

Water Resources Programs

Mr. Knowles (Winnipeg North Centre): Mr. Speaker, we would agree to this but if Your Honour wishes a little time in which to study this matter, we would not want to cut you off. You do it to us sometimes but we would not want to do it to you, if I may put it that way.

Mr. Aiken: Mr. Speaker, we in this party are perfectly prepared to waive private members' hour for the purpose of completing the argument on the point Your Honour is now considering. I see the minister is rising and perhaps he should be heard before we proceed to private members' hour.

• (5:00 p.m.)

[*Translation*]

Mr. Léonel Beaudoin (Richmond): Mr. Speaker, I think the Ralliement créditiste would also be willing to waive private members' hour to allow the House to settle this procedural matter.

[*English*]

Mr. Deputy Speaker: As I understand it then, we will proceed in this way: we will complete the procedural discussions on the amendment moved by the hon. member for Kootenay West (Mr. Harding), at which point, I take it, we will revert temporarily to private members' hour to deal with two bills, following which we will revert again to the consideration of Bill C-144. Is that agreed?

Some hon. Members: Agreed.

Mr. Greene: Mr. Speaker, I would like to refer very briefly to the argument of the hon. member for Winnipeg North Centre (Mr. Knowles) that this amendment is merely adding to or increasing a penalty and therefore is within the scope of the bill. I should like to state that what the amendment purports to do is to add a civil obligation. It is not a penalty. The amendment states that any person who has been convicted of an offence shall become liable for the total cost of cleaning up the water or waters.

That is a civil obligation, and if there is one thing that is clear in the law it is surely that a civil obligation and a punitive measure are two different things. The penalty under clause 25 referred to in the amendment states that if you pollute, you will be fined and will face all the penal consequences coming under the aegis of the criminal authority which is within the federal jurisdiction under the con-

[Mr. Forest.]

stitution. What the amendment purports to do is to say that if you are convicted of this penal offence, you will incur civil liabilities, namely, the cost of remedying the situation, which is not part of the penalty. Penalties go to the Crown. They do not go to doing works or to remedying defects. Certainly, there is nothing within the bill which imposes civil liabilities, except under the authority of a water management agency, and certainly an offender within the ambit of the act does not incur civil responsibilities.

I would respectfully submit to Your Honour that this amendment clearly brings in a new aspect. It is clearly an attempt to do something that is not done under the bill, namely, impose certain civil liabilities upon people who are convicted under clause 25. Thus, it is very clearly something new and something different. It is a completely new principle that is not contemplated in the bill as it now stands.

Mr. Knowles (Winnipeg North Centre): Would the minister permit a question? Would he not agree that if this must be attached to civil remedies, there is already a reference to civil remedies in clause 31 of the bill. So in either case, it is not something new. It is either attached to penalties or to civil remedies.

Mr. Greene: I appreciate the fact that clause 31 refers to civil responsibilities, but the amendment is specifically tacked on to clause 25 which is the penal section, and then seeks to add civil responsibilities to the penal aspects of clause 25. Thus, I submit that the amendment as it is drawn—which is all we can go by—goes beyond the scope of the bill as it stands.

Mr. Knowles (Winnipeg North Centre): It is a new clause, clause 26.

Mr. Greene: But it refers to clause 25.

Mr. Hyl Chappell (Peel South): May I join the debate, Mr. Speaker? I think we are overlooking a very basic rule of law as well as the BNA. Act that civil actions are created by the province. If we simply try to state that a person who has been convicted shall become liable for the total cost, we will create for ourselves many problems, and I suggest that some of them are as follows. First, we would not know who the plaintiff was in the action. It does not say whether the government has spent the money; it does not say whether it is a neighbouring property owner, or who it is. There is no way of knowing who would have