

Oil and Petroleum

91 as a means to control completely the price of a product produced in a province of this country. I suggest it is a sweeping power which, barring some evidence that there is in some way or another a national emergency either in existence or apprehended, was never intended to be given to the federal government under our constitution.

I am addressing my remarks to the constitutionality phase of this question because this is not a matter which pits one province against another. It is a matter of far greater importance than the issue which has been giving us so much concern in the House of Commons over the past number of months, and perhaps will for some time to come.

If this sort of power can be taken by the federal government under the guise of trade and commerce, there is literally no limit to how far the federal government can go in controlling the commerce and aspirations of any province. I am not just referring to an oil province in Canada, but also a province that produces hydro electric power, as does the province of Quebec, a province that produces pulp and paper and minerals as does my province of British Columbia, or the province of Ontario which produces so much of the industrialized merchandise which is vital to the trade of this country and so much of which is domestic.

This is a matter which needs a most extraordinary and careful consideration because clause 36 goes far beyond what is needed unless, as I say, the minister is prepared to state that we have a national emergency. If the minister is prepared to say that, let him come before the House and say that we are faced with a national emergency and must ask for very extraordinary powers. If that is necessary let the minister do that, keeping in mind the spirit of the constitution which gives the Government of Canada that power on the basis that it proves to the satisfaction of the House of Commons that there is a national emergency and national need that require this extraordinary legislation.

However, we ought not quietly accept a piece of legislation which, in its real effect, circumvents the constitution and arrogates unto the central government powers far beyond what Section 91 of the constitution and the decided cases in the courts since confederation would ever have allowed to a federal government. I ask all hon. members to give this very serious thought before passing this bill.

Mr. Macdonald (Rosedale): Mr. Chairman, to support his argument the hon. member for Vancouver South purported to quote me from page 916 of *Hansard* for October 31. He quoted me out of context in that particular regard.

The remarks made at that point were not about Parts II and III of this bill, which are the parts to which the hon. member directed his argument and put so much substance. They are with regard to Part IV, Division II, which is a narrow application for the financing of transportation costs in the event of the kind of international effects that we had last year. The use of this very narrow reference in support of his particular argument is without foundation.

I was interested to hear the hon. member say that all provinces would be concerned about this. He made particular reference to the province of Ontario in this regard, saying this bill would perhaps put into challenge the right of that province to price from time to time its own manu-

[Mr. Fraser.]

factured products. I suppose the best answer, apart from the legal answer, is the fact that the premier of that province, the provincial treasurer of that province and the Ontario government have specifically besought the federal government to seek and to exercise the powers created by this particular bill. From the standpoint of that particular province, as a consumer in Canada, they regard this as an appropriate exercise of federal power. Indeed, I think one can say they are grateful that this parliament has not sought to—

Mr. Baldwin: What does Quebec say?

Mr. Macdonald (Rosedale): They agree the same way.

Mr. Fraser: The minister stated I took his quotation from page 917 of *Hansard* for October 31 in too narrow a context. If the minister would now say there is no analogy between Bill C-32 and the emergency bill which was passed at that time, I would be very interested in that comment. I say to the minister, through you, Mr. Chairman, that the thrust of my remarks this evening were that nobody is saying the central government does not have this power if it says the emergency calls for it. However, we are saying there is no indication here that these extraordinary powers ought to be called for unless an emergency is established.

When I referred to the provinces I did that for a very real reason. The minister will recall that I said the issue which is being debated, especially with regard to clause 36 of this bill, will be around for a long time after the present problems we face with regard to oil and gas in this country are resolved, or have somehow ceased to have as important a consequence to the country as they now have.

The principle to be upheld is whether we act in these matters within the constitution or whether we circumvent it. I am sure the minister would be the first to say that just because we have asked for these extraordinary powers with regard to petroleum does not mean for a minute we would do this with respect to pulp and paper in British Columbia. That is all very well. Ministers have said that sort of thing in the past. However, as all hon. members know, once you set a precedent it gets easier and easier to do something that somebody should have got up and said could not be done under the constitution of Canada. That is my point. I am sure the minister realizes full well my concern.

I say to the minister that if this legislation is essential, if it has to be done in the interests of Canada, if it is to solve an emergency problem or an apprehended problem, that is one thing. However, the legislation should be drafted in that form. To try to circumvent that aspect of the constitution by coming in under trade and commerce is a very dangerous precedent.

Mr. Macdonald (Rosedale): I repeat, Mr. Chairman, the citation again made by the hon. member does not support his argument. It is rather unfair for him to try to put those words in my mouth. Second, of course we have the power in an emergency under the constitution, to exercise any of the powers conferred on the provinces under Section 92. We do not have to seek that in the case of regulation of interprovincial trade. That is so well established that no further citation should be required.