



GOVERNMENT OF
NEWFOUNDLAND AND LABRADOR

Remarks from Honourable Tom Osborne
Minister of Environment and Conservation

to

Standing Senate Committee on Energy, Environment and Natural
Resources

on

Bill C-15
An Act to Amend the Migratory Birds Convention Act
and the
Canadian Environmental Protection Act

April 19, 2005

- Honourable Senators, thank you for the opportunity to appear before your committee today on this extremely important matter. It is my privilege as minister of the Crown and my personal responsibility and obligation to present our views on Bill C-15.
- It was also my privilege in November of last year to address the Commons Standing Committee on Environment and Sustainable Development on this same issue.
- My purpose today, quite simply, is to urge you to provide speedy passage of Bill C-15 without further amendment.
- I know you have been bombarded with data and with contradictory, and, no doubt, self-serving opinions on what Bill C-15 will and will not do. I also understand you will be seeking independent legal opinion on issues related to international commitments.
- On these matters, important as they may be, I will limit direct comment.
- What I want to convey to you today is the view of those of us who are closest to the problem. Those of us who have for centuries derived our economic livelihood, our recreational enjoyment and our culture from the sea and shoreline. Those of us who, even this very day, can walk along the shoreline and find dead and dying birds.

- We witness first-hand the insurmountable negative consequences of not protecting the environment and the species under our care.
- Senators, it is difficult to comprehend how a civilized and progressive society, such as we claim to be, can continue to tolerate the callous, cruel and unnecessary destruction of hundreds of thousands of sea birds every year for so little savings in cost to vessels owners.
- Many of us have seen the effects of large oil spills... the oil slicks trailing behind rogue vessels... the polluted beaches. However, when you see first hand the effects that even minor amounts of oil have on sea birds, how it reduces the insulating capacity of feathers, prevents them from digesting food; how it leads to a slow cruel death.
- When you see the evidence of the deliberate and criminally negligent release of bilge oil into the ocean by those navigating our waters; when you see the magnitude of the destruction and the insignificance of the financial gain; your responsibility as a legislator and human being becomes quite clear.
- In my submission, you will see that I have enclosed photographs taken by my staff that provide just a glimpse of the problem. I am sure you have seen Environment Canada's own Website, where you can view videos showing the level of

destruction on our Atlantic Coast from deliberate dumping of bilge oil in our oceans.

- One needs only to view such photographic evidence to understand the necessary urgency in moving Bill C-15 forward. My staff suggested that I bring several oiled seabirds to this hearing, but I did not want to be so overly dramatic. However, their point is well taken, as this would allow you to see the consequences of inaction and delay, up close and personal.
- We have been seeing reports of oiled birds in Newfoundland and Labrador for half a century. The Canadian Wildlife Service reports that between 1984 and 1999, 62% of dead birds found on Newfoundland beaches were oiled birds. I have seen even higher estimates - as high as 90%. I also know that in the US the percentage is less than 10%.
- I am sure you have been told that for every oiled bird found there are 10 that you don't find. It is estimated that over 300,000 birds die each year off the coast of Newfoundland and Labrador. As I noted during my presentation to the House Standing Committee on Environment and Sustainable Development, 300,000 dead birds a year is equivalent to an Exxon Valdez or a Prestige disaster each and every year.
- Just imagine, an Exxon Valdez disaster each and every year in our waters. What a catastrophe!

- Is there any justification or even a rationalization for our lack of action of this issue? Can we even point to some economic benefit, some greater good? Any overriding defensible need or policy consideration to delay passage of Bill C-15? Senators, I think not.
- Honourable Senators, I have reviewed the minutes of your previous deliberations. It is encouraging to see that each and every representative of the shipping industry has given whole hearted support to the objectives and purposes of Bill C-15. Even Environment Canada acknowledges that the shipping industry is, generally, a clean and environmentally responsible group and that Canadian shippers are the best of the lot.
- However, the industry also acknowledges that there are disreputable rogue vessels, rogue companies and irresponsible captains - 5% I believe, who are causing all the problems. Industry is even offering to help weed out the bad guys, the pirates, the rogues and the incompetents. This is all good news and bodes well for the future.
- However, I ask, where the shipping industry was prior to the threat of this legislation?
- Why has the shipping industry not gone after these rogue vessels before now?

- Why is it that these vessels continue to show such blatant disregard for our coastal environment and choose to pollute in Canadian waters and not in American waters?
- The answer to these questions is simple... These vessels chose to pollute in Canadian waters prior to entering American waters because:
 - they face stronger patrol in American waters
 - they face stiffer penalties when caught, and
 - there is a greater resolve in the United States to prevent this type of environmental crime, even at the judicial level.
- Why should you even consider amending this Bill as put before you?
- Honourable Senators, some of the photographs I refer to are taken at the Cape St. Mary's Ecological Reserve and Bird Sanctuary on the east coast of the Island of Newfoundland. It is a beautiful, marvelous and magical place that no photograph can adequately capture. It would be my pleasure to host a tour if any of you find yourselves fortunate enough to come to our great province.
- This Sanctuary is a one of the most popular tourist attractions in our province.

