

Private Members' Business

I could exhaust all my time simply cataloguing what I see as serious legal problems posed by this motion. However as a general comment I would suggest that the absolutist view underlying this motion categorically rules out any legitimate competing value or interest which the government has to consider in all matters, including matters affecting the environment.

I am talking about such things as sustainable development, economic growth and competitiveness which are important aspects of public policy. These are matters that simply cannot be swept aside or ignored in the real world.

Environmental protection is a noble cause within the framework of the balancing of many different public policy goals. I am sure my hon. friend knows this but he appears to have momentarily forgotten this in putting his motion forward in its present form.

I should say that there are aspects of this motion that I like in principle. For example I am not in principle against empowering individuals with private rights that they can assert against the Crown and the courts. I do not think that the Crown should be given immunity that would shield it from civil liability in relation to conduct that is damaging to individuals. The hon. member surely knows that both common law and civil law already allow private resources against the party responsible for a spill or other environmental event producing actual injury or damage to property or other private interest.

This can include government bodies where they are actually responsible for a spill or other environmental tort. It is not in my view good legal policy to use private remedies to enforce public interests such as environmental protection which is exactly what this motion appears to propose.

At whose cost will these private remedies be asserted? Does the hon. member think that individuals are going to be willing to bear the costs of litigation in suing government bodies for torts before the courts if his motion is turned into law?

Is there an assumption that some kind of government program would fund court challenges? Although nothing is mentioned about this, I suspect that such a program is part of this deal. If we can sort out the implicit question of funding, what nature of lawsuit does the hon. member

have in mind in empowering individuals to sue the actions, damages and injunctions et cetera of government bodies?

Perhaps a better legal approach in this area lies in strengthening and where appropriate expanding the licensing and regulatory mechanisms for environmental protection which place a positive obligation on both the governments and the public. This is backed by enforceable legal recourse including penal sanctions.

To sum up, the motion while admirable and objective is flawed in design. Although all of us are desirous of creating a legal environment that puts environmental protection up there at the top it behooves us not to fall prey to solutions such as just simply suing the government which is what is being proposed here. They look good on paper and from a distance but when more closely examined they are not solutions at all.

• (1935)

Mr. Nelson A. Riis (Kamloops): Mr. Speaker, it is indeed a pleasure to rise to speak in favour of Motion No. 323 presented in the name of the hon. member for Skeena:

That, in the opinion of this House, the government should consider establishing the public right to sue government institutions for failure to protect the environment.

In a sense this is a litmus test of whether or not the government believes in environmental protection. This is the test that my hon. friend from Skeena has put forward to see whether or not the government actually believes in ensuring that environmental issues are kept front and foremost in the years ahead.

I find it is interesting that my friends on the government side have said that they cannot support this motion. There is the government support of the James Bay project and all of the environmental holocaust that will result in that type of development. There was its support of Hibernia where oil wells are set out in the stream of icebergs floating south. There was the Oldman River dam project, the various diversion projects on the prairies, the diversion of the Nechako River and Kemano II.

If there has been a single individual who has stood up time and time again to represent the environment of Canada, it has been the hon. member for Skeena. The member and his colleagues have been relentless in their