

National Energy Board Act

is breaking new ground. That is the expression he himself used. If it is an act which is breaking new ground, then a fortiori great care must be taken to see that the rights of the provinces are not infringed.

Neither I nor the Leader of the Opposition has stated that the rights of the provinces are being infringed. However, there is a grave doubt about the matter of their being infringed. Some mention was made of the Winner case. I have before me the decision in the Winner case. I had some knowledge of the Winner case, because following that decision it was decided by the government of that day to amend, as the minister knows, one of the statutes of parliament in order to give parliament jurisdiction over interprovincial and international highways. Up until that time there were grave doubts in the minds of the officers of the Department of Justice as to whether the federal parliament had jurisdiction over what was termed international and interprovincial transportation.

The decision lays down some very important principles. The decision states in so far as international and interprovincial transportation is concerned, that the federal parliament would have jurisdiction. But it then went on to make a number of very careful distinctions between intraprovincial movements and interprovincial movements, and because of that fact—because doubt has been raised by that decision—I think it is extremely important that we go very slowly and carefully with regard to clause 1.

I should like to bring this to the attention of the minister: before this legislation was introduced, the government of the day called a conference of the provinces here in Ottawa, and it took many days—I cannot remember how many, but perhaps the greater part of a week—before it was possible to get the provinces to agree, not without some difficulty, on the kind of legislation which should be introduced in parliament. Since that act was passed I do not know whether there has been any conference with the provinces or any representations from them in the field of highway transport. I mention highway transport because the question of pipe lines is akin thereto, and because the Winner case would not only have a bearing—

Mr. Martin (Essex East): It involved transport.

Mr. Chevrier: My hon. friend says it involved transport. It would not only have a bearing, but it would also be a precedent in so far as the pipe line is concerned.

The point I am trying to make now, is that if there is any doubt in our minds as to whether there may be an impingement on the

rights of the provinces, we should hesitate to do anything with regard to clause 1. The minister has I think given agreement to the suggestion, because I think he said something like this in reply to the question: If someone considers that this infringed provincial jurisdiction, I am prepared to consider the proposal made by the Leader of the Opposition.

We on this side of the house feel that it does, and we think it would be in the general interest of the house and the country if we were to give immediate consent, if the minister wishes, to the passing of clause 2, upon the distinct understanding that clause 1 would be brought in at a later date; it could even be introduced tomorrow, if the minister desired, and put on the order paper so that we could give consideration to it during the Easter recess and discuss it later.

If the minister would do this—and I feel, from what he has said, that he is so disposed—I think we might get on fairly quickly with this piece of legislation. There is, of course, clause 3 which has already been mentioned by the Leader of the Opposition. All I want to do is to state that if perchance this bill did not pass today and we went on discussing it, not tomorrow, because we have other business announced, but at a later date, every act of export of fluid gas or electricity by these 20 companies would be illegal, and the fact that clause 3 is enacted does not for the time being at least legalize that illegality. So it would strike me that this is a departure from what was done in earlier cases.

I do not know that I want to add any more to what I have said. As far as we on this side are concerned I think I can say again on behalf of the opposition, that we are willing to consent to the passage of clause 2 of the bill, which is really what the minister wants, so that we may give consideration at a later date to clause 1. I think I am not unduly pressing the issue when I say that I believe the minister has agreed, in effect, to withdraw clause 1. If he will do that, I can assure him we shall not hold up the second reading of the bill.

Mr. H. W. Herridge (Kootenay West): I want to say a few words on this bill and I will be brief. The members of this group have given this measure some attention, and we were very concerned about the lateness of the date on which it was introduced. However, I must say we were very pleased to hear the minister accept full responsibility for the delay in introducing the measure and make no attempt to put the responsibility on someone else's shoulders. I think the hon. gentleman made a frank and manly statement, and that goes a long way with me.