

*Fisheries*

servative party, and even the Minister of Fisheries and the Environment (Mr. LeBlanc), have been pleading for stronger enforcement measures in fisheries for the past several years. Bill C-38 provides for those measures. They are measures which should have been brought forward much earlier.

We on this side of the House in the official opposition support Bill C-38 in principle because the present Fisheries Act needs immediate revision. The bill provides a number of improvements such as the establishment of more realistic penalties for those contravening the act, the production of a ticketing system for minor infractions so that fishery officers will no longer be tied up for ages in court proceedings, and the extension of anti-pollution controls to existing industries.

However, we are concerned with several aspects of this bill: the extensive search and seizure powers of fisheries officers; the extensive search powers of the federal pollution inspectors; the possible federal-provincial constitutional clash over anti-pollution jurisdiction; the small number of fisheries officers and inspectors with which the department expects to do the job; and the content of the regulations which the governor in council may prescribe in the future.

Under section 35 of the Fisheries Act, any fisheries officer can break open and search any house, vessel or place where he has reason to believe that fish taken in violation of the act are concealed. No search warrant is needed, although a departmental directive was issued which prohibited entry into a personal dwelling unless "hot pursuit" was involved. I wonder what they mean by "hot pursuit". In the television serial "M.A.S.H." we learned the reason for calling one of the actresses "Hot Lips Houlihan". I wonder what the minister means by "hot pursuit". Perhaps someone on his side will explain.

We question whether a departmental directive is sufficient or appropriate to prevent the abuse of such extensive powers. Clause 9 of the bill grants federal pollution inspectors the right to enter any place, except a private dwelling, where he presumably believes the act is being contravened. Why should these inspectors and fisheries officers be granted powers greater than those of peace officers, especially since fisheries officers have been designated as peace officers? Once again, the government seems to be encroaching unduly upon the privacy and upon the rights of an individual.

We must ask ourselves, what is a peace officer? The Criminal Code states that a peace officer includes a mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officers and justices of the peace. The term also covers wardens, deputy wardens, instructors, keepers, jailers, guards and any other officers or permanent employees of a prison. It includes police officers, police constables, bailiffs, constables or other persons employed for the preservation and maintenance of public peace or for the service or execution of civil process.

It includes customs or excise officers, pilots in command of aircraft, and officers and men of the Canadian forces who are appointed for special duties under the National Defence Act. Now fisheries officers are to be added to this list. I fear we are getting somewhat close to a police state. I believe our fisher-

men should be listened to when they say, without tongue in cheek, that we have a little too much control. As I said a moment ago, in the course of carrying out his duties, a fisheries officer may conduct a search without the authority of a warrant. The only limitation on his power is the necessity for him to have reason to believe there has been contravention of the act.

Let us for a moment contrast this power with the position of a peace officer within the provisions of the Criminal Code. In such a situation, a police officer must present information to a justice of the peace, showing reasonable grounds for believing that in a specified location there is something which has relevance to the commission of an offence against the provisions of the Criminal Code. The justice of the peace, in his discretion, if he feels requirements have been met, may issue a search warrant authorizing the police officer to carry out a search.

The important point I wish to make, and one I want the House to note, is that the peace officer's honest belief as to the particulars detailed is insufficient. It must be the justice of the peace, and not the peace officer, who is to be satisfied that there are reasonable grounds for believing the matters to be established before the issuance of a warrant. Moreover, it was held that search warrants cannot be used to carry out general searches. There is need for describing in detail the items to be searched for and seized. In other words, the issuance of a search warrant is not a mere administrative act, but a judicial act of the justice of the peace. Under the Customs Act, for example, a customs officer may, upon reasonable grounds of suspicion and without authority of warrant, search any package or board or enter any vehicle or vessel. However, if he wishes to search any building or place, he must obtain such authority from a justice of the peace.

Why is there not a similar provision required of fisheries officers classed as peace officers? An exception to the rule is that any such act may be carried out by a customs officer without a warrant when there is no justice of the peace within five miles. That is a restriction which, I submit, should be the last one written into this bill. I hope the minister gives consideration to this point.

Unfortunately, this bill does nothing for some of the major problems facing our fishing industry. It does nothing to alleviate the fear among our fishermen as generated by the present management policies established by Ottawa bureaucrats, that we will have to wait at least five years before getting any real benefits from the 200-mile limit. This situation is due to Ottawa's generosity when negotiating bilateral agreements with foreign nations fishing within our economic zone. We have, in effect, given away the keys to our banks in order to obtain tacit agreements. As a result of these bilateral agreements, our resources continue to be raped, pillaged and plundered, while our own fish catches decline and the size of fish caught by our people becomes smaller and smaller.

If anyone doubts that statement, all he needs do is to read the government's own reports as put forth by the Canadian Salt Fish Corporation. The fish caught in 1976 were so small