

*Arctic Waters Pollution Prevention Bill*

The outcome of the Brussels conference was so little oriented toward environmental preservation and so much oriented towards the interests of ship and cargo owning states that Canada abstained from voting on the public law convention dealing with the right of intervention on the high seas and voted against the private law convention on civil liability for pollution damage.

While the main thrust of the bill under debate is preventive, that of the Brussels conventions is remedial and liability oriented. I do not wish, however, to be excessively severe or negative in judging the achievements of the Brussels conference. The public law convention negotiated there incorporates the very important principle that coastal states may intervene against foreign ships on the high seas to prevent or minimize major pollution damage where a marine accident, threatening or actually causing oil pollution, has already occurred.

I must say in this connection that I find it anomalous that certain countries can accept the right of a coastal state to sink a foreign ship on the high seas when a marine accident threatens pollution, but at the same time assert that coastal states do not have the right to prevent such an accident by turning away such a ship from areas off its coasts, or by imposing certain safety standards or preconditions for entry into these areas.

The coastal state's right of intervention on the high seas, as incorporated in the Brussels convention on international law, may perhaps represent a sufficient basis, for the time being at least, to protect the marine environment and Canada's coastal interests beyond the proposed 12-mile limit to our territorial sea on the Atlantic and Pacific. As I have said, however, the problem of pollution in those areas is also a matter of vital concern and will be given the most energetic attention by this government. With respect to the Arctic, other measures impose themselves.

We hope that the Arctic waters bill will provide a framework for internationally agreed safety standards. The brief review of multilateral efforts which I have just made is sufficient proof, however, that an approach of that kind would not have met the need for early action and would not have provided the stability and certainty required for investment in the development of Arctic resources and Arctic navigation.

There can be no doubt, Mr. Speaker, that Canada has tested the climate for international action against marine pollution, and there

can equally be no doubt that the climate has been found seriously wanting—if that is a good simile. We are determined to discharge our own responsibilities for the protection of our territory. We are equally determined to act as pioneers in pushing back the frontiers of international law so that the laissez-faire régime of the high seas will no longer prevent effective action to deal with a pollution threat of such a magnitude that even the vast seas and oceans of the world may not be able to absorb, dissolve or wash away the discharges deliberately or accidentally poured into them.

The Arctic waters bill represents a constructive and functional approach to environmental preservation. It asserts only the limited jurisdiction required to achieve a specific and vital purpose. It separates a limited pollution control jurisdiction from the total bundle of jurisdictions which together constitute sovereignty. In this it resembles in some degree the approach which Canada was among the first to adopt with respect to jurisdiction over the exploitation and conservation of fishery resources.

The results which have been achieved in the latter field encourage us now to lead the way in developing rules to prevent pollution of the sea and of the shores of coastal states. We firmly believe that this is the best way to bring order out of impending chaos in the law of the sea.

The pioneering venture upon which we are embarked is a measure of our serious concern at the failure of international law to keep pace with technology, to adapt itself to special situations, and in particular to recognize the right of a coastal state to protect itself against the dangers of marine pollution.

Existing international law is either inadequate or non-existent in this respect. Such law as does exist, as I have already indicated, is largely based on the principle of freedom of navigation, and is designed to protect the interests of states directly or indirectly involved with the maritime carriage of oil and other hazardous cargoes.

A new "victim-oriented" law must be created to protect the marine environment and those rights and interests of the coastal state which are endangered by the threat to that environment. The Arctic waters bill is intended to advance the development of such new law. It is based on the fundamental principle of self-defence and constitutes state practice, which has always been accepted as one of the ways of developing international law.