

*Canada Shipping Act—Munitions*

thing in that port once she is in the port or within the three mile limit. What we could do is punish someone, because the ship is of Canadian register, but we cannot interfere with the loading or unloading in that port, that not being a port in which a conflict is being waged.

Mr. SLAGHT: Surely that is as far as we can go.

Mr. HOWE: We are doing what we can, what is within our powers.

Mr. COLDWELL: This bill is of limited scope. It is in a sense discriminatory against just two ships on the Pacific, for example. Does the government contemplate using the Customs Act to cover other ships not registered in Canada and place them on the same footing in regard to the export of munitions?

Mr. HOWE: We are doing that almost every day. The section passed last year is being applied to Spain at the present time.

Mr. HEAPS: Do I understand from what the minister has just said that quite a large number of shipments have been prevented from leaving this country under the provisions of the act of last year?

Mr. HOWE: Perhaps more indirectly than directly. The fact that the power is there probably stopped a good many shipments.

Mr. HEAPS: I understood the minister to say that shipments had been stopped almost every day under the Customs Act.

Mr. ILSLEY: I think what the minister said is that the provisions of the Customs Act are being applied. Naturally, when shipments to Spain are prohibited under order in council, persons in this country do not try to make such shipments.

Mr. HEAPS: Well, have many shipments been prevented from going to Spain as a result of the legislation passed a year ago?

Mr. ILSLEY: That comes within the jurisdiction of the Department of National Revenue. I cannot answer the question definitely, but I am under the impression that no one has tried to make such shipments. Efforts to ship to Spain have been insignificant or non-existent.

Mr. MARTIN: Would the point raised by the leader of the opposition be met if in 703A (1), instead of the phrase "transshipped on the high seas," a more general or comprehensive phrase were used such as "transshipped anywhere"?

Mr. HOWE: I think the point there is that to be under our control it must be on the high seas. As the leader of the opposition

[Mr. Bennett.]

said, if it is in a foreign port it is under the control of the government of the country in which the port is situated.

Mr. MARTIN: Then we get into an argument. The phrase "territorial waters" does not mean the same for all countries. In some instances it is three miles; in others, twelve miles. Moreover, for some countries, the phrases "territorial waters" and marginal seas are not identical.

Mr. BENNETT: That is, I think, covered by the words "territorial waters." The section contemplates three things. One of them I find difficult to follow. First, the article shall not be discharged at any port or place in any territory designated by the governor in council for the purposes of this section. The second is, "or within the territorial waters." The third is, "on the high seas." They are all covered. But what I find it difficult to understand is this: We say that no such article consigned to or destined to any such port shall be taken on board or carried in any such ship. I would think that the language used should have been that so far as the parliament of Canada has jurisdiction it shall be so, as is frequently done. It looks strange for us to say that no one in one of these foreign ports can load goods into or discharge goods from a ship to which our arm cannot reach, except as the people or the ship may come back within this jurisdiction. If I may say so without being offensive, it really is meaningless as it reads, because no purpose can be served by enacting a prohibition against something being done in Manila, for instance, when Manila is within the legislative jurisdiction of another country and we cannot exercise any power with respect to that ship in that port. The fact that she is registered in Canada does not give us jurisdiction over the ship tied up at the dock in a foreign port. She has become subject to the local or domestic law of the port.

The Minister of National Revenue (Mr. Ilsley) sitting beside the Minister of Transport (Mr. Howe) knows of a case that engaged the attention of eminent judges for a long time concerning the jurisdiction of the local authorities and the British authorities, the ship being registered in England, in connection with a particular crime. In this case we certainly cannot prohibit the loading of anything on that ship in a foreign port. We can say that if a ship under Canadian registry does something, we may punish the owner; and the crew itself is subject to certain international obligations—I did not want to get into that phase of the matter—provided for by the convention which we signed some years ago, which was approved by this house. The sailor