

*Oil and Petroleum*

affects interprovincial and international trade. The fact that a province has established a price is bound to have an impact, one which will make itself felt when the product comes out at the other end of the pipeline.

Let us see what the situation might be in other important natural resources; for example, in the lumber industry. If the federal parliament has the right to enact legislation such as is proposed in the clauses of Bill C-32 which I have read, and others, what is to prevent the federal government from proposing to parliament that it be allowed to move into British Columbia and say, "We intend to establish a mechanism to set the price of lumber delivered to sawmills, pulp mills, or plywood plants"?

As hon. members are aware, a large proportion of the lumber produced in British Columbia is exported in one form or another. I do not know what the exact percentage is, but it may be as high as 80 per cent. Some of my hon. friends may be able to tell us the figure. But the federal government could say the matter fell squarely within its jurisdiction because it involved the regulation of trade and commerce.

The same attitude could be taken with respect to electrical energy. The government could go to the province of Quebec and say, "You are producing energy, and though you are using a certain amount within the limits of the province, it is your intention, we understand, to export a considerable quantity to the state of New York or elsewhere, and since we are dealing here with a commodity which enters into interprovincial and international trade, we are able to exercise our prerogative and fix the price at which it is delivered in the province."

The minister might, of course, invite me to consider what my own government did when in office—I see he is nodding his head—particularly in connection with the establishment of the National Energy Board. He will no doubt ask, "What about the Export and Import Permits Act, and so on?" Of course, Mr. Chairman, in the crazy-quilt of our constitutional practice these things are possible because of the supremacy of the federal government in the area of trade across interprovincial and, in particular, international boundaries. The jurisdiction of the Canadian Wheat Board is another example.

There are many ways by which the federal government, attaching conditions to the transport or export of commodities interprovincially or internationally, may have a perfect legal right to do things which end up in the event as price fixing or price restraint when the commodity concerned reaches the other end of the pipeline. But what the government is attempting to do here is something entirely different. It is saying, "We can come right into a province and fix the price of a commodity such as crude oil at the source at whatever figure we think to be proper." It is for the people of the province concerned to accept that price, as it is for the people in the rest of Canada to accept it: that is the position the government is taking, as I see it, on the basis of the clauses I have read.

I do not know what is the precise amount of crude oil produced in Alberta which is refined in that province; it may be between 15 and 20 per cent. But certainly, if the federal government is given the unrestricted power referred to in clause 36 and in clauses 40 to 44, the central government will be entitled to move in and fix the price

despite the fact that a considerable percentage of the crude is not to be exported. There is no doubt that the right will be given automatically if this bill is passed in its present form. I will not continue with this point as we will have further opportunity for exchanges with the minister later and he will probably want to meet my arguments. I indicate to him that it is our intention to move amendments in this connection at the appropriate time.

● (1610)

As a precedent, I would refer the minister to section 11 of the Energy Supplies Emergency Act which indicates that this government recognized, in 1973, its limitations in respect of the question of petroleum supplies, because the government inserted in that act the provision that only when the governor in council was of the opinion that a national emergency existed by reason of actual or anticipated shortages of petroleum, or disturbances in the petroleum market that affected or would affect the economic stability of Canada, and that it was necessary in the national interest to conserve the supplies of petroleum products within Canada, the governor in council could, by order, so declare, and then it went on to give the right to allocate supplies. That is a pretty good indication that the government is probably in some doubt as to whether it can go as far as some of these clauses in Bill C-32 would give it the right to go.

Let me conclude at this time on this note. I hope the Prime Minister will in fact be successful in his discussions with the provincial governments in working out this very difficult and controversial matter of arriving at a consensus on price. This happened about a year ago and it could happen again. Perhaps it will not take place right away because of some political factors involved at this time which make it difficult. I have confidence that the Prime Minister will make the attempt, and I hope he will be successful. If he is not, there is an interesting position to be adopted by the federal government, namely, bilateral discussions with the producing provinces through which the federal government will, hopefully, work out an agreement as to price. This will be the subject of an agreement and probably the subject of an order in council.

We have amendments to propose that will make it quite plain that the provincial government in question must in fact be a participant before such an arrangement becomes valid. If that cannot be done because of the difficulties of the problems, it does not fall within the right of parliament to give this authority to the federal government merely because it looks good or is the easy way. Parliament cannot give the Government of Canada a right which parliament does not have the right to give.

I know the minister, the Prime Minister and others have said they will try to work out an agreement, but if they cannot do so then obviously someone must intervene and take the authority to change or establish the price. But that alone is not a good enough authority. In spite of what problems there may be, merely because there is a disagreement which cannot be solved does not permit this government to overlook the positive terms of the constitution by saying that because there has been failure to reach an agreement, as the supreme government it will fix the price, but unless it can precede such an act by a declaration of the kind of emergency the government saw fit to