

situation to which he referred, and the minister declined to answer.

● (1530)

Speaking of things out of control, there is also the matter of energy. Not only do we have a government that has failed to make this country self-sufficient as far as transportation of oil is concerned, but we have a minister who last night had to admit that the American officials know more about internal affairs concerning the importation of oil into this country than he or his department. I am referring to the fact that according to the latest economic report from the United States, it is estimated that the cost to this country of foreign imports of oil will be \$4 billion in the current year. The Minister of Energy, Mines and Resources (Mr. Macdonald) was not able to furnish that figure to the committee last evening.

To return to Bill C-7 and to deal with clauses in it specifically, I first wish to mention that I believe the wording is too wide in clause 31(2). It gives virtually unlimited discretionary power to the commission to control the distribution system of individual suppliers in most industries in Canada.

I would point out there is no onus placed on the director to be appointed under the act to prove his case beyond a reasonable doubt or even on the balance of probabilities. Surely the director should be expected to be more precise and state the findings on which he bases his decision or judgment. Once an inquiry has been initiated by the director, we must remember that the commission will become its own investigator, judge and jury. When it reaches a decision on a purely subjective basis, on its own appraisal of the facts which it has elicited, there is really no effective court of appeal to which one may refer.

The term "market" is used in Bill C-7 but it is not defined. While we recognize this is the case under existing law, the vagueness of this concept becomes more serious because of the extended scope of the commission's power under the bill. I feel it is not clear whether the term refers to the market area of the complainant, of the supplier or the international market for the article in question.

The term "adversely affected" is used. Surely that is a broad term that virtually anyone could use to show that he could probably sell an article at a profit if he could obtain supplies. He would thus meet the test that it is suggested has to be met in this bill. There is a reference to usual trade terms but unfortunately it is very vague. It is clear that it includes a credit worthiness and willingness to buy in usual quantities, but the term "and otherwise" which appears with the phrase is undefined. I am mentioning these points because I feel that in spite of the fact the legislation has been under review for many months, if not years, it is ineptly drafted and will bring hardship to those now in the business community, especially the smaller businessman.

I have already referred to the costs that will be incurred by businessmen who will have to deal with this commission. I feel it is unfortunate that these costs should be mounted, as I have indicated, mount on mount on the back of the businessman. I would again point out that these costs are inherent in clause 4.1 of the bill. They apply to manufacturers, retailers and customers. They far out-

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weigh any possible benefit to persons who are unable to get supplies. I believe this bill is inconsistent with the aims of a competition policy and will work to the disadvantage of most manufacturers, retailers and consumers. It will not in fact benefit small business people or bring competition into the marketplace of Canada.

I would again emphasize that the type of legislation being contemplated by the minister is really the brain-child of his civil servants. It is their method of handling, or their suggested solution to increase competition in Canada, but they are talking of a field about which they know little. We have had other examples of such new commissions or bureaux being set up by this government. The majority have been most unhappy. Last year, for example, the foreign investment review bill was passed by this House. The foreign investment review board was established as a result of that legislation. Subsequent to the passage of that act I had informal chats with civil servants who were drafting the regulations they hope to issue from time to time concerning the workings of the legislation. It is not an overstatement to say it is shocking to learn what little knowledge those civil servants have in the field they are attempting to regulate. If they were Tories, I would hope they would be a little more capable than the people to whom I am referring.

**Some hon. Members:** Oh, oh!

**Mr. Stevens:** Those in this House who are members of the legal profession have undoubtedly noticed that in the bill there is a reference to the solicitor-client privilege that has been assumed to exist in this country for many years. While the amendments to section 20 do not appear to cause a problem, it has been learned from the Department of Justice that they intend to take the position that the privilege attaching to communications between solicitor and client will not be available under this section. If that is so, I feel we must be gravely concerned. Such an intention by the Department of Consumer and Corporate Affairs would be contrary to established legal precedents. It may be that if the government and the House is determined to pass this type of legislation, we should at least insert in the bill something similar to section 103(2) of the United Kingdom fair trading act of 1973.

● (1540)

That provision reads as follows:

Nothing in this section shall be taken to compel the disclosure by a barrister, advocate or solicitor of any privileged communication made by or to him in that capacity, or the production by him of any document containing any such communication.

I feel we must consider the right to cross-examine statisticians, civil servants and others who may appear before any commission to deal with this subject. It is of the greatest importance that all persons giving evidence of such a nature be subjected to cross-examination, and I would again urge that a provision in terms similar to those in section 45(3)(2) should be included in this legislation.

I know the minister treats this bill lightly because in his own brief remarks he said we should get on with it, pass it at second reading, get it into committee and then dispose of it quickly. At least, that was his hope. I would suggest otherwise. If the government and the House are seriously