

cover in section 11 of the Energy Supplies Emergency Act, it smacks of constitutional violation.

As long as we have a federal state or a system such as the one we have now, problems of this kind will arise and pose serious questions. It is not good enough, in my view, and I believe in the view of many members of this House, that for that reason alone the Government of Canada can be given the authority which this parliament has not the right to give it, and this is the precise situation we see and will be reflected in the amendments we will be bringing before the House in due course.

**Mr. Macdonald (Rosedale):** Mr. Chairman, I will undertake to the hon. member for Nanaimo-Cowichan-The Islands to be very brief if I can put my reply on the constitutional question back to back with the hon. gentleman's argument.

The bill being put forward in this respect carries with it the judgment of the Department of Justice that it is, indeed, within the legislative power of the Parliament of Canada to pass this particular enactment. The hon. gentleman raised a question which I suppose is the critical one, and that is whether the Government of Canada can reach into a province and fix a particular price for petroleum. Our response is, as the hon. gentleman indicated, in this particular bill we are not seeking to do so in regard to the use within the province of Alberta, but when the commodity is, or is to be introduced into interprovincial trade, at that point the federal jurisdiction over interprovincial trade takes over and that jurisdiction applies.

Indeed, the hon. gentleman referred to the CIGOL case which is apparently now before the Saskatchewan Court of Appeal. It being sub judice, perhaps I should not comment on it. I really need not do so, in view of the fact the Supreme Court of Canada has decided, in relation to the jurisdiction of the National Energy Board, that the Government of Canada does have jurisdiction to set the price of oil and oil products within a particular province.

In that case it was the national oil policy of the Government of Canada to keep up prices to the consumers of oil in Ontario west of the Ottawa Valley line to a higher level than would otherwise have been the case if competing products from the Montreal refining and marketing area were allowed to be sold west of the Ottawa Valley line. In the CalOil case the Supreme Court of Canada held that it was within the jurisdiction of the Government of Canada to set the price, through the agency adopted there, of oil within the province. This is, of course, a matter of constitutional debate, but I suppose in every one of these cases the Department of Justice obviously feels that on the basis of the CalOil case there is authority to go ahead, as in this particular case.

I should also like to make one other point which I neglected to make earlier. As a result of an examination of the bill by interested governments and a number of interested citizens, amendments have been proposed to the federal government. Copies of these were distributed to members of the House last December. I have additional copies here, if anyone is interested. I have given copies to the hon. member for Qu'Appelle-Moose Mountain, to the hon. member for Nanaimo-Cowichan-The Islands, and to

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the hon. member for Abitibi. Copies are available, and I would be glad to pass them out.

**Mr. Douglas (Nanaimo-Cowichan-The Islands):** Mr. Chairman, the consideration of Bill C-32 regarding a petroleum administration act was set aside for the purpose of waiting until the first ministers' conference had taken place, in order that we might see what measure of agreement was reached by the heads of the various governments in Canada. It appears now that no consensus was reached. The Prime Minister is quoted as having said during his press conference following the first ministers' conference that it was the intention of the Government of Canada to proceed with the passage of this legislation so that under part II of the petroleum administration act the federal government could set the prices of crude oil and natural gas.

When this measure was before the House for second reading, my colleagues supported it because we felt then, as we do now, that if no agreement could be reached between the producing provinces and the Government of Canada, then the federal government must have the authority to set the price, as that is the only way we could have a two-price system in Canada. It is also the only way we can exert some restraint to prevent the prices of oil and gas escalating to unnecessarily high levels.

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This does not mean that we necessarily support an increase in the price of crude oil or natural gas. Any decision by the government to raise these prices could well depend upon a number of factors, the major one being who would receive the benefit of such increases in price. But on the question of whether the government should have the legislative authority to exercise this power, which we feel constitutionally it is entitled to have on all commodities which enter into interprovincial or international trade, there can be no doubt.

On the matter of whether the government should raise the price, and if so, by how much, and who would receive the benefit of any increase, is something which we will of course discuss now and on future occasions when a decision is made. I should like to say to the government, however, that I am not sure bilateral discussions with the provinces, now that the first ministers' conference has failed to reach an agreement, can be very useful if the minister is able to lay a loaded gun on the bargaining table and say, in effect, that he has the power to set the price and now they had better agree to an increase in price. I am not sure that is the best way to carry on negotiations or that it will receive the best response from the producing provinces.

I am not pressing the matter, but I suggest to the minister that there might be some value in either holding this bill at third reading until he is convinced there is no possibility whatever of reaching a consensus with the producing provinces and the provinces generally or, as an alternative, that the legislation be passed, if the minister wants it passed quickly, without the mandatory clauses such as clauses 36 and 52 being included. Then he could bring in a separate bill that would amend this legislation later if he should find he is unable to reach a consensus.