

*Fisheries Act*

that area to receive alternate employment and alternate compensation as a result of the poisoning of the water. However, it does not seem to be a valid argument in terms of opposing this particular amendment.

The other question is the position of the New Democratic Party in Ontario. When I initiated this, I said I was not initiating it on a partisan basis. I did not want to compare the record of the federal government and the provincial government in this area and so on. However, since the hon. member wants to raise that question and insinuate that question into the debate, the record of the provincial Ontario government has been appalling with regard to the English-Wabigoon system. I am not using that as an argument particularly, but quite clearly they have made political decisions with regard to that area of the country which have damaged the health of native people, to their discredit.

The mere fact that administration of the Fisheries Act has been left to the provinces does not mean that for all time the federal government has abandoned its jurisdiction, its capacity to take over the clear question of whether a river should be open or closed. To continue to play this jurisdictional game between the provinces and the federal government means that in the meantime we are going to find Indians with mercury poisoning. Ordinary Canadians everywhere will have their health seriously affected while this silly constitutional debate continues.

The fact is the reserve jurisdiction is in the federal government. It is about time they took the leadership and had the guts to close down that river and put this amendment in the bill.

**Mr. Speaker:** Is the House ready for the question?

**Some hon. Members:** Question.

**Mr. Speaker:** The question is on motion No. 2 standing in the name of the hon. member for New Westminster (Mr. Leggatt). All those in favour of the motion will please say yea.

**Some hon. Members:** Yea.

**Mr. Speaker:** Those opposed will please say nay.

**Some hon. Members:** Nay.

**Mr. Speaker:** In my opinion the nays have it.

*And five members having risen:*

**Mr. Speaker:** I will order that the division be deferred.

Earlier in the day I expressed some concern about the procedural regularity of motion No. 1 in the name of the hon. member for Grand Falls-White Bay-Labrador (Mr. Rompkey), seconded by the hon. member for Humber-St. George's-St. Barbe (Mr. Marshall). The motion seeks to attach itself to clause 3 of Bill C-38. Clause 3 of Bill C-38 reads as follows:

Section 12 of the said Act—

That being the Fisheries Act.

—is repealed and the following substituted therefor:

[Mr. Leggatt.]

What follows is a new clause 12 which defines salmon and other prohibited species. The purpose of the amendment to which the House seeks to give its consent from a procedural point of view is to repeal Sections 10 to 12 of the said act and to substitute a new Section 10 and Section 11.

I was concerned upon reading the motions that even with unanimous consent the House not attempt to do so because I was fearful that the proposed amendment of the hon. member for Grand Falls-White Bay-Labrador went far beyond the provisions of this statute and into sections of the Fisheries Act not dealt with here. In fact, upon examination of the amendment, the statute and the Fisheries Act, I am indeed certain.

I was concerned that we ought not to do by unanimous consent that which was totally wrong from a substantive point of view. It seems to me that the House is perfectly able to give its consent to set aside its Standing Orders. It is perfectly able to give its unanimous consent to waive procedural requirements and precedents concerning notices and things of that sort. However, if we were to come to a point where we had an attempt to introduce an amendment which was totally contrary to the principle of a bill or totally beyond the scope of a bill, that is the time the Chair ought to intervene so that even upon unanimous consent we would not attempt to do things that were fundamentally wrong from both a procedural and substantive point of view.

However, in this particular instance there are certain conditions. First, Bill C-38 does in fact amend the Fisheries Act. That is its purpose. Second, it does set up machinery for the settling of disputes in several particular sections and imposes fines and penalties for difficulties about fisheries jurisdictions and things of that sort. Third, by examining sections 10 and 11 which it is proposed by this amendment to change, sections 10 and 11 already do in a substantial way what it is that this amendment attempts. The language in sections 10 and 11 of the Fisheries Act is almost identical to the language that is being put forward in these amendments. Therefore, what is attempted here is a relatively minor change to those two sections in order to give effect to the inclusion of provision for jurisdiction by certain fisheries officers, and some other related aspects, and also to change in a minor way the definition of the seal fishery, which is already the subject of those sections.

● (1230)

It might, indeed, be argued that even in these circumstances, since Bill C-38 does not touch sections 10 and 11 of the Fisheries Act this amendment is not in order. I would probably be persuaded on purely procedural grounds, since Bill C-38 does not propose to amend sections 10 and 11 of the Fisheries Act it could probably not be moved at this time. But given the unanimous consent of the House, under all the circumstances I have outlined, we are not stretching things too far in attempting to accommodate hon. members.

There is another point I should bring to the attention of the House. First of all, section three of the bill does not deal with sections 10 and 11 of the Fisheries Act. Further, the amendment which is put forward does not deal with the present