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Anybody can say that when the producer acquires oil at the wellhead he knows that to some extent at least it will go out of the province. This question has to be considered in conjunction with the prohibition contained in a combination of clauses 20 and 36. I again read clause 42:

No person other than a licensee shall sell any crude oil in an exporting province except when the crude oil is being sold within that province for consumption therein.

How in the name of heaven can a producer say that the oil he is selling within the province to some person for storage, for ultimate refining or for other disposition, will be consumed in the province? He knows that part of it will go out of the province. When you put all these things together, the legislation is definitely repugnant to the constitution.

I go back to the point made by the minister. I did not intend to pick out Ontario and Quebec in particular; I included the province of British Columbia. In his response, however, the minister made it quite clear that our fears are not unfounded. He said that under certain circumstances which may arise, the same can be done with regard to other commodities. According to what the minister is saying, the federal government has the right to move into any province and fix a price for any natural product or natural resource unless it is possible to establish that the particular commodity will be consumed within the four corners of the province.

With regard to the minister's comments about the right hon. member for Prince Albert, it is true that he and his government did bring in the National Energy Board Act. However, when the right hon. member was in power, he and his ministers were most careful to keep the extent of their intrusion well within the federal responsibility. It is only since the minister started the series of legal steps of the various legislative processes that there has been this movement into a province for purposes which may well be valid. However, in our opinion, until there is a declaration of an emergency which entitles the federal government to exercise additional powers, what the government is doing is wrong. It is not only wrong in fact but it is wrong in law. I do not think the minister can escape by saying that the former Conservative government brought in the National Energy Board Act: it brought in a legal act.

Mr. Macdonald (Rosedale): I suppose hon. members have pretty firmly taken their position and will not depart from it, which is their prerogative. We are dealing with transactions involving fungible goods rather than specific quantities of oil. Transactions under clauses 41 and 42 are confined to oil bought and sold within the province. If a buyer and a seller get together and conclude a transaction within the province, the legislation does not attempt to restrict that. I can only repeat that individual quantities of oil are not identifiable, but the transactions clearly are.

● (1610)

Mr. Woolliams: Then does the minister mean this, that there does not have to be a contract between a buyer and a seller? Take the case of a well that is producing 100,000

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barrels of crude petroleum a day, and this amount of oil is stored in a collection system for three or four years and there is no contract or designation made as to whether it will be used in the province of Alberta or some other province of Canada: does the minister mean to say that the mechanism for setting the price does not apply for that length of time?

Mr. Macdonald (Rosedale): If the buyer and seller are not contracting to remove that particular commodity from the province, then obviously the statute does not apply.

Mr. Woolliams: One more thought. This is no longer the case, but at one time oil was sent from Alberta to be refined in Moose Jaw and it was then brought back again into Alberta as gasoline. What would happen in that situation?

Mr. Macdonald (Rosedale): Obviously, this is petroleum moving outside the province so there is a contract for removal outside the province and the statute would apply.

Mr. Woolliams: Then right there the minister is contradicting the very purpose of this bill. It is really a bill to set the price of oil that is used outside a producing province. If oil is sent to be processed and refined from Calgary, say, to Moose Jaw, and then it is brought back to Calgary to be used as gasoline, this provision should not apply because the crude petroleum was produced in Alberta and the gasoline is being burned in Alberta.

Mr. Macdonald (Rosedale): Mr. Chairman, the provision does not say "used"; it says "enters interprovincial or international trade".

Mr. Douglas (Nanaimo-Cowichan-The Islands): Mr. Chairman, my colleagues and I feel that it is economically desirable, and we think constitutionally permissible, to fix the price of petroleum products that move into interprovincial and international trade. However, we think it is desirable that we have clearly in our minds at what point the price becomes applicable.

I am not sure that the minister's analogy of the Canadian Wheat Board is on all fours with this situation. It is a long time since I looked at the Canadian Wheat Board Act, but my recollection is that it derives its authority from the fact that all grain elevators have been declared to be works for the general advantage of Canada. That applies even to wheat sold in the province when it goes into commercial channels. It is only exempt if it is sold by one farmer to another. So the two situations are not really analogous.

What I hope the minister can clear up for those of us in the committee who are novices, and I am certainly one, is this whole question of at what particular point the price becomes applicable. It has been said it becomes applicable at the wellhead. I cannot agree with that because the oil is not sold at the wellhead. In the province of Alberta, as I understand it—and members from Alberta know the situation much better than I do—the oil is sold to the Alberta marketing board.

Let us assume that producer A intends to sell 50 per cent of a given quantity of his oil to a local refinery and 50 per