

As for specific questions, the wording of clause 4 is very weak. It ensures only that environmental effects receive careful consideration before actions are taken. In addition, it is not the purpose of this act to ensure sustainable development despite many theoretical declarations to this effect.

As for section 5, we have to conclude that there were two profound concerns with this section. One, it is weaker than the current regulations. Second, tax breaks are specifically excluded by this legislation as a possible reason to refer a project to a federal environmental assessment review. This, while it may seem to be a dry, technical point, has very serious implications for many energy and natural resources projects.

• (1230)

We then looked at section 6 in particular and found to our dismay that it gives the proponent powers that are virtually unlimited. We felt that clearer rules instead should be introduced and established to remove the notion that the proponent forms an opinion about whether or not a project is to be referred for a review or not. In other words, the powers given to the proponent under Bill C-78 are far too great.

Again, within the same section 6, we felt that the second half is confusing. It begins with the very grandiose statement "for greater certainty" and then by the time one finishes reading that particular section, one wonders what it is all about. In other words, it is a section that badly needs clarification. The section was written and intended to offer the reader clarification. This is a very amusing contradiction.

Moving to section 11, we found that while it lists the factors to be studied by a panel created by the implementation of this legislation, we felt that it did not heed the consultation process of 1988 and that that consultation process is not required in this bill. In addition, the bill does not require the review of alternatives to the proposed project or to native claims.

When we looked at section 11, again we had to conclude that actually the fox is still in charge of the chicken coop. Because, under this legislation the Minister of the Environment does not have the unfettered authority to set the terms of reference and scope of the review panel. We, and a large number of witnesses, felt

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that this was one of the major flaws of the bill. We are now being asked to re-examine it, in the full knowledge that it has these serious weaknesses.

Concerning section 16, there is a reference there to the "responsible authority". This is the initiating department or proponent. It makes all the decisions as to whether to proceed or refer the project to mediation or to a review panel, or involve the Minister of the Environment if you like. Whatever action is taken hinges, however, on the opinion of the responsible authority, namely the initiating department.

Even more interesting, I submit to you, is the fact that the cancellation of a proposed project is not an option. The responsible authority must withhold approval if the project is referred to a panel, but the bill does not include a rejection of the project even if the project is likely to cause significant adverse effects that cannot be mitigated. At this point I would ask, at section 16, whether any fair-minded and intelligent politician would not think here is something that we must re-examine, something is obviously not coming together.

But this is not all. I must refer you to section 20 where, in the opinion of a responsible authority, a project is described on the mandatory list. The Minister of the Environment has certain powers to deal with the initial environmental report and the minister may do a number of things, which I will not put on record because of limited time. In this section we find a fundamental problem with the approach the government has taken to this legislation. What better reason I ask, within the framework of sustainable development, to reject a project than if it is likely to cause significant problems that cannot be mitigated.

However, we find that the Minister of the Environment does not have that option. In the opinion of this government, such projects may deserve study but they cannot be cancelled. To make matters worse, it is the proponent or proposing department that has a major say in writing the terms of reference for the study of the appointed panel.

When it comes to discretionary powers which, as you well know, are very important, section 24 gives the Minister of the Environment the authority to refer a project to a mediator or a panel under certain conditions.