

Arctic Waters Pollution Prevention Act

must control possible pollution in the Arctic", we went about it the other way and said, "We are right because there are certain precedents we can follow". In other words, no one can prove us wrong; it is not so much that we are right as that no one can prove us wrong. An examination of international law will not justify our position and it is useless to try to show why we think we are right when others will not acknowledge it. There was comment about unilateral law or unilateral action. Unilateral action by a powerful nation is law, but unilateral action by Canada may not be law.

An hon. Member: Oh?

Mr. Otto: It is questionable whether or not it will be law. But that is not the point of my argument, Mr. Speaker. I am not saying whether it is going to be law or whether it is unilateral or, in particular, whether it will be supported by the international convention on international law; we are going to do it because it is right and we have to do it now. The United States is taking the same tack in its affairs. In that way, we will lead from a positive position instead of from a defensive position.

I decry the speeches of cabinet members who spoke on this bill from the defensive position. They indicated why we were justified in doing this instead of saying, this is what we are going to do and this is how we are going to proceed with it. The member for Coast Chilcotin did not justify his apparently negative stand. This bill is necessary now because of the curious problem of transportation in the Arctic—

Mr. Benjamin: What do you think of the motion?

Mr. Otto: The hon. member wants to know what I think of the motion. I think if the sponsor had read the preamble of the bill he would have realized there was no necessity for the amendment. I assume he put it in to allow me the opportunity of debating the bill, so I am taking advantage of it.

There are some particulars upon which I would like the minister to comment. The first is really a quasi-legal problem. If I am correct the bill represents a complete change of law, including international law. There is no longer any emphasis on negligence. I believe clause 6 or 7 states that wherever an accident occurs there is automatic liability with or without negligence. Throughout the common law and in the business world there is and always has been the principle that where

there is an element of negligence compensation goes to the person injured. The bill spells out the type of liability and the preference that law shall bear in court, saying that negligence or lack of it is of no consequence at all. This is a change even from international law. I wonder how that provision will be adjudicated, especially since all of the structures, the equipment the ships or wells, are approved by our own government. If there is an accident those involved could say, "I gave you, the government of Canada, all the plans and you approved them so you are a joint tort-feasor; you and I are together in this mess, so why should I have to pay unilaterally?" If it is a case of liability, none the less, I think there should be greater emphasis in the bill on an insurance fund which does not bring in the question of sovereignty for sovereignty's sake without a practical solution. It could be an insurance fund built up by all the shippers for the payment of liability.

Another aspect of this bill that I would like to discuss is that we seem to depend greatly on the seizure of equipment. That is to say, wherever damages are caused and wherever people have claims, the government can seize the ships. I do not know what they will do with them, but out of that resource we are supposed to pay the claims. It should be brought to the attention of the minister that just a short time ago a \$600,000 claim was filed against a ship in the St. Lawrence. The ship was taken to harbour, thus incurring a further \$200,000 expenditure. The total sale price of the ship was \$6,000. There are not many customers for ships, Mr. Speaker. We could be faced with a consortium of ship owners saying to each other, "Don't buy any ships that I have lost or that have been seized on my behalf." The government may find itself stuck with ships or equipment and without a market for them. I think it is fallacy to rely upon seizure as is imposed in clause 23. It just will not work. I do not think that enough ship owners will wish to see this work. What is to happen if a bunch of ships becomes involved? I do not see what can be done about the matter of liability, unless a reserve fund is established out of which liability claims can be met.

● (4:50 p.m.)

I also wish the minister to say something about the following point. Let us assume that the government's right to pass this bill is recognized. I think it will be recognized. How, then, are we to enforce it? Suppose that the ship of a shipowner who has not received