

JOHN FRASER ADDRESSES CELA'S ANNUAL MEETING

John Fraser, MP for Vancouver South and environmental critic for the federal Progressive Conservative Party, delivered a speech assailing present environmental impact assessment procedures to members of the Canadian Environmental Law Association on November 27th, 1974 at Hart House, University of Toronto.

After presenting a brief history of the progress to date of environmental assessment at the federal level, Mr. Fraser outlined the criteria which he felt were necessary for an effective procedure. His remarks were prefaced with an outline of the findings of the federal Task Force Report of 1972, and examples of shoddy assessment practices which have occurred in the James Bay project and the Northwest Territories.

Speaking of the belated environmental studies for the James Bay project, he said, "Governments can, if using figures in a misleading way, argue that a great deal of money has been and is being spent on environmental impact studies. But these studies, while no doubt of scientific value, if not prepared in advance of the planning, design and construction of the project, will have little if anything to do with the decision-making process. They are studies, yes - and they will enlighten us as to the environmental impact - but in no way do they form part of a meaningful environmental assessment procedure."

Mr. Fraser went on to outline the essentials of a sound assessment procedure:

"The first essential, in my view, is that the procedure be mandatory and established by statute. The definition of what must be subject to assessment ought to include something more than just proposed specific projects because actions taken, while having no immediate effect, may have ultimate or secondary effects on the environment. The screening process which determines what actions or projects should be considered must be available to public scrutiny with provision for review by the environmental assessment board. The onus should be on the proponent to prepare the initial environmental impact statement. The assessment board that makes the decision should be, and appear to be, independent of governmental or other influence. The environmental impact statements should be available to the public and the public should have the right to appear before the board. Provision must be made to enable the public to participate in a meaningful way in hearings and, where reasonable, public funds should be available to make this possible. The board should have the power to subpoena witnesses and documents at the request of any party. In addition to environmental impact statements the proponent should file a statement of alternatives to the actual proposal and the board should have the power to reject the proposal. There should be an appeal from the board's decision, and I would prefer that such appeal go to a court with power to the court to decide matters of fact or law, give directions to the board, or exercise the powers of the board and substitute its opinion for that of the board. Finally, I would grant legal standing to any person to apply to the court for enforcement of the provisions of the legislation."

He then compared these criteria with the present federal procedures, which are not established by legislation, and which he called "merely guidelines within which federal government projects will be 'screened to ensure that they do the least possible damage to our natural environment.'" He pointed out that under the federal system,

"the only facts the public gets are after the in-house panel of experts - members of the Department - have written their own version of the facts. It is quite incredible to me that the Minister had the effrontery to introduce this aspect of the procedure with the words, 'Public disclosure is important.'"

Mr. Fraser then gave several examples of the departmental sovereignty that can effectively block the functions of the Department of the Environment, which can become involved in a project only at the invitation of the department initiating it. He concluded his remarks with some comments on the Ontario government's Green Paper on Environmental Assessment, and commended CELA's critique to every government in Canada "for consideration and guidance." He affirmed the concept of legislative appeal of Environmental Review Board decisions:

"There is the very real concern - and an honest one - about how far a government can place decision-making - for that is what it amounts to - in the hands of an environmental assessment board.... Governments concern themselves with power, but the best also concern themselves with responsibility. For myself, I feel that this problem can be overcome by an appeal of last resort to Parliament, which is after all the highest court and the ultimate custodian of the public interest."

Earlier in the evening, Mr. Fraser, J.F. Castrilli of CELA, and Harvey Clare of Imperial Oil had discussed environmental impact assessment on a CBC radio program.

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