

Yukon Minerals Act

development can go forward. There has been at least a searching for a solution and, I think, one could say an honest approach toward a solution.

In our northwest we seem to be far behind and we can expect to pay the price for what once again is a lack of initiative and imagination on the part of this government. Even if one wanted to ignore the human aspects of the problem, there are many ways in which the question of native rights can be involved in the mineral and other development of the Yukon and of our north. I say that this absence of policy and this government confusion goes far beyond the north and the northwest. It extends right down the coast of British Columbia, and it goes along with what seems to be an uncaring ignorance of the prospects of environmental damage that are associated with such matters as the tanker route from Alaska to the U.S. west coast ports. This is not the time to develop this theme. I mention it simply as an indication of the ignorance of this government and what seems to be its indifference to matters of such importance in an area similar to the area considered by this bill.

Mr. Nielsen: Shameful neglect.

Mr. Stanfield: The further north one goes the greater is the danger to the coast of British Columbia and the greater the need for Canadian intervention in the whole question of oil transportation. I say that this government—in that area at least, and I am afraid of this—seems content to bask in its own ignorance and to pretend that a problem does not exist if you simply ignore it. In northern development, just as in the related problem of the environment of the west coast, this government has been guilty of dereliction of duty.

Mr. Deputy Speaker: Order, please. I regret to interrupt the Leader of the Opposition (Mr. Stanfield), and I do so with great reluctance, but it does seem to me that a great deal of his speech has been devoted to the development of oil transportation and the exploration for oil. May I point out with respect that I have some difficulty in relating that directly to the bill and I would ask the Leader of the Opposition with respect to relate his remarks to the bill.

Mr. Stanfield: I respect your views, Mr. Speaker. I thought I was being careful to make clear the relevance of the point I was making to this bill, that is that questions of transportation, for example, and questions relating to native rights having been clearly ignored, obviously these other areas are equally relevant in connection with the bill that we are considering.

Some hon. Members: Hear, hear!

Mr. Stanfield: I was relating in particular the question of pipelines to this bill because it would not stretch one's imagination to consider the possibility of pipelines being used to transport solid fuels and minerals generally, in addition to oil or gas. But I want to emphasize in particular the recognition of native rights, which must be relevant to this bill whatever view one takes of it. The government has achieved nothing but continuing and growing tension. If we as a Parliament are to show our

[Mr. Stanfield.]

concern about the technical and human problems involved we have only one choice, that is to adopt the position advocated by the hon. member for Yukon (Mr. Nielsen) and to force the government to adopt some acceptable long term policies before going ahead with this slipshod and dangerous legislation.

Mr. Stan Schumacher (Palliser): Mr. Speaker, there are a number of features of Bill C-187, the Yukon Minerals Act, which disturb me greatly, and chief amongst them is the excessive amount of discretionary powers which will be vested in appointed officials of the public service in the administration of this act. The dangers of these powers, quite aside from them being discretionary, lie in the fact that appeals to independent judicial bodies from decisions made under them do not exist.

Over 40 years ago the Right Hon. Lord Hewart of Bury, Lord Chief Justice of England, wrote an incisive and still timely work called "The New Despotism". One of the chapters in his book is entitled "Administrative Lawlessness", from which I would like to quote the following passage:

Will anybody at this time of day deny that it is essential to the proper administration of justice that the decision should be based on evidence, and that the evidence should be heard in the presence of both parties, who are given the opportunity of cross examination? Evidence not tested by cross examination is nearly always misleading and practically valueless. The public official, as had been observed, may, and often does, decide without any evidence at all, and he may act on ex parte statements, made by one party without anything to support them, which are never brought to the knowledge of the other party, so that he has no opportunity to contravert them. Is it too much to say that such proceedings are a mere travesty of justice?

Earlier on in his work, Lord Hewart observed that:

To employ the terms "administrative law" and "administrative justice" to such a system, or negation of system, is really grotesque. The exercise of arbitrary power is neither law nor justice, administrative or at all. The very conception of law is a conception of something involving the application of known rules and principles, and a regular course of procedure.

Subclause (1) of clause 37 of Bill C-187 provides for the supervising mining recorder to cancel the recording of, or to refuse to record, any mineral claim where he is satisfied that the person claiming the rights involved therein is not entitled to them. While an appeal from his decision is permitted, it is restricted to being heard by the Minister of Indian Affairs and Northern Development (Mr. Chretien), whose decision thereon then becomes final. When we remember that the minister will be entirely dependent on the advice of his officials in arriving at the decisions made on such appeals, it becomes obvious that, in effect, what is taking place is really a meaningless appeal procedure whereby one public servant, or several, pass judgment on the appropriateness of the decision of one of their colleagues. Under these circumstances, can any one wonder why miners are apprehensive about the type of justice which they are likely to receive under the provisions of this bill? Public servants, passing judgment on other public servants, particularly when they are all in the same department, in my view represent nothing more than the workings of a mutual admiration society.