr. BRITTIN. Right, sir.

I am grateful for the opportunity to appear before your committee today and to testify in support of S. 2324, a bill to amend the act prohibiting fishing in the territorial waters of the United States with respect to the penalties provided thereunder. The Department of State considers that S. 2324 would clarify the language of the act of May 20, 1964, so as to insure appropriate flexibility in the enforcement of existing law.

It is my understanding that this legislation has been introduced in order to remove a doubt which now exists as to the nature of the penalties which may be applied in cases of violation of U.S. territorial waters or the contiguous fishery zone by foreign vessels. A question has arisen as to whether the language of the act of May 20, 1964,

permits the forfeiture of a vessel's cargo, fishing gear or other movables in the absence of forfeiture of the vessel itself. Under the present circumstances, it is not clear whether it would be possible to confiscate the gear without also confiscating the vessel.

The amendments proposed by S. 2324 would make clear that all or any part of the vessel's "tackle, apparel, furniture, appurtenances, cargo, and stores" might be forfeited as the circumstances might indicate. This would insure that the courts would have available a broad range of penalties that would make it possible to "fit the punishment to the crime."

The Department of State considers that such flexibility is indeed desirable and would assist in the fair and effective enforcement of the act of May 20, 1964.

That concludes my statement, Mr. Chairman. We will be glad to answer any questions you might have.

Senator BARTLETT. Mr. Brittin, do you concur with Mr. Crowther that the provisions of S. 2324, the bill before us this morning, would apply not only to Public Law 88-308, approved May 20, 1964, but likewise to Public Law 89-658, approved October 14, 1966?

Mr. BRITTIN. Yes, sir, I do.

Senator BARTLETT. I have many questions which I might ask you. I might ask you whether you believe that the penalties have been severe enough in the cases that have been brought before the courts in Alaska, and many others.

However, in light of your endorsement of the bill pending, I will merely thank you, Mr. Brittin, for having appeared.

Mr. BRITTIN. Thank you very much, Senator.

Senator BARTLETT. The final witness is Mr. Kevin T. Maroney, Chief, Appeals and Research, Internal Security Division, U.S. Department of Justice.

STATEMENT OF MR. KEVIN T. MARONEY, CHIEF, APPEALS AND RESEARCH, INTERNAL SECURITY DIVISION, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, D.C.

Mr. MARONEY. It is a pleasure to be here this morning, Mr. Chairman. I have no prepared statement aside from the report submitted to the committee by Deputy Attorney General Christopher which fully sets forth the desirability of this legislation so as to make it abundantly clear that in the instance of a violation of the fisheries zone we can proceed in a forfeiture action against the tackle, cargo, and appurtenances of a vessel without necessarily proceeding against the vessel itself.

The present working of the statute as has been pointed out provides that we can forfeit against an offending vessel, including its tackle, cargo, and so forth.

The present language of the forfeiture provisions raises the question whether in order to proceed in a forfeiture action against the tackle, for example, the fishnets, we also must proceed against the vessel itself.

This obviously would not always be equitable. We think that the statute should be amended in the way that this bill proposes so as to make it perfectly clear that we can proceed against the tackle or the fishing nets, for example, without attaching the vessel itself.

For those reasons, Mr. Chairman, the Department of Justice fully supports the proposed legislation.

Senator BARTLETT. Thank you very much. Do you agree, as did the other two witnesses, that this applies to both laws?

Mr. MARONEY. I do; yes, sir.

Senator BARTLETT. Thank you very much. The hearings will be closed.

(Whereupon, at 10:27 a.m., the subcommittee was adjourned.)



The Department of state considers that such legislation is indeed desirable and will assist in the far and effective enforcement of the law of July 20, 1944.

Your concluding statement, Mr. Chairman, we will be glad to answer any question you might have.

Senator BARTLETT. Mr. Britton, do you agree with Mr. Cowling that the provisions of S. 2324, the bill before us this morning, would apply not only to Public Law 82-108 approved May 20, 1944, but likewise to Public Law 82-858 approved October 14, 1950?

Mr. Britton. Yes, sir, I do.

Senator BARTLETT. I have many questions which I might ask you. I might ask you whether you believe that the penalties have been severe enough in the cases that have been brought before the courts in Alaska, and many others.

However, in light of your endorsement of the bill pending, I will merely thank you, Mr. Britton, for having appeared.

Mr. Britton. Thank you very much, Senator.

Senator BARTLETT. The next witness is Mr. Kevin T. Maroney, Chief Appeals and Research, Federal Security Division, U. S. Department of Justice.

STATEMENT OF MR. KEVIN T. MARONEY, CHIEF APPEALS AND RESEARCH, FEDERAL SECURITY DIVISION, U. S. DEPARTMENT OF JUSTICE, WASHINGTON, D. C.

Mr. Chairman, it is a pleasure to before the hearing, Mr. Chairman, I have no prepared statement, while from the report submitted to the committee by Deputy Attorney General Clegg, which falls far short of the desirability of the legislation as we would probably think that in the instance of the Federal Bureau of Investigation, some was introduced in a similar action against the Federal Bureau of Investigation, of a vessel without necessarily proceeding against the vessel itself.

The present wording of the statute as has been pointed out previously, that it is directed against an offending vessel, including its cargo and so forth.

The present language of the statute provides for the question whether an order is issued in a formal action against the vessel, for example, the United States Coast Guard, the vessel itself.

This change would not always be applicable. We think that the change should be included in the way that the bill comes to us to make it possible that we can proceed against the vessel on the fishing boat, an example without attaching the vessel itself.



