

*Maritime Code*

raised. I would urge the House to approve the legislation as it has been reported to us from the committee and not go to the extent of amending it as my hon. friend has suggested.

Motion No. 3 in the name of the hon. member for Esquimalt-Saanich is, as he indicated, in the same vein or spirit but approaches the problem from another angle. I might say that this particular idea was also proposed and discussed at length and ultimately turned down during the course of our committee proceedings. I want again to assure the hon. member that the principle for which he is arguing is not one to which we take exception. Indeed, it was indicated during the committee proceedings and previously in this House that the very points which he made in his statement on the motion are ones with which we fully agree, and I would argue that the legislation as presently drafted accomplishes the objectives he has in mind. From a technical and procedural point of view we would accomplish those objectives in better fashion than the wording proposed in motion No. 3.

The technical answer is a matter of drafting. As it is presently worded, the clause is designed to cover the situation in general and all-encompassing language. You get into some difficulty when you try to reduce that language specifically to deal with certain circumstances. You may cover a particular circumstance very well, but as the situation changes from time to time you may find that the specific wording chosen fails to include or to cover situations which arise later down the road that really were not thought of at this moment in time. We would be further ahead and would cover the concern more adequately if we were to use the broader, all-encompassing language that we have in the bill and not restrict ourselves to more specific language that may at some time in the future leave out something.

On this point I would refer hon. members to evidence given to our committee when this particular issue was before us. The evidence appears in issue No. 34 of the committee reports. The witness being questioned was Mr. J. J. Mahoney, Assistant Deputy Minister, Department of Justice. The particular quotation I want to refer to is on page 28. I will read one brief paragraph.

**Mr. Paproski:** Did you say Justice Mahoney?

**Mr. Goodale:** No, Mr. Speaker. For the benefit of the chief opposition whip, the witness was Mr. J. J. Mahoney, Assistant Deputy Minister, Department of Justice. I want to make that absolutely clear. After Mr. Mahoney had given some indication of the technical and drafting problems involved, he went on to say:

—it is felt that by using these more general words, it is possible then to tie down the situation more tightly than if one uses rather specific language, but either events change or some new system is developed which has not been taken into account in that very specific use of language. It is the same old legal problem you have in contracts or in incorporating companies and in many areas of the law where it is often better to use general phraseology and so encompass all of the objective than it is to be very specific and forget something.

That is the opinion that Mr. Mahoney offered on that occasion. I think it is the right one. It is a pretty basic principle in the sense of technical drafting of statutes. We have there an assurance that we cover the situation more effectively by using the broader wording as it presently stands in the legislation, rather than reducing ourselves to

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more specific words which may result in our omitting to cover a situation which may arise at a later time.

● (1420)

In concluding what I have to say about these two amendments let me once again stress that we appreciate the spirit and the thrust of the amendments, but it is our view that the statute as presently worded covers the situation in a fair, reasonable and adequate fashion and that it is not necessary to add the additional words proposed either in motion No. 2 or in motion No. 3 and that these motions should not be accepted by the House.

**Mr. Forrestall:** Would the parliamentary secretary permit a brief question before he resumes his seat?

**Mr. Goodale:** Yes, Mr. Speaker.

**Mr. Forrestall:** Would he not agree with me that the basis of our concern is to be found in his very words of a moment ago? If I am paraphrasing them, I apologize, but I hope I reflect the intent of what he was saying. He said, "I think". He didn't say, "I know". He was not able to give us an unqualified assurance. He simply said, "I think" with regard to the assurances given by Mr. Mahoney, a man for whom all members of the committee have a great deal of respect. The parliamentary secretary reflects his own doubt. The existence of that doubt gives us cause for concern with respect to his reassurances on this point.

**Mr. Goodale:** Mr. Speaker, I think it is my style of phraseology and not my particular words which are concerning the hon. member. When I said "I think", I did not want to imply doubt on my part.

**An hon. Member:** You said it again. You began by saying it.

**Mr. Goodale:** It is too bad that the recording processes of the House cannot take into account the tone and emphasis in a speaker's voice. There is a great difference between saying "I think" with a rising inflection, and saying "I think" with a more firm inflection in one's voice.

**Some hon. Members:** Oh!

**Mr. Goodale:** In any event, I want to allay the fears of the hon. member by saying I did not mean to imply by using the words "I think" that I entertained some doubt on the particular point. I suppose that until any statute has been adjudicated upon by the Supreme Court in the event of final recourse thereto there would, in a strict legal sense, always be some legitimate room for argument. We can only do our best by phrasing the legislation in the most effective way we can, and I think the legislation as written accomplishes that objective.

**Mr. Munro (Esquimalt-Saanich):** Perhaps I, too, could direct a question to the parliamentary secretary. This question relates to the discussion we had yesterday and also to the discussion we are now having in seeking to tighten up the incidence of cabotage. Part of our discussion yesterday concerned altering the French text to correspond more closely with the English text. There are two places, one of which I think we might accept as showing conformity between the texts, but there is one absence, to my way of