

Arctic Waters Pollution Prevention Bill

• (4:40 p.m.)

Where the law is deficient any action undertaken to remedy its deficiencies cannot properly be judged by the existing standards of that law. Such a proceeding would effectively block any possibility of reform. Canada remains firmly attached to the rule of law in international affairs and has the highest respect for the International Court of Justice and the part it plays in the maintenance of that rule of law. At the same time, however, we are not prepared to litigate with other states on vital issues concerning which the law is either inadequate, non-existent or irrelevant to the kind of situation Canada faces, as is the case in the Arctic. It is no service to the court or to the development of international law to attempt to resolve by adjudication questions on which the law does not provide a firm basis for decision. For these reasons, we have been obliged to submit a limited new reservation to our acceptance of the compulsory jurisdiction of the International Court of Justice.

Even with the new reservation, Canada's acceptance of the compulsory jurisdiction is much broader than that of many other countries. It does not in any way reflect lack of confidence in the court but takes into account the limitations within which the court must operate and the deficiencies of the law which it must interpret and apply. Moreover, it may be revoked and Canada's acceptance of the compulsory jurisdiction may again be broadened at such time as those deficiencies are made good. In the interval, Canada stands prepared to appear before the court where the court is in a position to exercise its proper function and render a decision either for or against us. Such is the case, for instance, with respect to our bill on the 12-mile territorial sea. Our readiness to submit to the international judicial process remains general in scope and is subject only to certain limited and clearly defined exceptions rather than to a general exception which can be defined at will so as to include any particular matter.

Mr. Lewis: Why don't you say you mean the United States?

Mr. Sharp: The hon. member makes a comment with which I will not disagree.

I have already stressed the government's hope that it will be possible to achieve internationally agreed rules for Arctic navigation within the framework of our proposed legislation. We recognize that the interests of other

[Mr. Sharp.]

states are inevitably affected in any exercise of jurisdiction over areas of the sea. We have taken these interests into account in drafting our legislation; we have, for instance, provided that naval vessels and other ships owned by foreign governments may be exempted from the application of Canadian antipollution regulations if the ships in question substantially meet our standards.

Mr. Stanfield: Russian tankers.

Mr. Sharp: We will give the interests of other states further consideration by entering into consultations with them before promulgating safety regulations under the Arctic waters bill.

I should point out that the interests of other states in the uses of the sea are not necessarily in conflict with ours. We, too, are concerned to preserve the essential freedoms of the seas. We, too, do not wish to place unnecessary or unreasonable restrictions on maritime commerce. Security factors are vital to us as well as to others. It is because we share the concern to head off developments undesirable for common interests that we ask other states to adopt a flexible attitude which is responsive to new needs and special circumstances, and that we seek the co-operation of other states and offer them ours.

In recognition of common interests and in the spirit of co-operation, Canada has for many years engaged in periodic consultations with the United States on matters concerning the law of the sea. We have not always agreed on those matters but we have always benefitted from obtaining a better understanding of our respective positions and concerns.

I should like now to turn to a point of some importance in considering the international aspects of this legislation, namely the position of the United States government concerning it. The government of the United States has on a number of occasions recently expressed a particular interest in the various aspects of the law of the sea raised by the Prime Minister's statement in the throne speech debate when he announced the government's intention to introduce legislation to protect the ecological balance of the Canadian Arctic, and requested an opportunity to discuss them with us. Two rounds of discussion were held for this purpose. On March 11 the Canadian Ambassador to the United States, Marcel Cadieux, accompanied by two Canadian officials, Mr. Beesley, head of the legal division of the Department of External Affairs, and