

other hand, I wonder what point there is in including clause 3 in the bill. That clause seeks to give the government of Canada power to interfere with matters coming under provincial jurisdiction. The minister himself suggested that this is not the intention, that the government is acting within its powers, and he mentioned law cases supporting his position. I say that the government could do what it wanted without needing to insert clause 3. I do not see the rationale for including that clause in the bill.

Mr. Baldwin: Mr. Chairman, I have described our opposition to the bill as opposition in a constitutional sense to certain parts. I have said that over and over again. At times I think I see a glimmer of light on the other side, but then it disappears. That makes me bitterly disappointed. Some have compared the minister with General Giap and see him as thundering out of Ottawa with his socialist hordes, to envelop and encircle the natural resources of the provinces.

Mr. Munro (Esquimalt-Saanich): This bill could be this country's Dien Bien Phu.

Mr. Baldwin: My colleague from Esquimalt-Saanich says this bill might become the Dien Bien Phu of this country. I want to point out that if this amendment is defeated and the clause is accepted—and I will vote against it—a situation will develop where a province or its agencies can be subjected to penalties, searches and the seizure of documents in respect of a transaction taking place entirely within a province covering natural resources which belong to the people of that province. If that is going to be done without the consent of the people of the province, expressed through their government in the form indicated by the hon. member for Qu'Appelle-Moose Mountain, it will be a situation causing great concern.

● (1640)

I want to comment on the point made by the minister in response to the situation proposed by the hon. member for Palliser. The minister should know this: his officials know it. Petroleum products and gas coming from the wellhead are not dedicated in any particular form for use within the province. In the provinces of Alberta and Saskatchewan, and British Columbia with respect to gas, the product that emerges at the wellhead will to a limited extent be used within the province. In Saskatchewan, it is to the extent of 2 per cent. I understand the total refinery capacity in Alberta is about 300,000 barrels a day, which could mean about 15 per cent refined capacity, and that may be used partly in Alberta and partly in Saskatchewan.

The minister has not been, nor do I think he can be, successful under this bill. This clause is symbolic of the situation of demonstrating that by this measure, the government is now taking control at the wellhead of the full production, which is a transaction taking place entirely within the geographical limits of a province. The minister knows that if this bill passes in its present form, it will be competent for the government, and to a limited extent the National Energy Board through its licensing capacity, to move into the wellhead and say at that point, "The price that must be sought and paid is our prescribed price." That

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will be the effect of this legislation unless it is changed, and it is a proposition which I am not prepared to accept.

Mr. Macdonald (Rosedale): Madam Chairman, with regard to the hon. member's reference to oil at the wellhead, and so on, I draw his attention to clause 20. The application is to crude oil that enters into interprovincial or international trade or that is mixed or blended with such crude oil.

Mr. Baldwin: That is the point.

Mr. Munro (Esquimalt-Saanich): Madam Chairman, my intervention at this stage in connection with clause 3 of the bill under consideration is related to the search I carried out on the previous occasion when I put on the record a number of instances of this sort of legislation in Canadian law. That is on the record of the previous debate on this matter when I think we were in committee of the whole.

In the course of our work in the committee on the environment we had before us Bill C-25. In going through Bill C-25 I came across a further instance of this sort of wording that causes us to react and which caused the particular amendment before us to be formulated and presented to this committee. I think it is worth mentioning that in clause 2(2) of Bill C-25 the following wording is found:

This act is binding on Her Majesty in right of Canada or a province and any agent thereof.

We are in the same general field of the overriding nature of federal legislation. True, Madam Chairman, this chamber is not a court of law; we do not decide on the legalities of legislation. However, we must draw attention to matters in draft legislation that could conceivably run parliament into trouble. We know that the books of precedents of our courts are now pretty well filled. To encourage litigation, particularly in this sensitive field of federal-provincial relations, is something we should not do. We should not deliberately foster this sort of litigation.

My reaction at this time is to ask whether, in the absence of any other way of making their power felt, this government has a clause like this stashed away in the office of the drafters of legislation. If they feel the need to use it, they paste it into the draft legislation they are going to present to this House.

If my information is correct, we have already had three bites at this sort of legislation. Bill C-32 is the fourth and Bill C-25 is the fifth. In the committee studying Bill C-25 I asked for some jurisprudence on this particular clause so that we in the committee might know—and I think it would be relevant for this committee to know—on what constitutional ground the government feels it is entitled to produce this bald, overriding wording in legislation in a country which is a federal state and which has very clearly defined areas of jurisdiction.

Where there is no conflict of jurisdiction, of course, this is not needed; the writ of federal law runs freely across the country. One can see this in some interprovincial relations. On interprovincial waterways, for example, if there is the introduction of a pollutant upstream and this causes damage downstream, we see the need for something of this sort. However, I am not going to let that particular