

leader of the opposition, R. L. Borden, who was later prime minister, in which they agreed and accepted the fact that the right to fix prices to the consumer throughout the country was a right achieved by the licensing system set out in this first bill, a right carried on when the Export and Import Permits Act was passed and a right, in a different form, obtained by the government in the National Energy Board Act. These rights were granted and exercised from 1962 when the energy board act was passed.

The government has been able to exercise this proper constitutional responsibility; there is no question about that and I do not think it has ever been challenged. Because of that, and the powers the government seeks in this bill, we must exercise our responsibility as an opposition, challenge the government and put to this committee and this House the opportunity to have the bill dry-cleaned so that we can expunge from it those things which are not right or constitutional. If we fail to do that, I do not think we are exercising our duty as an opposition.

Mr. Macdonald (Rosedale): Mr. Chairman, as the hon. member just indicated, this amendment supports the constitutional interpretation the hon. gentleman tabled with regard to the oil and natural gas business in Canada. The wider proposition which has been put, to the effect that the federal government has no authority over interprovincial or international trade except in the case of a national emergency, is totally mistaken in my opinion, and I say so for reasons I have cited in the past. On that basis, we do not accept the amendment.

The Chairman: The minister gave me the impression that he was rising to speak to a point of order in regard to the acceptability of the amendment. I hesitate to put the amendment to the committee at this time. It has such important implications, although I would listen to argument as to its acceptability, that my first reaction is that in its present form the amendment seeks to bring about a new legislative procedure. I feel that it would be going beyond the power of our committee to move in that direction on an amendment which, to my mind, seems to go far beyond clause 35 which it proposes to amend. I invite the comments of hon. members if they wish to enlighten the Chair at this time.

Mr. Baldwin: Mr. Chairman, I think there is a great deal being made of this amendment. The gist of the amendment is very simple. Clause 35 seeks to fix the time when the proclamation comes into effect. Clause 35 provides:

This division shall come into force on a day to be fixed by proclamation.

This amendment only seeks to define, with more particularity, what day that shall be. There is no question of constitutionality arising on this amendment. We say just what the government said on clause 11. Because it had some doubts as to its constitutional position, the government wanted the right to submit to the House any declaration of national emergency. But this is simply a mechanical matter. All I am saying is that instead of the bill coming into effect on a day to be fixed by proclamation, and leaving it in those simple terms, there should be a day fixed by proclamation, but this is the way the day is fixed: then I outline a fairly complicated procedure by which

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that day is established. It does bring into existence proceedings in this House to establish that date.

I cannot see how, in the name of heaven, one can say that that is provoking a constitutional argument. Under certain conditions, the proclamation should be made: once the proclamation is made, the government must bring it into the House and into the Senate and it can be discussed. If Your Honour will refer to subclause (1), it reads:

● (1440)

This division shall come into force on a day to be fixed by proclamation but no day shall be so fixed except the House of Commons adopt a motion to concur in an order made under subsection (2).

From there on, all we do is establish the mechanics of how that day is fixed. I suggest we are restricted to a very, very narrow interpretation under an amendment to a clause in a bill where the recommendation is as follows:

His Excellency the Administrator has recommended to the House of Commons the present measure respecting the administration of interprovincial, export and import trade—

If, in the royal recommendation, there had been the precise mechanics by which the proclamation was to come into effect, then I might have been out of order; but it is left to the government to bring in the royal recommendation which simply refers to the present measure. With the greatest respect, I would caution the Chair that if we are restricted to the kind of amendments which the Chair would seem to envisage, it would leave members of the House almost no opportunity to offer amendments when we want to develop a position such as we are trying to take with regard to this particular clause. We would in effect be restricted to voting for or against. I suggest that is too narrow a view on such an important measure, and the Chair should not restrict this committee in considering what its position should be on the measure. I therefore ask Your Honour to review the situation.

The Chairman: The hon. member must keep in mind the responsibility of the Chair. It is not for the Chair to guide hon. members as to the possibilities in moving amendments to legislation before us at this stage of our legislative process. The Chair has to try to apply the rules of the House of Commons and at the same time see that the action of the committee abides by the long established practices and rules of the House.

To my mind, the hon. member's amendment seems to be substituting this House for parliament whereby the coming into force of the legislation would be subject to a resolution of the House. At the same time, the legislation could become inoperative if one of the parties involved refused agreement. That is the point which is not clear to me and I have some doubt as to its effect. If the hon. member can enlighten the Chair on the implications and effects of subclause (2) of the amendment, the Chair might have some grounds for accepting it. At this time I have great difficulty with it.

Mr. Baldwin: Mr. Chairman, it is my recollection that this is precisely what the government did on the energy allocation bill. The minister can correct me if I am wrong. There was some discussion about the bill in committee and then the minister and I got together and considered certain amendments to be put in the House. It is my recollection