

*Maritime Code*

A major provision of the Maritime Code Act is a new statement of what constitutes a Canadian ship under law. Since a law is only as good as the ability to enforce it, ownership requirements have been clearly set out. Perhaps the most important of these is that two-thirds of the directors and two-thirds of the officers of any company desiring to own a Canadian ship must be citizens of and resident in Canada. This means that we will be able to preserve expertise in marine management in Canada and that owners will be available to answer in law for their ships.

As I have mentioned, the main body of the Maritime Code Act contains substantive provisions dealing with the coasting trade of Canada. Hon. members will recall that following a report by Mr. Howard Darling on Canada's coasting trade, the government announced that it was withdrawing from certain articles of the 1931 British Commonwealth Merchant Shipping Agreement and that the Canadian coasting trade would be reserved to Canadian flag vessels. Last year we gave other member countries 12 months' notice to this effect.

The Maritime Code Act gives a new definition of the coasting trade of Canada that includes the carriage of goods or passengers from any port in Canada to any other port in Canada, whether by way of a foreign port or not. This will prevent unfair advantages by foreign ships in the cruise trade; these practices are detrimental to the economic interests of Canadian shipping. This definition also includes exploration or drilling platforms which are operating under Canadian jurisdiction. Dredging and salvage, which were implied in the old definition, are now expressly included.

Only Canadian ships will now be permitted to engage in the country's coasting trade, except when the public interest or an emergency demand otherwise. Non-Canadian ships enjoying the five-year grandfather rights will also be allowed to engage in the coasting trade. These grandfather rights will expire in April, 1980. They apply to ships registered in a Commonwealth country since September, 1973, and that have been regularly engaged in the Canadian coasting trade since September, 1972.

Non-Canadian ships will be issued licences to engage in the coasting trade upon payment of a fee. This fee will replace the duties of Customs applicable at present to foreign-built ships under the customs tariff. Fees will be set by the governor in council; they will be subject to various criteria and thus may vary from ship to ship, thereby allowing flexibility. The Maritime Code Act provides for fines up to \$5,000 in case of non-compliance with the act. It also provides for detention of the ship and forfeiture of the goods carried.

The definition of "port" in the act is more encompassing and include now, for the first time, all ports in Canada. The new definition will apply in areas where federal jurisdiction is clear, bringing within our scope supervision of cargo stowage in respect of grain, timber and concentrates, and supervision over certain crew matters.

● (1440)

Now I would like to turn to some of the specific provisions of the two books of law set forth in schedule 3 in the maritime code itself. Book one establishes the applicability

of the maritime code and it provides for Canadian law to be extended to Canadian ships in foreign waters and to foreign ships in Canadian waters. Recognition is given to the rights of innocent passage of foreign ships passing through our territorial seas and express recognition is given to the right of intervention on the high seas in a case involving a shipping casualty where there is a threat of damage to Canadian interests or the environment. These sections involve law of the sea issues and take into account the possibility of future international agreement on these subjects.

In order to allow for greater public participation in the regulation-making process, provision is made in book one for prior publication of regulations in certain specified cases and, at the minister's discretion, for public hearings. The regulation-making power is quite flexible, allowing classification of ships for administrative purposes and the establishment of zones which may, in future stages of legislation, be used for a number of purposes such as environmental protection or traffic safety control.

The enforcement provisions contained in book one have been revised substantially in comparison with those in the Canada Shipping Act. Matters related to the detention of ships have been expanded and clarified. Arrest in civil cases has been extended to sister ships to conform with international practice and the procedures related to forfeiture have been set out in detail. As with respect to enforcement, the procedures relating to offences, penalties and fines have been clarified and co-ordinated where necessary with provisions of the Criminal Code. A new procedure for the service of a summons in the form of a ticket, and for payment of fines by mail in the case of minor offences, has been instituted. In ticketing situations, ships would be able to continue in trade. Shipowners will be able to acknowledge their guilt by paying the required fine, similar to the ticketing of cars, or they may contest it in court.

Provision has also been made for distribution of fines to enforcement agencies and to compensate persons suffering damage by reason of the offence. A fair degree of flexibility has been introduced in the detention provisions by permitting the minister to approve security in amounts less than the maximum fine provided for the alleged offence. A detention order may also be lifted where the person charged appears to answer the charge in court or where security is given in lieu of the anticipated fine.

The main categories of the provisions of book two, the ship, are intended to deal with the ship as a structure. First, with regard to the national character and status of a ship, provisions have been clarified and related to Canadian registration instead of registration of Commonwealth ships in Canada. New provisions dealing with the marking of ships will make identification easier for enforcement agencies. But appropriate exemption provisions exist for very small vessels.

Second, in connection with ownership, the provisions of the Canada Shipping Act have been substantially changed. Ownership through the present system of 64 shares in a ship has been eliminated and replaced by a percentage system. Qualifications for ownership have been changed from Commonwealth to Canadian and, with respect to corporations, there is a requirement that two-thirds of the specified directors and two-thirds of the officers of the