

*Territorial Sea and Fishing Zones Act*

waters today as they fished at that time. Is it any wonder that our fishermen are crying out, "Oh Lord, how long do we have to wait for some action by this government"?"

Even under this new legislation, Mr. Speaker, we were informed in committee yesterday by the Secretary of State for External Affairs that the Canadian government is powerless to restrict in any way the fishing operations of the French fleet, due to their historic and treaty rights on our coasts. We will still have this anomaly where Canadian deep-sea fishermen can only conduct their operations 12 miles off our coasts while the trawlers of France can fish up to our shoreline in many areas, especially in the Gulf of St. Lawrence. Under these conditions, how can we adopt any meaningful conservation practices to protect our fisheries resources?

Under the 1964 legislation the implementation of the Act depended essentially on the regulations to be made by the Governor in Council, as he had to provide for the geographical co-ordinates of points from which baselines would be determined. In November 1967, more than three years after the Act was promulgated, the Governor in Council adopted regulations providing for the geographical co-ordinates of points to be applied along the Labrador Coast in the southwest and east of Newfoundland, but skipping entirely the area of Newfoundland adjacent to St. Pierre and Miquelon.

In May, 1969, five years after the Act was promulgated, regulations were adopted to provide for geographical co-ordinates of points for southeast and south of Nova Scotia, for southwest Vancouver Island and the west coast of the Queen Charlotte Islands. But to this day, Mr. Speaker, regulations providing for the information on which the baseline should be drawn have not been adopted for all the Canadian sea coasts. Is it any wonder that our fishermen are concerned about this matter?

It is worthy of note that there is no provision so far providing for the baseline of the north coast of Canada, and here I mean our Arctic coast. The same situation applies to the maps to be established by the minister of mines and technical surveys. At present there is no map showing the Canadian territorial sea on the north coast of Canada, which is the nub of the problem to which I referred when speaking on Bill C-202.

On April 8, 1970, a bill was introduced in this House, Bill C-203, which we are now discussing, which amends the Territorial Sea

and Fishing Zones Act of 1964. The purpose of this amendment is to extend the territorial sea from three to 12 miles from the baseline. The method of establishing the baseline remains unchanged, but a principle of international law is stated. New section (5) in the bill provides for the use of low water lines of low tide elevations as baselines for measuring the breadth of the territorial sea. Another important purpose of the amendment is the elimination of the contiguous fishing zones as they were provided by the 1964 act. Under the amending bill the Governor in Council is vested with the authority to prescribe as fishing zones of Canada any areas of the sea adjacent to the coasts of Canada.

In my opinion, the Territorial Sea Act, and the bill seeking to amend it, pose a number of problems. I hold the view that each state must decide how and when it will effect the delimitation of its territorial waters, but I believe this delimitation should be made in accordance with international law. To be precise, the act of delimitation is governed by domestic law, but its international validity is governed by international law. This fact was fully recognized in the case of the Fisheries Act, and the relevant passage of the judgment, (1) 1951, International Court of Justice, page 116 reads:

The delimitation of the sea areas has always an international aspect; it cannot be dependent merely upon the will of the coastal state as expressed in its municipal law. Although it is true that the act of delimitation is necessarily a unilateral act, because only the coastal state is competent to undertake it, the validity of the delimitation with regard to other states depends upon international law.

Therefore, it follows that any unilateral legislation may be met by unilateral protestation which, according to international law, will have the effect of rendering such legislation inoperative. In addition, the legal situation may well be aggravated by repressive economic measures in many fields other than fisheries, but which also have a marked effect upon our economy.

I also contend that the position of the Canadian government on this matter is inconsistent. In the explanatory notes included with the bill opposite page 2, we are told that the baselines for measuring the breadth of the territorial sea will be measured in keeping with state practice and international law as reflected in the Geneva Convention on the Territorial Sea and Contiguous Zone.