

National Energy Board Act

And we are in the 31st day now.

—section 2 shall be deemed to have come into force on the 30th day of March, 1960.

This, Mr. Speaker, is a provision for indemnification by law for breaking the law before the crime has been committed. The minister has indicated that when we get into the committee stage on this bill he will give us further detailed information on matters of this kind. I shall be very interested to receive information about any legislation where a clause of this kind has been introduced for indemnification, not after the crime has been committed but before the crime has been committed. If this bill is approved parliament says to these 20 Canadian companies, "You may break the law of Canada if you like and we will fix you up after the crime has been committed", because that is the purpose of clause 3. Perhaps I can put it in another and somewhat more theological way. In essence it is this: "We will give you prior absolution for the sins we are forcing you to commit". Surely, Mr. Speaker, that is carrying the bill of rights a little too far. So we on this side feel that this particular clause or any such provision is most undesirable and to be strongly condemned in legislation of this kind.

So far as clause 2 is concerned, the minister has put us in the position where we must approve it this afternoon before 5.45 or put the companies concerned in a position where they would suffer most grievous prejudice through no fault of their own but solely because of the carelessness and inefficiency of the minister and the government.

I was glad to hear the minister say there is no shelter to be found behind any official for negligence in this matter. An explanation has already been given elsewhere that this is the reason for the delay. That was not accepted elsewhere, and of course it would not be accepted here. A minister, as the minister has already stated, must take the responsibility for every act of every official in his department. Any other course would be not only unconstitutional but cowardly.

Mr. Churchill: Will the Leader of the Opposition permit a question? Will he make it quite clear that I was not the one who gave the other explanation in the other place?

Mr. Pearson: I will be glad to make it quite clear. The minister was not mentioned at all in the other place in connection with this matter, and there was no suggestion in the evidence I read concerning what happened in the other place that the minister had anything whatever to do with this explanation.

What are the consequences if these licences are not renewed today, in other words if

the bill is not passed before 5.45 p.m. today? Well, either an international incident would arise with the country receiving the power, which in every case would be the United States of America, or these companies will have to go on exporting power and in doing so would be breaking the law at least temporarily until their action was legalized by a later passage of this bill. If either of these two results should occur the minister and the government alone would be responsible for that situation.

We have no desire, Mr. Speaker, to be accessories to this kind of crime. We do not want to cause, even indirectly, an international incident of the kind I have suggested, or force any Canadian company into illegality. That is why we are quite prepared to take the minister off the hook and, if necessary, suspend the rules of the house in order to repair a serious mistake which has certainly been made.

But we are prepared to do this, Mr. Speaker, only on one specific condition. We ask the minister to undertake that when the bill reaches the committee stage he will drop clause 1 of the bill for later and more careful and exhaustive consideration. Clause 1 is the clause which deals with tolls for the transmission of gas. The minister has indicated the purport and importance of that clause which in our view does embody a very important question of principle affecting not only this parliament but the provinces. Clause 1, as the minister pointed out, would enable the energy board to fix tolls for transmission of gas within a province.

Mr. Churchill: Only in respect of a line that carries on beyond the province.

Mr. Pearson: I appreciate what the minister has said; only in respect of companies as described in the bill, companies engaged in interprovincial or international traffic. But notwithstanding that, in our view this clause does raise important constitutional and policy questions, and we are certainly not prepared to approve it without the most careful, complete and adequate consideration. It is intolerable and an affront to parliament that we should be asked to do so.

Notwithstanding what the minister has said, we on this side are not sure if it is within the jurisdiction of parliament to enact such a provision, if it is within the powers of parliament. I know the argument the minister has mentioned, and I know there have been constitutional cases dealing with this matter, the most important of which is the Winner case in New Brunswick. However, according to my understanding of that case it does not in every respect embody exactly