

Territorial Sea and Fishing Zones

to support the bill on that basis. But I do not support the bill on the basis of trying to make a shadow look like a substance, and going through the legislative process at this time in order to make the Canadian people believe that more is being done at the moment than is actually being done. The speed with which our final objective, which we all share, will be achieved depends on the progress and the success of the negotiations, which the secretary of state rightly said are still in progress. And they are very difficult negotiations; I am the first to concede that point.

This particular part of the bill cannot be effective until the bill is proclaimed, and I note that nowhere in the bill is there reference to a date of proclamation. No part of the bill can come into effect until it is proclaimed an act. With regard to these national waters and the delineation of the geographic co-ordinates which will determine the base lines by which our territorial waters are to be measured, until these orders in council are passed—and the minister said that some of them may be passed by the end of this year—this bill can have no effect. As the secretary of state said, when the bill is proclaimed it will establish, in theory at least, an exclusive fishing zone beyond our territorial waters, which at the moment would be an exclusive fishing zone of nine miles beyond our present territorial waters.

This brings me to a very important point. At the 1958 law of the sea convention in Geneva several conventions were approved, I think four in all. One was a convention on the territorial sea and contiguous seas. Another was a convention on the high seas. However, these conventions become effective only when a certain number of countries ratify them; I believe 22 countries in the case of some of the conventions. I think I am up to date when I say that in no case have enough countries ratified any of these conventions—although one of them is very close to ratification—to make them effective. It is curious that the Secretary of State for External Affairs did not mention that Canada has not ratified any of these conventions. I would ask why this is, Mr. Speaker. I suspect the reason Canada has not ratified any of these conventions is because if we started to ratify one of them we would have to ratify them all.

Article 2 of the convention concerning the high seas says this:

The high seas being open to all nations, no state may validly purport to subject any part of them to its sovereignty. Freedom of the high seas is exercised under the conditions laid down by

these articles and by the other rules of international law. It comprises, *inter alia*, both for coastal and non-coastal states:

- (1) Freedom of navigation;
- (2) Freedom of fishing;

I need go no further than that.

This bill states in one breath that our territorial sea will extend to three miles from certain base lines, and then in the next it proceeds to enact legislation, to apply to the nationals of all countries, with regard to the next nine miles, which the bill itself admits is part of the high seas. If we can bring this off, Mr. Speaker, I am all for it, do not misunderstand me; but in this connection I believe we are on very shaky ground with regard to international law. As a matter of fact, the convention of 1958 agreed to at Geneva, though not ratified by us, specifically prohibits what we are about to do.

Mr. Martin (Essex East): I would hope that I did not understand my friend to say that the effort to establish straight base lines with regard to waters that we hope will be regarded as internal will put us in a position where we do not have a legal case.

Mr. MacLean (Queens): Oh, no.

Mr. Martin (Essex East): I am sure my hon. friend did not mean that and I would not want such words to be before us in the negotiations because I am sure he agrees with me that we have a good case.

Mr. MacLean (Queens): I agree fully and I contend we are completely justified in stating that these bodies of water I have mentioned, and perhaps more, are national waters and belong to Canada. I think we are on fairly good legal ground as far as international law is concerned up to this point and also with regard to the establishment of the straight base line method. There are certain precedents for this and there is the moral suasion of certain events that have happened in the past plus references to the court of international justice, and matters of this sort that add strength to our claim in this regard.

I agree 100 per cent with the minister on this point, but I go on to say that when we proceed in the bill to establish an exclusive fishing zone beyond our territorial sea we are on shakier ground. I hope that will succeed too but I would foresee that when we pass this legislation almost certainly it will be tested. It will not be done right away, but when the act is proclaimed and the nine mile exclusive zone will be in effect adjacent to our present territorial waters—

Mr. Martin (Essex East): From the present base line.