

I mentioned, Mr. Speaker, that I was going to speak for a moment about the problem of pollution as it relates to ships. All of us are well aware of the *Torrey Canyon* incident, which may have stimulated the drafting of the pollution portion of this bill. Clause 23 is intended to extend the Governor in Council's power to make regulations governing pollution from ships. At present the Governor in Council is only able to regulate pollution from oil in inland waters. This clause would give power to regulate pollution from all substances, such as garbage, chemicals and sewage, in all Canadian waters, and this is a step in the right direction.

Clause 24 proposes to add new sections 495C and 495D to the present act. This concerns the unlimited liability of ships causing pollution. It is interesting to note that proposed new section 495D was struck from the bill before passage by the other place.

Proposed new section 495C would give the minister power to deal with a vessel that is in distress and is likely to pollute Canadian waters. The minister would have power to sell that vessel, and the proceeds from its sale and of its cargo would go towards meeting the expenses incurred. If the value of the ship plus its cargo did not happen to be enough to pay for the damage, then the proposed new section 495D, would apply. Section 495D was dropped by the Senate because it proposed unlimited liability and it was felt excessive costs would be involved in insuring the vessel.

If the charges arising out of pollution claim against a particular vessel were much greater than the value of the ship and its cargo, it would be impossible to insure the ship. For that reason the proposed new section was dropped, but if this is the case then I would like to ask who is going to pay the cost of the pollution damage, caused by that vessel? I submit that the cost will be borne by the same people who bear many of the costs against which there is no protection, that is the general public.

While proposed new section 495D has been dropped, and I think with good reason, I believe some other form of protection should be contemplated so as to avoid putting the cost on the public. Whether a ship causing pollution should have limited liability or unlimited liability is an open question. A shipowner may normally apply to a court, after being found liable for some damage, to limit his liability. I think the total liability would be based on the tonnage of his ship. It was

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argued by insurance companies and others that a ship with unlimited liability would be uninsurable, but in this situation I repeat the question, who pays the cost?

This problem was argued in the Transport and Communications Committee of the other place, as recorded at page 61 of report No. 6, and I quote:

Mr. Shearer, sir, goes on to say in his statement that if unlimited liability were imposed on the shipowner by such legislation, it would be uninsurable. The position, as far as our group is concerned, would be that the shipowner would be uninsured as in respect of liabilities in excess of the amount to which the group and its re-insurers could provide insurance coverage. That figure may be between \$10 to \$15 million—somewhere in that region—but in excess of that figure a shipowner would not be insured; and your bill as it stands places upon the shipowner unlimited liability.

I think the public has to be protected as well as the shipowner, and we should look for some alternative at committee stage.

The minister suggested that this was not a complete revision of the act and that there would be major revisions later. I think some interim measures should be proposed by the mover of this bill to suggest to the house how the public might be protected in the meantime. We note that hovercraft, which have been subject to the Aeronautics Act, will now come under the Canada Shipping Act. This itself is just an interim measure, and when we come to more detailed legislation we might consider the matter of noise pollution caused by hovercraft. Any of us who were at Expo know that a great deal of noise pollution emanates from hovercraft.

We are also concerned a little bit with what the bill does not say. The Canada Shipping Act administers navigable waters but does not define what is meant by that term. In this respect I quote from page 215 of the proceedings before our Standing Committee on Transport and Communications, volume No. 12, as follows:

Mr. Nesbitt: One further question, and this is all I have to ask. The definition of navigable waters is somewhat enlarged for the purposes of this act. Navigable water under, say, the Canada Shipping Act has a different interpretation. Would you get a conflict between the two acts this way?

Mr. Fortier: I do not believe there is any definition of navigable waters in the Canada Shipping Act. There is a reference to ships and how they must be navigated, operated and inspected, but there is nothing that touches this particular item.

In this legislation we deal with the erosion of banks, yet there is nothing in the act that defines what is meant by navigable waters. So, when we are discussing the pollution