

National Energy Board Act

This is a very serious matter, because even if the bill is passed as quickly as possible it is likely that these companies with export permits will operate illegally for a short period of time.

I should like to support the suggestion made by the Leader of the Official Opposition (Mr. Pearson) that clause 2 be held over for further consideration. We did consider this clause and discuss it with persons having legal experience, and we were definitely of the opinion that the wording is ambiguous, to say the least. It is not at all clear. In the years I have been in this house ministers have assured us from time to time that the language used in various clauses was satisfactory, that it had a particular meaning. Nevertheless, some hon. members were not clear as to what it actually did mean, and we have often been informed that the interpretation of a clause by a minister does not necessarily correct any errors in the wording which may exist, or remove shortcomings from the legislation in the form it is eventually passed. When the bill is passed the courts have to determine its interpretation, and we are very anxious that this particular clause which has been mentioned should be carefully drafted in order that the rights of the provinces should be protected beyond a doubt.

In addition, as the hon. member for Laurier (Mr. Chevrier) mentioned, there is no question but that some doubt could arise in the minds of the governments of the provinces on reading this clause of the bill, and for this reason we wish to support wholeheartedly the suggestion that clause 1 be withdrawn. I listened to the minister carefully and I am not sure whether he definitely undertook to do so or not. It is my view that further considerations should be given to this question so that there might be no doubt about the situation.

While I am on my feet, I wish to direct some questions to the minister which could be answered during the committee stage. The board is of growing importance and I find an increasing interest in its activities and a growing desire to obtain information about the applications and decisions of the board. Are the meetings open to the public? Can any person interested in the board's work obtain transcripts of the evidence of various companies making application providing he pays for the cost of the transcript and can one also obtain copies of the board's decisions in the same way? I have had some inquiries of that nature and request an answer to my questions when we reach committee stage.

(Translation):

Mr. Noel Dorion (Bellechasse): Mr. Speaker, I apologize for rising at the very end of this

[Mr. Herridge.]

discussion, but there are just a few remarks I feel bound to make.

I have been going over clause 1 of the bill carefully, and I must say that it gives me some concern. Aware as I am of the minister's good nature, I am sure he will not take amiss the few remarks I am about to make.

The hon. member for Laurier (Mr. Chevrier) referred a moment ago to an unhappy experience when the supreme court, after ruling in the Winner case that part of an interprovincial licence was the responsibility of the provincial authorities and the other part, with respect to interprovincial operations, came under federal jurisdiction. That case, involving the attorney general of Ontario versus Winner, was appealed before the privy council. I think it was in 1954. Unfortunately, as I had not expected to take part in this debate, I cannot recall the exact date. Still, as far as I can remember, the privy council formally ruled that interprovincial businesses were exclusively under federal jurisdiction, even as regards the use of their license within the province.

Following that ruling, if I remember correctly, the government put a bill through whereby it yielded to the provinces the responsibilities arising out of the privy council's interpretation of section 92, paragraph 10, of the British North America Act. Unfortunately, and I say this quite sincerely, with no thought of attaching any blame to my friends in the opposition—there remained an escape clause—I think it is in section 5—whereby the governor in council reserved the right to exempt any business or part thereof from such terms in the act as gave back to the provincial authorities, or which in fact entrusted to the provincial authorities full powers with regard to such interprovincial businesses.

Unfortunately, in section 1 of this bill, I see a very striking analogy, and it is obvious that in the light of the ruling in the Winner case, it would be extremely difficult for the provinces to exercise their powers, in view, as I say, of the purport of that section.

On account of the confidence I have in the minister, I hope—indeed I am convinced that he will take my remarks in good part and will kindly take them into consideration. Therefore, I think that section should be deleted from the bill, because of the situation in which it would put the provinces and