

of such a delay in proceeding with regulatory hearings and action. An example might be when a pipeline facility is to be constructed to provide service to a new area or where rates of pipeline companies are to be adjusted to reflect current costs. In such cases it is sometimes necessary to reduce the length of notice to 30 days.

In some instances, Mr. Speaker, these amendments would have adverse effects on the decision-making process as we know it.

Clause 4(1) would require that any advice given to the minister be made public. This could clearly have an adverse effect on matters related, for example, federal-provincial relations or, in the instance of international negotiations, between sovereign states. Anything of a sensitive nature would be precluded from discussion between the minister and the board. Without this candid advice and opinion, the minister would not be able to perform his role properly.

Clause 1 of the bill insists that the chairman, vice-chairman and associate vice-chairmen of the board each be paid the same salary as the associate chief justice of the Federal Court of Canada. In our view, Mr. Speaker, there is no reason why a board member should be paid on the same salary scale as judges. The duties are different, and board members, in addition to their quasi-judicial role, have a number of administrative duties. In addition, it would not be equitable for the chairman, vice-chairman and two associate vice-chairmen of the board to be paid the same salary because, of course, they have different responsibilities. In fact, there seems to be no real reason to interfere with the existing method by which board members' salaries are set by the Privy Council office.

Some clauses of this bill are impracticable and would impair the effective working of the board. This cannot be in the public interest. Further, preventing the minister of the Crown from receiving the best possible advice on an issue such as this would not improve the decision-making process in any substantial way.

The board has now operated for 20 years and has established its reputation as an effective and fair tribunal by continually improving its procedures under the act and, from time to time, initiating recommendations for amendments to meet changing circumstances and the increasing complexity of the energy economy.

In introducing his bill the hon. member for Vancouver-Kingsway (Mr. Waddell) referred to Bill S-12 regarding the expropriation procedures of the National Energy Board. I should be pleased to touch on that for a moment as an example of the ways in which the legislation concerning the National Energy Board evolves.

The National Energy Board Act has already been looked at with a view to improving and defining those public rights that are affected by the board. Bill S-12, which the hon. member mentioned, passed by the Senate in March, 1979, attempts to modernize expropriation procedures for purposes of establishing rights-of-way for pipelines.

Canada has at least two expropriation procedures; one is the Expropriation Act for 1970. That act, administered by the

National Energy Board Act

minister of public works modernized procedures, especially for the determination of fair compensation to the expropriated owner. Section 42 contains the exception that the act does not apply to any expropriation made pursuant to the Railway Act.

The second expropriation procedure as established by section 75 of the National Energy Board Act incorporates the expropriation provisions of the Railway Act, sections 156 to 184. Bill S-12 is designed to change the procedure of expropriation of pipeline rights-of-way by deleting the incorporation of the Railway Act provision and substituting an expropriation procedure. Bill S-12 established a scheme of negotiation and arbitration with a right of appeal to the trial division of the Federal Court of Canada. It also lays out the principles of compensation as guidance to the parties and tribunals that are involved.

This matter of modernizing expropriation under the National Energy Board Act is considered important because it affects the rights of private landowners who are on the right-of-way of a proposed pipeline.

Bill C-204 also deals with public rights and the rights of participants to better understand the information used by the board in its deliberations. We believe that such rights have adequate protection and that a reasonable balance has now been struck between informed and complete public input and the need to determine major energy questions expeditiously.

• (1630)

The Department of Energy, Mines and Resources for its part is currently occupied with major energy initiatives designed to protect the economic health of Canada, making it difficult for the time being to consider even the modernization of the existing pipeline expropriation procedures.

I have made reference to Bill S-12 in order to remind the hon. members that National Energy Board legislation is under continuing review and assessment. The proposals of Bill S-12, when in due course implemented, will mark a further advance in the evolution of the legislation governing the activities of the National Energy Board.

The hon. member referred in his introduction to the nature of the National Energy Board and its responsibilities. He spoke in particular of the right to information and the principal activities of the board. In that connection I shall quote from the 1977 report of the Law Reform Commission of Canada in which it is stated:

There is no doubt that the board is in close contact with the industry. But this relationship requires explanation. First, it is clear that the industry cannot dictate National Energy Board decisions on particular applications. The board attempts to maintain a judicial posture on applications, and is sensitive to allegations of bias or influence. This approach appears not to be affected by movements of board members to and from the industry which, in fact, are rare. Most members have industry experience. This reflects the intention of our legislators to appoint members who are experts in various aspects of the energy industry. Furthermore, is there any better source of expert knowledge about the petroleum, natural gas and electrical power industries than within the industries themselves?

Mr. Waddell: Ask John Helliwell.