

# Book Reviews

## How the Sea treaty was made

by Jim Manly

*Ordering the Oceans: The Making of the Law of the Sea* by Clyde Sanger. Toronto: University of Toronto Press, 1987, 225 pages, \$14.95 paper, \$30.00 cloth.

Although Canada has the longest coastline in the world and is bounded by three oceans, most Canadians tend to take our oceans for granted. Only when crises arise do we turn our national attention from freight rates or the auto pact and realize the significance of our character as a maritime nation.

Clyde Sanger's study provides a helpful point of departure for Canadians who want a greater understanding of such crises as an Atlantic boundary dispute with France, a US icebreaker travelling uninited through our Northwest Passage or a foreign tanker oil spill on the west coast. The book provides an overview of the Third Law of the Sea Conference (1974-1982) which developed international law for the very kinds of problems Canada faces on its ocean frontiers. It places the Conference in historical context, outlines the main players and analyzes the major areas of contention and their resolution.

Sanger shows how different issues affected Canada and how Canadian participants who played a major role in the Conference were usually able to negotiate agreements in our interest.

The book provides some interesting examples of the way in which alliances among different states shifted

in accordance with the issue under debate. For example, the extension of national sovereignty beyond the three-mile limit placed many straits which had been partially international, entirely under the jurisdiction of one or two nations. The United States and Russia worked together, with Britain as their diplomatic agent, to ensure that these changes would not impede the passage of their warships or require submarines to sail on the surface. In the same way, the United States worked with Russia to limit control over scientific research which had military implications.

The development of the 200-mile Exclusive Economic Zone produced some very interesting results. Both France and Britain, because of overseas island possessions, gained more ocean territory than did either Canada or the Soviet Union. New Zealand, with several small islands to the north, east and south, also made tremendous gains in ocean territory. Apart from a few countries such as Indonesia, the Third World did not fare so well from the extension. Although undeveloped countries did make some gains from the Law of the Sea Conference, Sanger shows that the interests of the developed countries were well protected during negotiations.

Readers interested in peace and the environment will be upset to read that Article 236 exempts military vessels from environmental provisions of the Convention. Sanger suggests that because coastal states wanted above all to secure natural resource rights, concern for the environment took second place and was easily traded for other considerations. It would have been helpful if the author had explored further the implications of this suggestion.

Although it reached consensus on a wide range of subjects, the Law of the Sea today is caught in the doldrums.

The United States, Britain and West Germany have not signed the treaty although 159 countries have done so. The Treaty will come into force only when sixty nations have also ratified it. For it to be effective, a good number of these sixty nations must be among the powerful industrialized nations of the West. Sanger points to the ideological reasons behind the United States refusal to sign and the negative impact this refusal can have on other countries. He indicates some arguments against ratification by Canada, but concludes that it is in Canada's interest both in terms of resources and in terms of international peace and security for us to ratify it. "The alternative to the protection offered by the Convention is the exercise of power politics. An uncertain venture always for more forceful countries, the resort to power politics is for Canada a ludicrous thought."

As a British Columbian, I must object to two incidental mistakes in Sanger's book. The Skeena River does not flow into the Pacific at Kitimat (p.26), but near Prince Rupert; and the Trail smelter is not American owned (p. 107) but has been a subsidiary of Canadian Pacific since 1898.

The chief value of *Ordering the Oceans* is the capsule summary of major issues in the Law of the Sea Convention and the implications for Canada. It also has value as a description of a lengthy and complex diplomatic process. It is not always easy reading but it will repay the careful reader with a better understanding of the issues facing Canada and other nations as they come to terms with the legal complexities of our Common Heritage in the world's oceans.

*Jim Manly of the New Democratic Party is Member of Parliament for the British Columbia constituency of Cowichan — Malahat — The Islands.*