

National Energy Board Act

which I spoke earlier we had to make such decisions with regard to interveners. We had to decide who should receive the funding and how much they should get. Once we approved the funding they would appear before the board. We even arranged for umbrella groups to appear before the board represented by one lawyer. In this way all points of view can be represented in a fair procedure.

Finally, I ask that there be sunlight provisions in the bill, which is itself a new concept. I do not want my friends to the right, the Conservatives, to think I said "sunset", I said "sunlight". It is an American concept where by if there is to be any meeting outside the boardroom with parties, it has to be recorded and open, unless there are certain reasons for which it should not be open. I would have liked to have gone into more detail in the bill on this subject but I merely introduced the concept. It fits in with the concept of freedom of information.

There are other matters upon which I did not touch in the bill such as expropriation. I believe there is a Senate bill, on expropriation. I could also have dealt with provincial appointments. I believe the hon. member for Fraser Valley West (Mr. Wenman) has a bill on provincial representation. I found this area too difficult with which to deal in my bill. Instead, I dealt with consulting the provinces on appointments and on providing advice to the government when it has sought an opinion. I know that my province of British Columbia is very interested in such areas as pre-build of pipelines, natural gas exports and so on.

● (1620)

I have tried to make it a fair procedure for the provinces as well. It is a very simple bill, Mr. Speaker. There has been lots of talk here about the constitution. Bill C-204 presents the very basic requirements for the performance of an agency of government elected by the people whether you are an oil millionaire, an Inuit, Dogrib or Slavy, a businessman who needs energy to run a factory or a welfare recipient who needs heat to stay warm, whether you are the builder of a pipeline or an environmentalist, whether you are a poor person or a person who is affected by a board's decision on the price of oil and gas—indeed, we are all affected. The procedure before the board now is a bad one.

This is a very simple bill, Mr. Speaker, offering some concrete suggestions and concrete enactments for reforming the National Energy Board. I urge that this House adopt the bill today.

Some hon. Members: Hear, hear!

Mr. Roy MacLaren (Parliamentary Secretary to Minister of Energy, Mines and Resources): Mr. Speaker, with regard to Bill C-204 now before the House, it seems to me that it is either unnecessary or redundant. For example, clause 2 of the bill calls for the reasonable cross-examination of witnesses. For quasi-judicial hearings of the board, the proposed requirement to cross-examine witnesses is unnecessary because that right already exists. For non-judicial hearings of the general inquiry

type, the proposed provision is undesirable because with the large number of parties that attend at such hearings it may sometimes be necessary to limit cross-examination.

Clause 3(6) of the bill would award costs to public interest groups for the conduct of cases before the board. This has already been considered by the board which does not object to the awarding of costs as such. However, the way the bill is worded, the awarding of costs could be made at any time—even before a hearing—for any group claiming to represent any public interest. The board would not have the power to determine beforehand whether in fact there was representation of a public interest. This further exemplifies the somewhat loosely worded nature of the bill.

Clause 4(5) of the bill, which calls for the restriction of communications between the board and any minister of the Crown or public servant, is again loosely worded and somewhat confusing. If, with this suggested amendment, the hon. member is trying to restrict inappropriate communications, then this is unnecessary since it is already part of the board's practice. Further, if the amendment were to be accepted as worded, then it would make it illegal for the board to communicate with its own staff members who are, of course, public servants. Not only is this subsection unnecessary but its insertion would be interpreted as implying that the board is acting improperly at the present time.

If adopted, Bill C-204 would impair the working of the board. Clause 3(1)(d) would require that a public hearing be held prior to the submission of any advice to the minister. That would be unworkable. It would slow to a crawl the advisory work of the board. There are many matters on which the board can advise the minister promptly, drawing upon its own experience. To call a public hearing in every instance would be senseless.

Clause 3(4) of the bill would designate an officer at each hearing to be responsible for bringing forth any relevant evidence for argument. The system proposed is similar to that used in the United States, but the American system has been described as being overly legalistic, cumbersome and slow. In the Canadian system it is the function of staff to advise the board, not to act as adversary as against the applicant. It is the responsibility of the board and its counsel to ensure that all necessary and relevant evidence has been brought forward.

Clause 20(3) would require notice to be filed in every newspaper within 50 miles of the route of a natural or proposed pipeline or power line and in every newspaper in Canada having a paid circulation of 50,000 or more. This requirement would be both onerous and expensive. At the present, the board requires applicants to publish hearing notices.

Moreover, the NEB has an extensive mailing list to which it sends reports, news and decisions rendered. The public is, of course, free to contact the NEB about hearings and will receive information requested.

This subclause also requires that 60 days notice be given for a hearing. Although this is a desirable objective, there are often situations where the public interest would suffer because