

*National Energy Board Act*

board members sat, strengthened their case. But the crux of their argument lay in the examination of six issues handled by the National Energy Board. In at least two of them, the Interprovincial Pipeline extension and the Dow Chemical Company ethylene export case, the authors suggested that the NEB decisions were forged outside the hearing room. This is indeed a serious indictment. Mr. Lucas also said:

● (1610)

The industry thinks the board is remote, political and that its members are largely a bunch of political hacks of a sort that are not knowledgeable about the energy business.

It seems that almost everyone has been critical of the board. One lawyer who refused to be quoted appeared at the summer export hearings on behalf of his client who wanted to import gas to the United States. Although the client got what he wanted, the lawyer apparently was upset by what he saw and he said:

They heard evidence only from people who wanted to export gas. The traditional opposition asked no hard questions whatever. The board counsel asked no controversial questions. There were no analytic questions about the reserve numbers. The board will say they found exports on the basis of the evidence but the board counsel, armed with the staff, should have done more than check the numbers. It is just incredible from the public interest point of view.

Criticism is levelled at the board not only by company lawyers but by people from environmental groups, people from consumer groups, poor people's groups and just about everyone. The standard reply from the board, and I quote Mr. Edge, vice-chairman of the board:

We're here to make decisions in the public interest. If we've got a decision which is roundly criticized by all parties, it is probably a good one.

Likewise, Mr. Stabback, a former board member gave comments to the same effect. In other words, they are saying, "we are being criticized by everybody so we must be doing something right". There is another viewpoint and that is, "maybe everybody is right". Maybe there are weaknesses in the board. I am not here to criticize the board. I am here to make some very concrete, simple suggestions through my bill to deal with procedural matters that could make the board better.

I would like to refer now specifically to the bill. It suggests that the board needs first of all some upgrading in membership. What we have on the board now are basically people who are in the industry or people who were in the government. What we need are people with varied backgrounds such as environmentalists, and people with background in consumer matters. I remember when John Turner was a member of this House as minister of justice. In spite of the many things on which he and I disagree, he did one great thing for Canada; he upgraded the appointment of judges to the supreme court. He hired a man named Ed Ratusny who consulted the Bar associations and vetted appointments. As a result we began getting top grade people on the benches, and it shows in judicial decisions.

While we cannot enact such a procedure and put it into law because it is a procedural matter which a minister must see through, I put into the bill a provision which upgrades the board and gives it the status, right there in black and white, of federal court judges and the salary which goes with the appointment. I hope and trust that the appointments will be better because of the procedure I have set out.

Second, Mr. Speaker, I tried to deal in my bill with the problem to which I referred at the outset—whether this is a court or a branch of the Department of Energy, Mines and Resources. I will not go through the materials I have here, but the stories would make your hair curl. There are stories about decisions, lunches with business executives whose application is before the National Energy Board and so on. It is a rather careless procedure. There is talk behind the scenes and rumours in Ottawa such as, "well the board has to pay attention to what EMR says". Also, it is inherent in the procedure that the board must advise the government.

What I tried to do in my bill is clarify the advisory function. If there is to be an advisory function, then the board must give its advice and render its decisions through a fair procedure. It must be an open procedure with open decisions. I tried to incorporate that into my bill. Third, I tried to bring in the idea that all parties have a right to cross-examination. What I would like to see is any advisory decisions which are made or any advice that is given to the government in the form of documents and so on laid open for people to use in the proceedings. That way everything would be above board.

Fourth, Mr. Speaker, I put in the bill a provision to upgrade the role of board counsel. For three years, I worked for the Berger inquiry on the Mackenzie Valley pipeline. In many ways we broke new ground in the area of procedural decisions, not only by holding hearings in remote communities but in other ways. One such way was by upgrading the role of commission counsel and giving him the status of a public advocate. He was to get in there and represent the views, as commission counsel saw it, of people who were not there before the board, as a means of filling in all the gaps. Commission counsel and commission staff were available to be called as witnesses. All testimony and documentation was out in the open. Commission counsel's final submission to the board, in this case to Mr. Justice Berger, was publicized two weeks before it was given to the board so that people could look at it and in that way everything was above board.

The fifth clause in my bill requests that internal papers be made public. The concept of freedom of information should also apply to the board because we believe, and I think that this House unanimously now believes, that in this manner we can arrive at better decisions and hold better hearings.

Another provision in the bill is that funds be available for interveners, an area in which the NEB is behind. The CRTC has begun to move in this area because there are people who cannot afford fancy Philadelphia company lawyers or Vancouver lawyers or Calgary lawyers or lawyers from wherever they may come. I merely ask that we recognize the principle that interveners can be funded. While on the commission about