- Every year, people from many countries visit this site to see first hand what is now one of the last such sanctuaries on the planet.
- The Cape St. Mary's Ecological Reserve is a breeding ground for numerous seabirds including dovekies, murres, and Common Eider ducks.
- It is also a wintering area for loons, cormorants, gulls, the rare King Eider, kittiwakes and others. It is home to Black Scoters (a declining species) and the largest concentration of Harlequin Duck in eastern Canada. Until recently the Harlequin duck was on the endangered species list and is only now recovering.
- Unfortunately, this Sanctuary is directly in the path of oil that comes ashore on an annual basis.
- Despite the courageous and dedicated efforts of professionals and volunteers to clean oiled birds - and I certainly applaud them for their efforts - such efforts are unfortunately for the most part a futile task - an oiled bird is a dead bird.
- Honourable Senators, when I presented to the Standing Committee, some in the shipping industry argued that the purposes of Bill C-15 could be met by existing legislation; that we should rely on current international agreements; that we let industry deal with the issue; that we not subject vessel masters and chief engineers to criminal liability.

- My response to such positioning and posturing is simple – what we have now is clearly not working.
 ... The international agreements are not protecting our ecosystem.
 ... The industry has not policed itself.
 ... We have to make owners, captains and operators responsible for their action in order for our laws to be effective.
- Several of those on the Standing Committee took positions similar to my own. MP Bob Mills of Red Deer noted that he first became involved in the issue in 1996 and that, “Nothing much has changed.”; that the continued release of bilge oil at sea “doesn’t show very much integrity from the shipping industry” and that vessel captains “can’t just keep passing the buck, saying it’s somebody else’s responsibility”.
- MP Byron Wilfert (Richmond Hill) noted that, “the more we delay this, the more we’re going to have a major environmental problem.”
- Personally, I would go one step further and suggest that we already have a major environmental problem. Honourable Senators, that is why I am here today. That is why I urge you to pass Bill C-15 in an expeditious manner.
- Environment Canada officials have told you that with respect to current legislation, “the powers government has to enforce

those pieces of legislation at sea are not adequate”. They have stated that Bill C-15 is “motivated by a severe and pressing environmental consideration.” They say that Bill C-15 simply “clarifies the enforcement powers and provides the government with the ability to effectively enforce both statutes (the MBCA and CEPA) in the exclusive economic zone.”

- Environment Canada also contends that Bill C-15 will bring our fine structure into harmony with the US. As you know, many vessels cross Canadian waters on their way to US. ports and many rogue vessels find it more profitable to dump their bilges in Canada where the fines are substantially lower.
- I wish to take this opportunity to applaud our colleagues in Environment Canada on their noble effort in bringing forward this important piece of legislation.
- There is no doubt that greater enforcement resources will be required and developing surveillance technologies will help, but we need **stronger** laws first.
- Honourable Senators, with respect to the shipping industry, in which many of my own constituents are involved, given their seemingly unqualified support for the basic need to do something about this annual environmental disaster of Exxon Valdez proportions, I would say: let's roots out the bad apples, the bottom 5%, the irresponsible, the incompetent and the

environmental criminals. The “good guys” have nothing to lose, nor do they have anything to fear.

- I wish to add as well that this is not just about birds. I would consider birds an indicator. We should also be concerned about the accumulative biophysical and economic effects of oil spills on fish, onshore and offshore ecosystems, tourism and our ongoing ability to clean up the mess left by rogue vessels and rogue owners, particularly those that are merely passing through our waters as a matter of convenience.
- Honourable Senators, what does it take for industry to comply with the proposed Act?
- I would suggest that such costs are minor and, in any case, they are the costs of doing business.
- As I said earlier, all you need do is look at the photographs in order to determine your responsibility and next course of action.
- We cannot implore upon you enough the serious urgency for speedy and unamended passage of Bill C-15.
- I thank you, again, for this opportunity to present our views and concerns on this serious issue for the Government of Newfoundland and Labrador, and indeed, for all of Atlantic Canada.

- Be assured that the Province of Newfoundland and Labrador is prepared to fully support the federal government on passing Bill C-15, which is critical to ensuring better protection of our marine environment and wildlife for the benefit our present and future generations.
- ... And for the benefit of the many people who rely on this environment for their livelihood, including the fishermen, tour boat operators and tourism businesses that rely on the bird sanctuary... We must protect this ecologically significant area of our country.
- Thank-you.

Key Elements of Bill C-15

- a) state that the Act applies in the exclusive economic zone of Canada
- b) protect migratory birds from the effects caused by deposits of harmful substances, such as oil, in the exclusive economic zone of Canada
- c) state that the Act applies to vessels and their owners and operators
- d) subject masters, chief engineers, owners and operators of vessels and directors and officers of corporations to a duty of care to ensure compliance with that Act and its regulations
- e) expand the enforcement powers to include orders to direct and detain vessels found to be in contravention of that Act or its regulations
- f) expand the jurisdiction of Canadian courts to include the exclusive economic zone of Canada
- g) increase penalties; and
- h) permit courts to impose additional punishments in the form of orders covering matters such as environmental audits, community service and the creation of scholarships for students enrolled in environmental studies

This enactment also amends the *Canadian Environmental Protection Act, 1999* to

- a) protect the marine environment from the wrongful activities of ships as well as persons
- b) include prohibitions concerning the disposal and incineration of substances at sea by ships

- c) include regulation-making authority to deal with disposals of substances during the normal operations of ships, aircrafts, platforms and other structures
- d) expand the enforcement powers to include orders to direct ships found to be in contravention of the Act or its regulations
- e) subject owners of ships and directors and officers of corporations that own ships to a duty of care to ensure that ships comply with the provisions of the Act and its regulations concerning disposal at sea and with orders and directions made under that Act, and
- f) expand the jurisdiction of Canadian courts to include the exclusive economic zone of Canada