

*Government Orders*

On December 9, 1991, the legislative committee responsible for reviewing the bill tabled its report in the House after having heard a number of witnesses including provinces.

The bill has now passed all stages of the federal legislative process and today is in third reading before being forwarded to the Senate.

• (1650)

Regarding the question of federal jurisdiction, it is the duty of a modern responsible government to equip itself with tools to assess the environmental implications of its own decisions. In the Oldman River case the Supreme Court of Canada unequivocally concluded that: "The Constitution Act, 1867, has not assigned the matter of environment *sui generis* to either the provinces or Parliament. The environment, as understood in its generic sense, encompasses the physical, economic and social environment touching several of the heads of power assigned to the respective levels of government". That is from page 62 of the judgment. The Supreme Court also firmly established that the federal department responsible for the environmental assessment process could not use it: "as a colourable device to invade areas of provincial jurisdiction which are unconnected to the relevant heads of federal power".

The minister noted that this bill was drafted carefully to respect jurisdictions and the decision of the Supreme Court of Canada. It will be applied in the same fashion.

With regard to agreements with the provinces, contrary to the existing guidelines order the new bill recognizes the environmental assessment processes of all Canadian provinces. It will be possible to negotiate framework agreements with each province and territory to avoid duplication and encourage joint approaches in cases of shared responsibility while being respectful of the decision-making powers of each level of government.

With regard to spending powers, the existing guidelines order, as well as the new bill, covers all the decisions that the government may be called upon to take in respect of a project or an activity. The federal government continues to ensure that environmental assessments are completed before projects are financed. However, money transfers, made within general federal-provincial agreements which may generate projects, may be submitted to provincial procedures. In all other cases

it is always possible and desirable to adopt an approach which encourages joint assessments involving both levels of government.

With regard to the application to the James Bay Northern Quebec Agreement area, this agreement is one of the claims which provide for an environmental assessment process. The Inuvialuit Agreement is another example, and agreements applicable to Yukon, the Tungavik Federation of Nunavut territory and the Gwich'in territory are also being negotiated. To avoid duplicating the federal process provided for in all these agreements the government provided itself substitution powers which it could use when required.

The issue with respect to the James Bay Northern Quebec Agreement is not to overcome federal-provincial duplication but rather duplication which is internal to the federal government, and the government provided itself with the tools required to avoid such situations.

With regard to native territorial claims, the bill does not cover the lands claimed by native people as it has been suggested. The selected lands mentioned in the bill refer to lands selected by both levels of government after a claim has been negotiated and an agreement concluded between all parties involved in order to transfer these lands to the native people.

On the issue of transboundary projects, the bill gives the federal Minister of the Environment the power to exercise his responsibilities in cases in which more than one province or territorial authority are involved. However, when two provinces agree on an environmental assessment of a transboundary project the federal government is not involved.

The federal involvement in this area of federal jurisdiction is triggered only if the provinces concerned are unable to reach an agreement. However, if requested to do so by citizens whose property rights are affected by the project the federal minister has the duty to review the situation and ensure that the ongoing environmental assessment complies with the basic criteria specified in the act.

The minister is convinced that the decision-making system which permits the integration of the environmental factors proposed by the government to guide its own decisions, complements the assessment procedures that all provinces and territories have instituted. He encour-