

*Water Resources*

to the House by a message from the Governor General in the session in which such vote, resolution, address or bill is proposed.

There is, in fact, a recommendation from His Excellency, which appears at the appropriate place in the printed form before us, and which provides—I am skipping the formal part:

—has recommended . . . the present measure to provide for the management of the water resources . . . including research and the planning and implementation of programs relating to the conservation, development and utilization of water resources—

The recommendation also indicates that this measure is:

—to provide also that all expenditures for the purposes of the Act including any expenses or allowances of any advisory committee, shall be paid out of moneys appropriated by Parliament therefor.

I think the common sense meaning of these words is in accordance with their interpretation by the late Auditor General, Watson Sellar, that there must be a vote in respect of the appropriation. It is inadequate to provide that these payments be effected without an annual vote because the recommendation also indicates:

—all expenditures for the purpose of the Act, including any expenses or allowances of any advisory committee shall be paid out of moneys appropriated by Parliament.

There cannot be any statutory appropriation, but must be an annual vote.

Let me refer directly to what I consider to be the repugnant parts of clause 16(2)(d) which reads:

The Governor in Council may make regulations prescribing with respect to each water quality management area,

(d) the effluent discharge fees, if any, to be paid by any person to the agency incorporated or named in respect thereof for the deposit of waste in the waters comprising such area and the persons by whom such fees are payable and the time or times at which and the manner in which such fees will be paid.

Clause 8 reads:

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 or permit the deposit of any type in any waters comprising a water quality management designated—

My submission is that these clauses, when read together, suggest that under certain conditions, and on the payment of what is improperly described as a fee—it really constitutes a toll or a tax—individuals or corporations may in fact deposit polluted material,

waste or effluent discharges under the conditions which are laid down. The payments or fees may be prescribed from time to time by the Governor in Council. This is like saying we give you in advance a dispensation for the sin you may be committing. At this time let me give you the closest example I can think of which resembles this situation. In some of our public washrooms, on payment of a specified amount we can make use of the facilities. One might think that the Prime Minister (Mr. Trudeau), after leading the nation out of the bedrooms, may have deposited us in a rather difficult position in the bathrooms.

**Mr. Greene:** Put in your dime.

**Mr. Baldwin:** When reading these two clauses of Bill C-144 together, they indicate that permission is given to the Governor in Council to set a tariff of tolls payable by persons designated by the Governor in Council in respect of the deposit of pollution of a stated kind and under conditions which may be set down. We are giving these persons permission to pollute our waters, and forgiving them on the payment of an appropriate toll. You may call it a fee or anything you want, but it is the character of that payment we must consider.

I suggest to you with all the sincerity I can command that these fees, as they are called, are not in fact fees. They are tolls in respect of which there is a right to commit a breach of our regulations. This permits one to legally commit a breach of the prohibition against the discharge of polluted material.

There are technical arguments I could make and I may have an opportunity to do so later. Anyone examining the definition and the use of the word "fee" knows that it simply means you pay money for a specific purpose. If I pay a fee, the State provides me with a service. These charges are not fees or service charges. Let me point out to Your Honour the very close resemblance the regulations for the use of the waters of the St. Lawrence seaway have to the principle of this measure. I am referring to the St. Lawrence Seaway Authority Act of 1951, as subsequently amended. That act provided that those waters could be used for the purposes of navigation for the benefit of the people on the payment of a tariff of tolls, and a tariff of tolls was imposed. If one examines the surrounding document one will find that the recommendation of the Governor General provided that it would be expedient for the government to establish a tariff of tolls.