

Water Resources Programs

And more than five members have risen:

Mr. Deputy Speaker: Pursuant to Standing Order 75 (11), the recorded division on the proposed motion stands deferred. According to previous arrangements I will now put motion No. 8, in the name of the hon. member for Greenwood (Mr. Brewin), and motion No. 9, in the name of the hon. member for Parry Sound-Muskoka (Mr. Aiken). Both motions will be debated simultaneously but they will be voted upon separately at the conclusion of the debate. I understand this was agreed earlier.

The hon. member for Greenwood (Mr. Brewin) moves:

That Bill C-144, an act to provide for the management of the water resources of Canada including research and the planning and implementation of programs relating to the conservation, development and utilization of water resources be amended by striking out clause 8 on page 9 thereof and by substituting therefor the following:

"8. No person shall deposit or permit the deposit of waste in any waters".

The hon. member for Parry Sound-Muskoka (Mr. Aiken) moves:

That Bill C-144, an act to provide for the management of the water resources of Canada including research and the planning and implementation of programs relating to the conservation, development and utilization of water resources be amended by striking out clause 8 and substituting the following:

"8. Except in quantities and under conditions prescribed with respect to waste disposal in a water quality management area, no person shall deposit or permit the deposit of waste of any type in any waters or in any place under any conditions where such waste or any other waste that results from the deposit of such waste may enter any such waters."

Mr. Andrew Brewin (Greenwood): Mr. Speaker, the minister, in the discussion of the last amendment, gave some statistics the purport of which was to suggest that this debate has lasted long enough and there was perhaps too much talk. I want to assure him that the purpose of the amendment that I bring here and which is now before the House is to make effective the legislation which the minister brought to the House. It is absolutely essential for its purpose, and the only reason we are taking up the time of the House is to make the legislation on this important subject workable and efficient.

The amendment I propose is simple and straightforward and, I venture to say, important. It prohibits the deposit of waste in any waters in substitution for the present clause 8. Perhaps I should make clear to the House that although this is simple, the word "waste"

[Mr. Deputy Speaker.]

which is referred to in the amendment is defined in clause 2 (k) of the draft act. I want to read what "waste" is which is prohibited by the amendment. Clause 2 (k) reads as follows:

"Waste" means any substance that, if added to any waters, would degrade or alter or form part of a process of degradation or alteration of the quality of those waters to an extent that is detrimental to their use by man or by any animal, fish or plant that is useful to man, and includes any water that contains a substance in such a quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state that it would, if added to any waters, degrade or alter or form part of a process of degradation or alteration of the quality of those waters to an extent that is detrimental to their use by man or by any animal, fish or plant that is useful to man;

The amendment I propose accepts that definition of waste, and in simple and straightforward language prohibits the deposit of waste in any waters. It would create an offence under the criminal law punishable under clause 22 of the bill. I propose to support the amendment on its general merits, but I wish to support it for another reason which is even more important. As I drafted motion No. 8, it is clear that it would be constitutionally valid; it would be squarely within the criminal law which is within the competence of Parliament under the provisions of section 91 of the BNA Act. I will spare the House the sort of legal argument that would be more appropriate in the Supreme Court of Canada. To those who are interested I will refer to the decision of the Judicial Committee of the Privy Council in the *P.A.T.A* case, 1931 A.C., 310.

But clause 8 as it appears in the bill—I am referring to the bill, not to the amendment—is a horse of another colour. I seriously doubt whether it is constitutionally valid or whether it is within the power or competence of Parliament. I am not alone in my doubt. In a report tabled in the legislature of Ontario by the Attorney General of that province, clause 8 has been described as an invasion of the provincial legislature's authority in the guise of the criminal law. I say there is very much in clause 8, as presented, which justifies this conclusion. Let us look at it as it is drafted. The opening words of the clause read as follows:

Except in quantities and under conditions prescribed with respect to waste disposal in the water quality management area in question, including the payment of any effluent discharge fee prescribed therefor, no person shall deposit—