

*Supply—Public Works*

Protection Act. The difficulty in this particular case—and I am very quick to admit it is a real difficulty—is that of a person owning the lot getting a building permit from the municipality in the usual way.

For the purposes of this discussion I think I shall limit my remarks to the particular waterlots mentioned, but I do not want to suggest that there are not other aspects of the problem with respect to other waters in other parts of the country. The difficulty in this particular case arose when the people concerned put the fill in the lake. The legislation provides for the Department of Public Works to grant a works permit when they put a superstructure on it. But that jurisdictional right only arises if there is interference with navigation and, in the ordinary sense, if this were carefully done there would not be interference with navigation because of the width of lake Ontario. You can argue a great deal about the matter of judgment with regard to whether or not the fill interferes with navigation and how much fill has to be put in before it interferes with navigation. That is the primary problem in this connection.

Again going from the general to the particular, as I think the hon. member who raised the matter intended to use it, for the purpose of demonstrating how the difficulty arose, in this particular case the people involved did not get approval to implement the proposed works. Indeed, there was a question whether putting the fill in was a work within the meaning of the act. There is a difficult problem there, but in any event they put in the large amount of fill to which reference has been made.

They did not take the usual steps to put in protection to contain the fill, protection that is normal or proper in such cases if a permit were granted. There was an erosion of the fill and undoubtedly other debris also came into the water. This created a hazard to navigation. Whatever the argument may be with regard to whether the federal authority had jurisdiction from then on because that was a clear hazard to navigation, something which could be well established.

Following that they filed their application for approval of the works project, together with the usual plans, and an examination has been made of them. These include the appropriate design steps for the containing or retaining wall and, in the view of the engineers and the other authorities concerned, that work will be satisfactory if carried out to its full completion in accordance with the

[Mr. McIlraith.]

plans filed. If that is done we propose to issue the permit indicated in the previous speeches in the ordinary way.

I admit at once that there is a very unsatisfactory situation arising out of the divided jurisdiction that exists between the federal, provincial and local authorities. Recognizing that, we have taken steps to start discussions with the Ontario provincial authorities in order to get an improved method of control, so that the action of one authority will be consistent with the actions of the other authorities. As it is now it is certainly confusing to the rest of the public, and it is unsatisfactory to have one authority granting one permit without reference to another authority, and so on.

● (6:30 p.m.)

That matter is under discussion at the present time between the federal and provincial authorities in an effort to establish a better procedure. Possibly in the light of the discussion and study further action can be taken to include the whole state of the law on this subject. I hope my remarks have answered at least some of the points raised in the earlier discussion. I have tried to make this relatively brief but also have tried to deal with the points raised.

**Mr. Howard:** Mr. Chairman, an analogous situation existed within the government service in the Department of Fisheries that may give some comfort and guidance to the Minister of Public Works in making a determination about this question of divided jurisdiction. As I recall it, when we raised the matter of local companies on the west coast dredging the gravel out of salmon spawning streams and using that gravel for road building purposes we pointed out that this was injurious to the salmon spawning grounds because it destroyed them and created havoc with the spawning beds.

We thought that the Department of Fisheries should be able to step in and prohibit logging companies, construction companies or anybody else digging up the river beds in salmon spawning streams and thus destroying the spawning beds. The representation made to us in response thereto was that there was a divided jurisdiction involved and that while it was correct that the federal government through the Department of Fisheries had jurisdiction over fisheries matters, the provincial government, by the constitution, had jurisdiction over the matter of land and the land at the bottom of the river in fact belonged to the province and therefore the