

Northern Pipeline

impose that responsibility on NCPC. That would not be a good arrangement.

The minister also said that there will be time for the necessary studies to be made and some will be published in June. More important, he said that the timing will permit the settlement of native land claims. Mr. Speaker, those negotiations have been going on since 1973. In 1968 the Prime Minister made a speech in Vancouver in which he reaffirmed his belief—which was strange, coming as it did from a professor of law—that there were no such things as aboriginal rights and that no more treaties would be signed with the native people of Canada. Someone got to him, Mr. Speaker, perhaps in the debates in this House, or perhaps through the council of the National Indian Brotherhood. Local associations were not set up until they were funded by this government. By its funding and policies it lifted the lid on Pandora's box. Members of the government do not know where they are now on Indian policy, they do not know where they are going, and when they get there they probably will not know where they have been. The matter is totally, completely, and utterly out of control, with no guidance being offered by this government to bring these claims to quick settlement.

As recently as two weeks ago the CYI put the government on notice when they visited Ottawa that they are going to bend every effort to prevent this project from going ahead. I do not agree with that. On more than one occasion the leader of this party has stated our policy as believing that negotiations of these claims can proceed hand in hand, without one prejudicing the other. The position of the New Democratic Party is quite the reverse. There is no reason for the negotiation and settlement of Indian land claims going ahead at the same time as this or any other development, with one rider, that the development should not in any way prejudice the just settlement of these claims.

● (1652)

The government is in for a shock if it thinks that it is on the verge of settling any land claims with the Yukon native people. It will not happen unless it legislates them out of existence and that is precisely what I think it has smuggled into this bill. Unless I am mistaken on a combined reading of clause 16 together with clause 25(3), the bill deprives the right of the native groups to use a judicial device which they would be tempted to use in order to prevent construction from going ahead.

To illustrate I will quote some words said by a prominent member of our party on this side of the House. "In all my years at the bar and in all my time as a legislator here I have never seen a more gross intrusion of government control in any legislation." This is the first time I have seen anything like these repulsive clauses in a bill. It gives the governor in council, the cabinet, virtually the power to amend any regulation made under any act of parliament affecting any aspect of the pipeline or any person working on it. I believe I have that accurately. The Deputy Prime Minister nods his head. He is

[Mr. Nielsen.]

nodding his head in the affirmative. I hope he is not going to sleep.

This is one of the more important and most offensive points of this bill. It practically places the power in the hands of the regulatory agency to make a decision with respect to any matter it chooses. If there happens to be a law contained in a regulation under an act of parliament which conflicts with that decision of the board, we have to change it. It does not make any difference what act it is, unfortunately. I have not as yet looked carefully to see whether it offends the Bill of Rights, I do not think that it does.

Let us consider the example of CYI wanting to appear before the board to obtain a decision with respect to the route of the pipeline crossing lands which they have traditionally occupied as an established village for a few hundred years. If the board says to the native groups in the village, "I am sorry the pipeline has to go through the centre of your village; you have to take your pump and so on, that is it," what recourse does the group have? They have the power of appeal under clause 23(5). What appeal does that give to the offended citizen? It gives the Federal Court, and only that court, the right to confirm the board's decision or the right to refer the matter back to the board for further consideration. In my opinion that is a denial of a fundamental right of British justice guaranteeing the citizen free access to the courts.

Some hon. Members: Hear, hear!

Mr. Nielsen: The normal provision, and the Deputy Prime Minister is aware of this, provides that any legislation affecting jurisdiction of appellate tribunals is to provide in that appellate tribunal the power to quash, alter, refer back, or confirm. If that power in clause 23(5) were broadened to include in the power of the appellate tribunal the power to alter the decision of the board, it would be more acceptable. But the way it is now, it is totally unacceptable. We will be making every effort, short of any filibuster, to convince the committee members, and perhaps the government, prior to hearings in committee that it should do the proper thing and amend that clause, or declare its intentions so to do, so as to include that normal power of the appellate tribunal in this bill.

There are enormous transfers of power under the bill which can be transferred from one minister to the other. I assume that the Deputy Prime Minister will be the minister designated under the provisions of the bill—if he can patch up his differences with the Minister of Energy, Mines and Resources—at any time he can transfer his powers or any privilege. As far as the powers of the National Energy Board which are contained in this bill are concerned they are such that the National Energy Board is emasculated if the cabinet so chooses to decide. It can tell the National Energy Board to do anything it pleases. I think it does now anyway.

Some hon. Members: Oh, oh!

Mr. Nielsen: But this bill certainly is like the opening of the mail bill—they are going to make lawful now what I strongly suspect them of doing anyway.