

Oil and Petroleum

already left the producing province, I would be satisfied. It would seem to me, however, to apply to all crude oil the moment it is moved out of the well to a storage collection system or a storage tank. But how can we differentiate? Perhaps 90 per cent of that oil will be used in the producing province and 10 per cent outside.

I think what we are trying to do here is get a foot in the door to set the price of crude petroleum in the province where it is produced. I agree with the hon. member for Calgary Centre that such action would be unconstitutional, and I think hon. members from provinces producing other commodities would be concerned about this. Surely it should only apply to crude petroleum when it has left the producing province. Say it is produced in Alberta: when it reaches Saskatchewan or British Columbia, then it has gone to another province or the international market. But how are we going to differentiate? It does not apply to all crude oil, blended or not blended, the moment it is taken out of the ground.

● (1550)

Mr. Macdonald (Rosedale): At least the hon. member agrees on the nature of the problem, that it is difficult to separate crude oil of various kinds. The bill proposes to deal with crude oil which either moves in interprovincial trade or, by agreement of the parties, is produced and sold for movement outside the province. In these circumstances, it is clearly a transaction coming under interprovincial or international trade and in that sense falls within the jurisdiction of the Government of Canada.

Mr. Woolliams: Mr. Chairman, the fallacy of the minister's interpretation is to be found in clause 36. The federal government can set the price of this oil. I ask, who will determine whether a barrel of oil is to be sent to another province? Who knows what will happen to the oil once it is in the collection system? It may be used in the province or it may not; but the federal government is to set the price of the oil. Further, who will determine if this oil is to be traded interprovincially or internationally? If this were a matter for the producing province, there would be no difficulty. As it is, the bill is ambiguous.

Frankly, I think the government is trying to put its foot further in the door of provincial jurisdiction. In the absence of an agreement, the federal government can say that the oil in the collection system can be treated as oil being interprovincially or internationally traded and coming, therefore, under federal control. That is what is wrong with this clause. Surely it can be clarified. If the minister is sincere in what he says, he will clarify this provision. I know as well as the minister that the interpretation of a provision in parliament is not necessarily the interpretation of the courts. I remember Judy LaMarsh saying that the Canada Pension Plan would never apply to members of parliament. Yet once parliament passed the bill, the civil servants held that it applied to members of parliament as well. I am not necessarily satisfied when the minister tells me that $A + B = C$. I think this provision ought to be clarified further.

Mr. Macdonald (Rosedale): Mr. Chairman, judging from the hon. member's dogmatic attitude, I doubt if we shall ever satisfy him. I point out that the licensee will

determine in a particular case how a shipment of oil is to be dealt with. The provision relates to contracts of sale for export either to the United States or for removal to other parts of Canada. This is a matter involving a contract between the parties themselves who must determine the manner of disposal of the oil. The whole scheme is not to be defeated by someone saying at any particular time, "This oil is to be used here, in the province, and that oil is to be used outside."

As I indicated when citing authorities the other day, it is entirely competent, in a national marketing scheme of the kind involved here, for the federal government to take this action and, for the purposes of an integral part of the national marketing system, in this way deal with a commodity which otherwise, I agree, would be under the jurisdiction of the province.

Mr. Baldwin: Mr. Chairman, I do not intend to labour the point, although we think it is germane to our basic objection to certain aspects of this legislation. We cannot evade our responsibilities. I know, judging from the minister's remarks, that the bill will pass in due course with this clause which we find repugnant still in it. In my argument, let me use the minister's analogy. He talked about the Wheat Board. But there is this to be said for the production of grain: a farmer of any province of western Canada or eastern Canada, but more particularly of western Canada as the Canadian Wheat Board Act applies particularly to that area, can produce feed grain and dispose of it to his neighbour. It can be determined that the grain has been disposed of to someone within the province; therefore, one can say that a clearly identifiable commodity has been produced, sold, dealt with and consumed in a province. The Canadian Wheat Board Act does not eliminate that prospect.

Let us examine the case of oil. I am not an expert on energy, petroleum and natural gas: I am learning as I go along, just as the minister is. Some of us learned the lesson some time ago. As I apprehend the picture, it is not possible for one to say, as oil flows up and is produced at the wellhead, that this particular barrel of oil, or that, is to be consumed within the province. Surely it is impossible to say that. One could only say it if certain conditions existed and I know of no case in which this holds true. For example, one could say it if, adjacent to one or two small wells, a small refinery, refining the oil coming from those wells and producing petroleum products, sold the products from those wells only within the province. In such a case one might be able to determine where the oil is to be consumed. However, those who are expert and knowledgeable in this field—the hon. member for Nanaimo-Cowichan-The Islands is knowledgeable—say that the situation does not apply anywhere. I know of no particular situation where this applies.

If this is so, what is to happen with regard to the process which the minister outlined? In theory his argument sounds good. He suggests that he is complying with the letter of the constitution by saying that any oil which flows up and is consumed and dealt with in a province is outside the ambit of this bill. But I say to the members of this committee that it is utterly impossible to find this out, to know how oil is to be dealt with. As my friend from Calgary Centre indicated, of the oil which leaves the