

Politicians should be pipeline rule makers, not referees

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A Senate committee has just called for the final decision-making authority over pipelines to be taken away from the Prime Minister and cabinet and placed in the hands of the National Energy Board.

This means giving up a power that the Prime Minister used to great effect the other day. In one announcement he gave half a loaf to the environmental movement by vetoing the Northern Gateway pipeline as contrary to the national interest, while he gave the rest of the loaf to the business crowd by approving two others.

What Justin Trudeau has done is make every pipeline now a matter to be decided by politics and not rules, evidence or science. When people like his decisions, he will get the credit. When they don't like them, he will get the blame. Yet in the decades before the Harper government wrongly took the final decision-making power into cabinet's hands, we had struggled mightily to get the politics out of such decisions, precisely because politicians are the wrong people to make them.

When in opposition, Mr. Trudeau criticized the Harper government for being pro-pipeline without caring about the larger consequences for Canada. Governments need to be referees, not cheerleaders, he said.

The correct sports analogy is that any sport needs a rule book

that defines the game, what is allowed and what is not. But the people who write the rules don't and can't enforce them. That is the job of the referees.

Rule makers are thus forced to think hard about how to make the rules as fair as possible, because they can't know which particular teams will be advantaged or disadvantaged by them in any individual game. Likewise, refs have to apply the rules they're given disinterestedly no matter who they root for in their private lives. Fair rules and fair officiating are the essence of fair sport, but they are two separate and distinct jobs performed by different specialized people.

Now apply this line of thought to pipelines. Someone must define what tests must be met for a pipeline to be in the national interest and therefore permitted. That's the job of parliament and the government. They decide what environmental standards, safety tests and performance guarantees to require for example. They can gather evidence from experts, the industry, the environmental movement and the public to help them in their work. But once they have defined what they think the national interest is and embodied it in these stringent rules, their job is done.

If we have learned anything in the many decades of highly successful pipeline construction and operation Canada has enjoyed, the job of applying these rules must then be handed over to the referees, in this case chiefly the environmental assessment authorities and the National Energy Board. That's because the job of determining if the rules are being respected is not a political but a technical one. The referee's job is to examine the evidence avail-

able about whether a pipeline meets the established rules. This is in essence a judicial proceeding in which the project proponent lays out its case why its project meets the rules. The proponent's case is then tested by both the referees' experts and by other interested parties, including project opponents. Because this system approves pipelines, even in the face of vociferous opposition, when the project meets the objective criteria parliament has established, the environmental movement concluded that the system is plainly flawed and its conclusions untrustworthy. Rubbish. It is doing the job it was asked to do and doing it well.

To their great discredit, instead of defending the refs from angry and disappointed fans, the Liberals in opposition contributed to this smear campaign because it brought them short-term political advantage. Now in office they are reforming the rule book, as is their right, but if the rules are fair it will never give them a system in which they always approve of the results. In the meantime, when thousands of angry people take to the streets in Vancouver to protest Kinder Morgan's Trans Mountain pipeline expansion, they will be very clear who is to blame for their disappointment: the Prime Minister. Perhaps he will learn from this that his job is to be neither referee nor cheerleader, but impartial rule maker who backs the refs to the hilt in the interests of the game.

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