

*Public Works Act*

which is privately owned, without the necessity of complying with the provisions of the Expropriation Act. It is also important to consider whether the newly-enacted Charter of Rights and Freedoms would have any effect upon this proposed legislation. There is nothing specific in the charter about the right to own property. However, Section 26 reads:

The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada.

If it is interpreted that the right to own property is a right which existed in Canada at the time of the adoption of the charter, I suppose it could be argued, therefore, that that right is protected.

The problem which the non-inclusion of property rights in the charter creates is that anyone suffering as a result of the infringement of these rights would not have the opportunity to utilize the enforcement section, Section 24 of the charter, or have the benefit of the courts interpreting the new law in accordance with Section 1 of the charter, which reads as follows:

The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

If property rights were specifically set out in the charter, the courts would then have to consider whether Clause 1 of Bill C-91, which gives the minister unlimited discretionary authority, is a reasonable limitation upon the right to hold property. At present, the only way in which property can be disposed of under the Public Works Act or under the Public Lands Grants Act is for the governor in council to declare that the public work or the public land is no longer required for public purposes. There are no criteria, as far as I can determine, as to how the determination will be made and under what circumstances property which is still required for public purposes will be disposed of.

Again, this is in direct contrast to the lengthy justification procedure to which the federal government is subjected if it desires to expropriate property for public purposes. The two major methods by which the government acquires property are through outright purchase and through expropriation. It seems unbelievable that the government should have to prove the necessity of acquisition for a public purpose after having made the acquisition through expropriation and then be entitled to dispose of the property, even though it may still be needed for public purposes, simply through a ministerial order.

On the information which is available to me and to the House at the present time, it is extremely difficult to determine the purpose of this particular bill. From what I have already stated, it is obvious that there are many matters contained in it which really deserve very, very close scrutiny. As I have stated, Clause 1 could be viewed as an invasion of provincial powers in relation to property and civil rights. There is absolutely no criterion in the exercise of the power contained in Clause 1 of the bill. Under this clause the minister can act in a total arbitrary fashion, as he is exercising a highly questionable discretionary power and there is no forum provided for the hearing of any objections which are made to the

exercise of that power. If there is to be a forum in which a person aggrieved by the exercise of power as contained in either Clause 2 or Clause 3 of the bill may be heard, it would seem that the final authority for the exercise of that power should at least be given to Parliament. The people's representatives should have some say. It should not be done by order in council.

Perhaps the problems related to the bill could best be resolved by the establishment of a standing committee which could then examine and make recommendations concerning the exercise of power by the minister under the act. When Canadians realize the power the government is seeking through the passage of the bill, I personally feel certain that any confidence they may have left in Canada after the disastrous effects of the National Energy Program and FIRA will be wholly and totally shattered. Let us face it—the recession which led to the present depression has been triggered and intensified by a succession of federal measures and, to a lesser extent, by the provincial responses they evoked. Of course the breaking point came with the National Energy Program. When I hear the soothsayers of government attribute the present depression to the collective downturn of the business cycle in the developed countries of the world or, as we hear day in and day out, attribute it to high United States interest rates, I ask why they ignore the dominant role of energy among our natural resources.

Before the government brought in its National Energy Program, the strongly rising volume of investment in gas and oil exploration and development had been driving our whole economy forward. Every dollar invested by the petroleum industry multiplied two or three times through the economy in purchase of equipment and of services. Since the National Energy Program, the industry's investment in Canada has been drastically reduced by 30 per cent or 40 per cent through 1981 and by at least that much again this year. These are now unrecoverable funds which have either been committed outside Canada or absorbed by government.

For the better part of the last ten years the government has been reaching out to capture key elements in our economy and to transform them into Crown corporations for implementing its vision of what I call the "corporate state", a country in which political authority is ensured by control over investment and production. Of course in another way this is what is happening under Bill C-91. It is putting further power and control into the hands of a limited number of people—the executive and, in this instance, the Minister of Public Works.

If one wants to see an example of the corporate state toward which the government is working, one has only to look back to Mussolini's Italy of the late 1920s and 1930s. I should not have to remind the House of what happened to the individual rights and freedoms of those unfortunate people, but today we can consider what the confiscatory policies of government have so far cost us in forfeited economic growth. In the 25 years until 1971 Canada had an average annual real growth in gross national product of 5 per cent. We were the envy of all western