

I am only here to represent vessel owners, operators, agents and so forth, and, therefore, my criticism is directed against the first part of the definition wherein it is purported to define the owner of a vessel as including the agent, charterer or master of the vessel.

The other is to be found on page 4 of the bill, section B wherein it is provided that section 16 is repealed and the following substituted therefor, (16) (1) and so forth. I do not propose to read at this time the whole of the section. I have prepared for easy reference a comparison rather in brief form, a comparison between the former section of the Act, article 16, and the new sections which include 2e (ea) and section 16, and if the committee so wish I could distribute those.

The ACTING CHAIRMAN: If you have sufficient copies.

Mr. BRISSET: I think I have sufficient copies.

The ACTING CHAIRMAN: Is that agreeable?

Agreed.

Mr. BRISSET: I might explain that this brief has already been submitted to the National Harbours Board at their request after representations were made to them verbally.

Mr. BELL: Was this before or after this bill? I presume you made your brief after you learned what is in the bill?

Mr. BRISSET: Yes, after we learned of the amendments that were sought to be presented to the House.

Mr. LANGLOIS: After the bill was passed by the Senate.

First of all, I want to draw the attention of the committee to the fact that in the present Act there was no section corresponding to 2 (e) (ea): the definition of the word "owner". And secondly, in order to shorten the procedure, I would like to refer the committee to subsection (b) of the new section 16 (1). 16 (1) starts as the old section did, that the Board could seize any vessel within the territorial waters of Canada in any case where—and so forth. In the section there has been added the words "in the opinion of the board". I will not comment on this for the time being.

I will refer the committee right away to section (b) to which section (c) of the present Act corresponds. A new section (b) reads as follows: "Property under the administration of the board has been damaged through the fault or negligence of the owner of the vessel or a member of the crew thereof acting in the course of his employment or under the orders of a superior officer." What is to be noted first is the word "owner" that we find in that subsection (b) and the word "owner" is defined now in section 2e (ea) as the agents—not only the owner—but the agent, the charterer and master of the vessel. It is that definition which we think—or respectfully submit—greatly enlarges the liabilities of ship operators and ship owners and we will say to such an extent that it can have very serious consequences and create great injustice. Under the present Act the board was given the procedural right to seize a vessel in two circumstances: the first, if injury was done by the vessel to board property; and secondly, if injury was done by default or neglect of the crew while acting as the crew. It is a well known principle of maritime law that the right to seize a vessel is only given—and I refer to the Admiralty Act in this respect—is only given when damage is done to property by the vessel as the noxious instrument of the damage. That has been so for centuries.

Now, what is the result of the amendment? We have gone a long way from the idea of giving the procedural right of seizing the vessel when damage is done by it, and we now find under the amendment the seizural right will exist as a result of the amendment I have drawn your attention to earlier in