

Water Resources Programs

the right to bring the action. Second, although it is federal legislation, there is no indication what part the federal government would play. I suggest that such legislation is not only ultra vires but is so obviously so, it would bring our legislation into contempt.

Mr. Thomas S. Barnett (Comox-Alberni): In reference to the remarks that have just been made, if that is to be considered as a sound argument it appears to me that the same violation of the BNA Act to which the hon. member referred is contained in clause 31(2). We are specifically providing there for a civil action and making people liable, at least in a general way, for the results of offences committed under the act. Despite the minister's suggestion that this is attached to clause 25 of the bill, I would point out to Your Honour that it is merely a matter of form rather than of substance that it be a new clause. How the minister can argue that it is attached to clause 25 any more than clause 31 I fail to see. It seems to me, Mr. Speaker, from what you have said in expressing your doubts about the amendment, that you have been concerned much more with the substance than with the finer points of the form of the amendment. In other words, you are concerned whether or not it introduces a new element into the bill which, as has already been pointed out by Your Honour and also admitted by the hon. member for Winnipeg North Centre, would make it out of order as an amendment on third reading. I suggest, therefore, that in the light of clause 31(2), both the arguments with respect to the constitutionality of the amendment and those advanced by the Minister of Energy, Mines and Resources fall to the ground.

Mr. Chappell: Mr. Speaker—

Mr. Deputy Speaker: The hon. member has made his contribution. I will allow him to speak if he proposes to ask a question.

Mr. Chappell: Yes, Mr. Speaker. The last speaker mentioned clause 31(2). I want to ask a question regarding the clause which reads:

No civil remedy for any act or omission is suspended or affected by reason that the act or omission is an offence under this act.

I ask the hon. member if he would not agree that that simply refers to any right already established under provincial law permitting one neighbour to sue another neighbour for polluting the waters. In other words, we would simply be saying that we do not interfere with the laws already established by the provinces.

Mr. Barnett: I readily admit that, to use the phrase we sometimes hear in the House, I am not learned in the law. But in my feeble layman's mentality it seems to me that clause 31(2) makes a person liable for civil action and for the cost that might be awarded in that connection. My understanding of the proposed amendment is that a person is liable for the results of the offence he has committed. I submit that on that count at least the two matters are on all fours. Without any reference to the particular variation in the details, I admit that the proposed clause 26 makes it more specific. That is its purpose and intent, but as far as the general principle of it is concerned it seems to me that the two are on all fours.

• (5:10 p.m.)

Mr. Deputy Speaker: First of all, I want to thank hon. members for their contributions. As I have indicated, I have had some difficulty with this amendment. I might just read it again. I will read the proposed new section, which would be numbered section 26. It would read as follows:

Any person who has been convicted of an offence under section 25 shall thereby become liable for the total cost of cleaning up the water or waters whose quality has been degraded or altered by his violation.

As has been indicated to hon. members, the decision faced by the Chair is the following one: does this amendment add a new section to the bill, or a new proposition to the bill which is not there? The difficulty at third reading has already been outlined by Mr. Speaker in a previous ruling, but I might refer to May's citation on both pages 571 and 572, using key sentences. On page 571 I quote:

The procedure on the third reading of a bill is similar to that described in relation to the second reading, but the debate is more restricted at the later stage, being limited to the matters contained in the bill.

Again at the top of page 572 of May's seventeenth edition, it continues:

As the debate on the third reading should be confined to the contents of the bill—

This, of course, would apply with equal force to amendments.

I would also like to refer to Beauchesne's fourth edition, particularly citation 418:

All amendments which may be moved on a second reading of a bill may be moved on the third reading with the restriction that they cannot deal with any matter which is not contained in the bill.

After some thought and consideration, and after listening to hon. members' contributions,