

Clean Air Act

I think the minister is right when he puts the emphasis on his belief in national standards and expresses his desire for their establishment. I think the minister is right in the sense that he is echoing the kind of feelings about these things that more and more Canadians are having. In this sense, all of us in this chamber have the responsibility of seeking to share with the minister the job of providing leadership and understanding which may bring about an approach to these matters that is more in keeping with the realities of Canadian social and economic life.

The minister in his speech did touch upon the constitutional aspects of the bill. He made reference to the fact that we are using the powers of the British North America Act in respect of trade and commerce as a federal jurisdiction. Of course, in section 91(2) of the BNA Act there is a direct reference to the power of the Parliament of Canada to deal with the regulation of trade and commerce. But I think it is interesting to note that the minister also made reference to the fact that we are using the federal health powers in this act. One can search the BNA Act in vain in trying to find any reference to health as a stated function of the government. There is reference in sections 91 and 92 to the operation of marine hospitals by the federal government and other hospitals by the provincial governments, but this is about as close as the BNA Act comes to touching upon the question of health.

● (3:50 p.m.)

It has been quite evident, and constitutional practice has made it clear, that in fact there is federal jurisdiction in health and it is operative within certain limits. But it does seem to me, Mr. Speaker, that the minister might have made reference in his speech to the power of the Parliament of Canada to make laws respecting good government in relation to all matters not coming within the classes of subjects "by this act assigned exclusively to the legislatures of the provinces." Perhaps this question of the federal power in the field of health may flow in some respects from that.

I can only speculate on these things, not being a constitutional lawyer or a person who could ever anticipate being made a member of the Supreme Court of Canada. But I emphasize this fact because in my view the minister who is responsible in this area as a member of the government should be putting more emphasis, in the speeches he makes in this House and elsewhere, on the question of the limitations that the constitutional framework imposes so far as coping adequately with problems of air and water pollution is concerned. I have looked through the bill. I would not say I have studied every clause in detail, but it is very observable that all through the bill, when it comes to the regulation of the kind of works or undertakings which come directly under its jurisdiction it is most carefully limited to those that lie in the federal field.

In the powers of inspection and enforcement provided in this bill there is a great contrast with the kind of authority conferred upon the Minister of Fisheries and Forestry (Mr. Davis) by some of the amendments that

were made to the Fisheries Act last year. Of course, the minister at once would say that this difference stems from the fact that sea coast and inland fisheries are clearly assigned to the federal field, and therefore the responsibility is clear and well defined in respect of the quality of water inhabited by fish, and its protection from pollution. But in his speech the minister said there is 25 times more pollution coming into Canadian waters from the air than is being put into those waters by spills from oil tankers and other sources.

One could develop an intriguing argument that if, under the Fisheries Act, the minister has the authority to ensure that certain standards of water quality are maintained, and if these waters are being polluted from the air, therefore the jurisdiction of the minister obviously extends to the maintenance of the quality of the air. I am not in a position to say that if this were being argued by lawyers before the Supreme Court, the minister and his spokesmen would be on the winning side; but I suggest this reveals very clearly how interrelated is the matter of total environmental control and how important it is that the Canadian people not only understand the need for the maintenance of quality but understand in more depth the constitutional and other problems that lie in the way of achieving this goal.

I think that once the people of Canada understand constitutional matters of this kind in a way that comes close to home, to the practical matters that affect their life and welfare, then they will be behind the efforts that may be made from time to time in the federal Parliament and there will be a body of opinion across Canada that any provincial government would ignore only at its peril. For this reason I felt I would approach discussion of the principle of the bill from this point of view, because it is a point of view that I feel the minister has failed to advance sufficiently. It may be as a result of a natural desire on his part to create an impression in the minds of the Canadian people that the government of which he is a member is establishing a creditable record of achievement. In saying this I am not trying to belittle the efforts that the government and the minister have been making in this field, but there is a responsibility on us to make the people of Canada understand the limitations of what we are doing as well as the excellence of certain features of the legislation.

Mr. Deputy Speaker: Order, please. I notice that the minister is ready to rise, and it is just before four o'clock. I would remind hon. members that there is a point of order before the Chair, raised by the hon. member for St. John's East (Mr. McGrath). The Chair still has the point of order under advisement. It is now four o'clock. I should say to hon. members that next time this item of business is called, the Chair will be in a position to make a ruling on the point of order raised by the hon. member for St. John's East.

It being four o'clock p.m. the House will now proceed to the consideration of private members' business as listed on today's Order Paper, namely, public bills, notices of motions, private bills.

[Mr. Barnett.]