

made the victims of the whim or prejudice of the servants of the Department.

Mr. BOWELL. I do not intend to enter into the constitutional argument presented by the hon. member for St. John (Mr. Weldon), but I am advised by the law officers of the Crown that this Bill was framed expressly for the purpose of meeting the constitutional objections which my hon. friend has taken. This law is to be changed for one object only, and that is the better protection of the fisheries, to prevent an unnecessary destruction of that valuable article of commerce, and to regulate the taking of fish at a period when such fishing would be very destructive to the supply of fish. I understand from the Department of Justice that it has been decided by the Supreme Court that a lease or license may not issue where the exclusive right of fishing exists by law; but the decision recognizes the right of Parliament to regulate and protect both inland and sea coast fisheries, and for that object alone these amendments are proposed to the Bill. As I understood the hon. member for St. John, he objects to this clause on the ground that riparian difficulties may arise in the granting of licenses to every riparian proprietor. To my mind this clause is very explicit that the Government, while it takes power to issue licenses, is not compelled to issue them upon every occasion or to any riparian proprietor. It will be seen, on reading the section, that the license of lease to fish at certain periods of the year can only be given to riparian proprietors. The hon. gentleman referred to a suppositious case in which four or five holders of land along the shore of a stream applied for licenses to fish, and that the fishery officer only granted them to two or three. The clause is, no doubt, open to that interpretation; but it will be apparent to any mind that a license cannot issue except to the riparian proprietors, and if there be five farmers living alongside each other, owning the right of soil to the centre of the river, or owning the bed of the river, the license can only issue to the proprietor, so I cannot understand how the difficulty could arise.

Mr. KIRK. Where the licensee has riparian rights will a fee be charged for the right to fish?

Mr. BOWELL. That depends altogether upon the regulations which may be made by the Department. A small fee may be exacted in order to cover the expenditure, but this is apart altogether from the point I was discussing a moment ago. I differ from the opinion enunciated by the member for Antigonish (Mr. McIsaac), that the object of the Government in this matter is one of revenue. The only object the Government has in view is to protect the fisheries from total destruction, in order that an important branch of commerce and source of wealth may not be destroyed. Considering the decision of the Supreme Court as to the right of the Dominion Parliament to control the fisheries, the question of revenue sinks into insignificance in comparison to the protection of this great industry, and I can assure the hon. gentleman that the fees imposed for licenses will be very small. This clause does not say, nor is it intended to provide, for the compulsory taking out of a license. It simply provides that the Government may issue licenses for the purpose of exercising a certain supervision over these fisheries, in order to protect them. The riparian owner may refuse to take out a license, and all the Government can do in that case is to say, by law, that at certain periods of the year he shall not fish. I take it that, under the decision of the Supreme Court, the Dominion authority has the right to make such provisions. If a riparian proprietor desires the full protection of the law over his fisheries, then he will pay a small sum for the purpose of obtaining a license, which would not give him any rights he did not possess before, but which would give him the aid of the Government in protecting him against the inroads of those who desire to poach upon his fisheries. Really that is the whole provision, as I am informed by the

Mr. McIsaac.

law officers of the Crown. The objection taken to fly-fishing by the hon. member for Gaspé is one upon which there would not be great diversity of opinion; but I am inclined to think there is a large section of people interested in these fisheries who would object *in toto* to the provisions my hon. friend desires to embody in this Bill. There is another fact in connection with fly-fishing. As I understand it, fish caught with hook and line cost three or four times their value, and many of the fish caught that way are caught by foreigners. Whether the destruction of salmon fisheries in particular is so extensive as my hon. friend indicated by fly-fishing, I am not aware, but I am of the opinion that if fishing was confined exclusively to fly fishing, very little damage would be done at almost any season of the year. Of course, the Committee will understand that outside the three-mile limit everyone has a right, under treaty, to fish without taking out any license. The object of the Bill is to make provision which can be worked under the Constitution as interpreted by the Superior Courts of the country, and not to go in any way beyond that, and the difficulty anticipated by the hon. member for St. John (Mr. Weldon) will not arise.

Mr. WELDON. If the hon. gentleman's view is correct, the present Bill will not interfere with the rights of riparian proprietors, but the fishery officers will construe it in a different light.

Mr. BOWELL. We will not allow them to do so.

Mr. WELDON. With respect to section two, if the construction put upon it by the acting Minister is correct, a proprietor would not need to have a license, and it would be practically useless, because the proprietor would fish without a license; but reading the whole Act together, fishery officers will complain that such persons will be obliged to take out licenses. The Committee must look at the Order in Council of June, 1879. In 1881, a gentleman named Spur, applied for a license, and he received the following answer from the Department.

"FISHERIES DEPARTMENT,  
"OTTAWA, JUNE 15th, 1881.

"SIR,—Your telegram on behalf of Mr. Spur has been submitted to the acting Minister, who thinks the proper course is for the party to make application to this Department setting forth the grounds of his claim to license and the limits, also referring to title on which such claim is based.

"The application should specify what license fee the applicant offers.

"I am, Sir,

"Your obedient servant,

"W. F. WHITCHER,  
"Commissioner of Fisheries."

In that case Mr. Spur was asked to state his title, and then make it good.

Mr. BOWELL. The hon. gentleman will bear in mind that this letter was written when the Department contended that they had full right to control the fisheries, not alone to regulate the periods when fish should be taken. Moreover, a license already existed for that particular fishery; the hon. gentleman cannot apply this application and answer to the state of things existing at present, in view of the decision given by the Superior Courts, and the intentions of the Government, and the provisions of this Bill.

Mr. WELDON. The letter was not written on the ground that Mr. Spur had applied for a license for a fishery where a license already existed. If the view of the hon. Minister is correct the difficulty I have pointed out may be obviated; but I very much doubt whether the same construction will be put upon the law by the fishery officers.

Mr. BOWELL. The Government take this view, and I may present it to the House by an illustration. The Local Government's pass laws regulating the mode in which a farmer shall sell his beef and pork on market days, but it does not thereby take from the farmer, or the person having