

been much more elaborated by the hon. member for Bathwell (Mr. Mill-), and as we are now having a brand new Bill substituted for that originally submitted, certainly the hon. member ought not to try to block those who merely wish to have an opportunity of presenting their views to the ordinary Committee of Banking and Commerce, where the Bill can be put through in one day, and legislation had upon this subject during the present Session.

Mr. WALLACE. On the statement of the Premier that an opportunity will be given to have the Bill put through after it has been referred from the Banking and Commerce Committee, I accept the suggestion.

Sir JOHN A. MACDONALD. I cannot promise that. I will promise the opportunity if the House chooses to give it.

Motion agreed to, and Bill read the second time.

Sir JOHN A. MACDONALD moved the adjournment of the House.

Motion agreed to; and House adjourned at 12:55 a.m. (Tuesday).

HOUSE OF COMMONS.

TUESDAY, 9th April, 1889.

The SPEAKER took the Chair at Three o'clock.

PRAYERS.

THIRD READING.

Bill (No. 122) respecting the collection of certain tolls and dues therein mentioned.—(Sir John Thompson.)

FISHERIES ACT AMENDMENT.

Mr. TUPPER moved third reading of Bill (No. 129) to amend the Fisheries Act.

Mr. WELDON (St. John). Before the Bill is passed, I wish to call the attention of the Minister to the question whether this Act is constitutional or not. Since the Bill was before the House last, I have had an opportunity of looking into the case of Delaney and McDonald, and I find the question was distinctly raised there as to whether the provision was not *ultra vires*. The only distinction which I make between section 6 of the old Act and this Bill is that the Provinces of Nova Scotia and New Brunswick were then excepted, and are now included. The law as it read at that time was:

"The use of nets or other apparatus which capture salmon shall, except in the Provinces of Nova Scotia and New Brunswick, be confined to tidal waters."

That exception is eliminated. The question was raised in that case as to whether that did not amount to a prohibition of the right of a riparian proprietor to fish in front of his land; but, as the court decided that the Province of New Brunswick was not included in the section, they expressed no opinion on that question. My hon. friend will observe, however, that the court were very cautious in reserving their views on that point, and I remember that, in the case of the Queen against Robertson, which I argued myself before the Supreme Court here, there was very much doubt felt as to whether this would come within the powers of this Parliament. There is also another point to which I would call the Minister's attention. Under the seventh section it is provided that:

"The Minister, or any fishery officer authorised to such effect, shall have power to define the tidal boundary of estuary fishing for the purposes of this Act."

That simply leaves it within the power of the Minister, or of the fishery officer, to do away with the rights of riparian proprietors, and this will be a very important matter, especially in regard to the St. John River. The influence of the tide is felt very largely on that river for a distance of 70 miles from its mouth, but it is not a tidal river, because the tide is checked by the falls at the mouth of the river. There are very important salmon fisheries on that river, particularly in what is called the Long Reach, and those are very valuable to the riparian proprietors; but this Bill will have the effect of destroying the rights of those proprietors. Between Fredericton and St. John, a distance of 85 miles, the whole of the fishing may be stopped because these are not tidal waters in the legal sense, although the influence of the tide is felt in that river probably for a distance of 6 or 7 miles above Fredericton. I do not think the fisheries vary from one year to another; one year we have a good season and another year a bad season, but I do not think there has been a great deal of diminution. I have heard complaints from persons on the rivers as to parties putting their nets there. It seems to me that one consequence of this Act will be practically to deprive the owners along the rivers of the right which was secured to them under the Act of Confederation.

Mr. ELLIS. I object to this Bill on several grounds. The Minister himself, in introducing it, and again in moving the second reading, stated that it applied to Nova Scotia and New Brunswick alone. But that is not correct. I find that it goes much further than stated by the Minister, and that it applies to the rivers in Ontario as well. However, I am not concerned about the Ontario people. If they do not care to look after themselves, it is not the business of the Lower Provinces members to do it for them. The underlying objection in my mind to the Bill is that it takes away the riparian rights of the people on the rivers of these Provinces for the benefit of fly-fishermen. As regards the St. John River there is a distance of 220 miles from its mouth to the junction to the Tobique River, and along that distance no fish was ever taken by fly. From time immemorial the riparian owners have exercised the privilege, and the absolute right, of placing nets from the shore and taking salmon. It is now proposed to take that right from them entirely. Then, 60 miles from the mouth of the Tobique River to the forks, the right of fishing by nets has existed from the time the settlers first went upon that river. No salmon, so far as I am aware, has ever been taken by the fly on the Tobique River below the forks; a few are occasionally taken above the forks for 30 or 40 miles up, with the fly. So the object appears to be to preserve the St. John River for the benefit of fly-fishermen at the head of the Tobique River. The effect of the measure will be to deprive all the people of the Province of New Brunswick along the river of the privilege they have heretofore enjoyed of fishing with the net. The next section of the Bill gives power to the fishery inspector to define what is a tidal river. It is left entirely with that officer to declare where the tide ends and where it begins. The tide is felt 60 miles up the river from the mouth, by the mere backing up of the water, so that this section leaves a very large discretion to the officer. It cannot be contended that there is any great decrease in the amount of the salmon catch in that river. If the hon. gentleman is sincerely desirous of protecting the fishermen, he had better turn his attention to the Restigouche River, where fly fishermen are slaughtering the fish. There has been a constant effort on the part of both the Local and the General Governments to transfer the rights of the people of these fisheries to lessees. I know that in our own Province it has created a great deal of hard feeling. Last year on the Tobique River where some persons were fishing, they were attacked and a lady was killed in her canoe. A striking circumstance in connection with the matter was that a