

Where no application made

(4) Where no application has been made under subsection (1) for the restoration of any cleaning agent or water conditioner seized under this Act within two months from the date of such seizure, or an application therefor has been made but upon the hearing thereof no order of restoration is made, the cleaning agent or water conditioner so seized shall be delivered to the Minister who may make such disposition thereof as he thinks fit.

**Forfeiture**

22. (1) Where a person is convicted of an offence under subsection (1) of section 28, any cleaning agent or water conditioner seized under this Act by means of or in respect of which the offence was committed is thereupon forfeited to Her Majesty and shall be disposed of as the Minister directs.

**Destruction with consent**

(2) Where an inspector has seized any cleaning agent or water conditioner under this Act and the owner thereof or the person in whose possession it was at the time of seizure consents in writing to the destruction thereof, the cleaning agent or water conditioner is thereupon forfeited to Her Majesty and shall be disposed of as the Minister directs."

and by renumbering the subsequent clauses accordingly and by substituting for the reference to section 20 in line 16 on page 2 in line 2 on page 3 a reference to section 23.—*The Minister of Energy, Mines and Resources.*

Motion agreed to.

**The Acting Speaker (Mr. Béchard):** As already understood, we will group motions 20, 21 and 22.

The Minister of Energy, Mines and Resources 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 substituting for line 24 on page 25 the following:

"29. Any person who violates subsection (3) of section 20 or section 25".

The Minister of Energy, Mines and Resources 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 line 14 on page 26 and substituting the following:

"or has been prosecuted for the offence, unless the accused establishes that the offence was committed without his knowledge or consent and that he exercised all due diligence to prevent its commission."

The Minister of Energy, Mines and Resources 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

*Water Resources Programs*

programs relating to the conservation, development and utilization of water resources be amended by substituting for the reference to section 25 in line 29 on page 26 a reference to section 28.

Motions 20, 21 and 22 are grouped for the purpose of debate. Is the House ready for the question on motions 20, 21 and 22?

**Mr. Aiken:** Mr. Speaker, are we not going to have an introductory statement on these Motions from the minister?

**Hon. J. J. Greene (Minister of Energy, Mines and Resources):** Mr. Speaker, Motion No. 20 extends the provision making it an offence to deposit waste to the prohibition of the manufacture and import of cleaning agents and water conditioners containing excessive nutrients. The maximum penalty is \$5,000 for each day of each offence.

With regard to Motion No. 21, during the committee stage the phrase contained within this motion was deleted from the original bill because it was believed it would strengthen the prohibition. On further examination, we have come to the conclusion that it would not, and so we are asking for a restoration of the original wording.

The central purpose of clause 28 is to prevent employers from hiding behind their employees when pollution incidents occur. On the other hand, we do not want to prosecute conscientious employers for the sins of their employees. We therefore originally proposed that the accused employer must establish that he exercised all due diligence to prevent the commission of an offence. We now believe this to be the strongest posture because it puts the burden on the employer of proving that he did in fact exercise all due diligence and that the act was committed without his knowledge. To do otherwise would be to place the burden of proof on the Crown which, after all, does not have first-hand knowledge of the situation. Thus, in our view, the original form of the bill was stronger and at the same time fairer to all concerned and in keeping with our fundamental concepts of justice. We shall see on the one hand the situation in which, if pollution occurs from the employer's plant, the employer must prove to the satisfaction of the court that he had no knowledge of it and that he exercised all due diligence to prevent such pollution. At the same time, the employee is faced with this fact: if through carelessness or negligence he allowed the pollution incident to occur, he will be responsible for it if his action was