

powers of the international accord and, more particularly, upon the comprehensive nature of the international accord and its capacity to include countries which have operated in the past in the business of ship registration and perhaps have not been as careful as Canada would like to be in adhering to international regulations which would lead to a safer environment.

That, of course, is in the nature of the problem under any international law. Those who obey the law are always at the mercy of those who do not. I simply underline the point that we will be in that difficult situation here, and one of the matters on which we will seek some clarification and specific information in the committee has to do with what kind of substances might leak through the loopholes in this law, and also the incidence of problems arising either from ships of foreign registry or from cargoes loaded elsewhere than within the jurisdiction of the signatories to this particular accord.

Another limitation in the bill is that the strictures here apply to cases of deliberate disposals. Again it will be necessary to refer to the accumulated bodies of laws for a definition of deliberate. I think most of us would agree, and it is well established in our own legal system, that there is not much protection that we can provide, particularly in a rudimentary system, against accidental occurrences.

One would hope that the Department of the Environment is acting under other headings to try to protect our coastline against accidents, but the fact remains that there is no way in which we can prevent, by law, the occurrence of accidents. Perhaps we can respond, but we cannot prevent. So there is some sense in including the adjective deliberate, but it raises a serious problem of definition as to just when a disposal is deliberate and when it is accidental.

There will be a grey area that will cause some difficulties of interpretation. I imagine that there is some learning or case history in international law on this matter now, and that will be something to which we will want to give our attention in the standing committee. It is a matter of some concern to us that we may be creating, by the language of this legislation a capacity for certain countries, or certain ship owners who might not want to adhere to the convention, to find a way out because of the adjective deliberate. That is a matter to which, I am sure, the parliamentary secretary has given extensive attention, and I am looking forward to hearing from him, his advisers and the minister on this matter in committee, and on the extent of the loophole that it might create for people who normally come within the confines of this legislation.

There are some other problems that occur to me as I look at the legislation. Of course I will not violate the rules of the House by referring at this stage to specific clauses or subclauses, but a problem seems to arise in the case of emergencies. I am speaking now not from the perspective of the country that might be affected but from the perspective of the ship owner or captain who might be in the situation where he or his crew are faced with an emergency and, for the safety of his ship and of his crew, he might engage in some kind of dumping. Clearly that kind of thing happens at sea and it is clearly a matter which we must contemplate.

Dumping at Sea

As I read the bill—again this might be a matter on which the parliamentary secretary or advisers to the department can ease our concern—there is a requirement that before a cargo can be dumped there must be notification to a particular agency in order to claim exemption from the law. In other words, we may have some poor guy at sea in an emergency who might be faced with the problem of having to dump his cargo. If, for one reason or another, he is operating in waters or under agreements that make him subject to the accord of which we are speaking tonight, as I read this legislation he must notify someone to obtain permission to dump in the event of an emergency before he can be exempted from the strictures of the legislation.

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It may well be that that is necessary, and it may well be that other countries which have engaged in the development of law relating to off-shore dumping have come to the conclusion that, if someone is going to suffer in an emergency situation, it is better that it be the ship experiencing the emergency than the country which tried to pass a law to protect its shoreline. It may well be that this will be a considered provision in this legislation, but that again is a matter we want to take advice upon later.

The bill establishes a board of review. I speak now of the effectiveness of this legislation in fact and of its capacity to serve in a genuinely protective way the Canadian coastal environment and, indeed, the coastal environment of other countries sufficiently concerned about this problem that they intend to be signatories to the international convention. But in the Canadian law there is a board of review established with discretionary powers, at least as I read the legislation. There is no automatic provision for the board of review to begin to act. It is up to the minister to decide whether a matter is to be referred to the board of review. That is my understanding of the legislation, and we might consider that in detail in committee.

The problem here is the problem of ministerial discretion. Whenever there is in a statute a provision for discretion by a minister, I think it behooves parliament to ask why that particular discretion is there. What is anticipated by the minister or by the department which causes them to introduce this discretionary provision? The question is not simply why that discretion is there, but who might benefit from it. I think that will be another matter we will want elaboration upon when we get to the stage of detailed discussion in committee. We should try to determine why there is this discretionary provision and who it might benefit, who might evade the provisions of the accord, because the board of review does not come into effect directly but comes into effect only with the agreement of the minister.

There is throughout this legislation and, indeed, throughout much of the legislation which is brought forward to deal with environmental matters in this country, a very real question as to the capacity of the general public to raise matters of concern to them, to raise matters which are not simply of specialized concern to people who happen to deal in the arcane regions of the law of the sea or inhabit the environment department. As I read this legislation there does not seem to be very much opportu-