

Mr. Baldwin: I see one of the marketable products from Manitoba—

Mr. Speaker: Is the hon. member for St. Boniface rising on a point of order?

Mr. Guay (St. Boniface): Mr. Speaker, I should like to know if the hon. member for Peace River is giving us an historical background, or is he speaking to the amendment?

An hon. Member: Oh, come on!

Mr. Ricard: That is up to you to decide.

Mr. McGrath: I rise on a point of order, Mr. Speaker. I should like to ask you—

Mr. Speaker: Order, please. I think we might have one point of order at a time. If the hon. member would allow the Chair, the point of order raised by the hon. member for St. Boniface was to suggest that the member who has the floor is not addressing his remarks to the motion. My understanding is that the hon. member was making general introductory remarks, which is quite normal. I do not think that up to this point his remarks were out of order or irrelevant. The hon. member knows, as we all do, what is before the House, namely certain specific motions. The hon. member for Peace River will, I am sure, allude to these motions in the course of his remarks and make them relevant to his remarks.

The hon. member for St. John's East was rising?

Mr. McGrath: Since you have ruled, Mr. Speaker, it is not necessary for me to raise my point of order.

Mr. Baldwin: I thank the hon. member for St. Boniface who should himself be on a marketable quota of nil.

The amendments of the hon. member for Crowfoot relate specifically to the question of the country as a whole being brought within the confines of this bill, and they aim at trying to prevent the divisiveness which would come about through that part of the bill that divides areas of Canada for the purpose of marketing plans into regions. The amendments of the hon. member for Crowfoot are definitely aimed at preventing this.

For this reason, and to lay the foundation for support of these proposals, I say to this House, through you, Mr. Speaker, that anything which could have a divisive or detrimental effect by stopping, easing or preventing the free flow of goods and services and people from one part of this land to the other will result in grave damage being done to our federal structure. Without the amendments of the hon. member for Crowfoot the bill could have this particular effect.

Now, of course, it is true that, as a result of the decision of the Supreme Court of Canada in the Manitoba reference, to some extent this danger has been averted. When we remember what happened in the United States, which became a tremendously wealthy and progressive country in a very limited time owing to the fact that it had its own common market, and when we see what has happened in countries belonging to the European Common Market and what will doubtless happen in those which are shortly to be brought into the Common Market, we see the benefits which flow from the free movement of goods and serv-

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ices, people and money. While there may be a place for marketing legislation of some kind, it is the responsibility of every member of this House to ensure that legislation of this kind will not have, and cannot have, this divisive, detrimental effect. This is why I and other members of our party support these particular amendments.

I would point out that the decision of the Supreme Court of Canada was very welcome in this House and in all parts of Canada. It immediately had some effect in bringing to an end increasing economic divisions between different parts of Canada and the kind of Balkanization which is bound to be dangerous to the survival of our federal structure.

But there is far more than this involved in this particular bill. The case in the Supreme Court of Canada in respect of the Manitoba reference was decided on the simple ground that no provincial legislature has any right to legislate with regard to matters which constitute the regulation of trade and commerce. So far, so good. That has now been established beyond any question of doubt. But we must go beyond that and deal with the danger this legislation in its present form presents.

How did the people who wrote our Constitution attempt to ensure that there would be this freedom of movement within Canada? They did so through section 121 of the British North America Act. Just to refresh our memories I shall read this very short section. It states:

All articles of the Growth, Produce, or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

There have been a number of decisions which do not bear directly on that particular section but which have had some interpretative effect in the minds of judges, both of the Supreme Court of Canada and of the Privy Council when that body had jurisdiction to entertain appeals from Canada. I shall not go into this at this time, but I would point out, through you, Sir, to the members of the House that in the case of *Murphy v. Canadian Pacific Railway Company*, decided by the Supreme Court of Canada in 1958, it was suggested by the judges of the court that Section 121 of the British North America Act applies not only to prevent provinces but also the federal government from dealing with the free flow of goods and property from one part of the country to another.

I want to read to the House part of the judgment of one of the most distinguished judges, a former member of the Supreme Court of Canada, Mr. Justice Rand. As reported at page 638 of 1958 Supreme Court Reports, Mr. Justice Rand made certain comments. The case, which hon. members may recall, was a test case in which Mr. Murphy had attempted to impugn the validity of the provisions of the Wheat Board Act by shipping a small quantity of grain from Manitoba, I believe, into British Columbia. The decision went against him but there were some very interesting comments made at that time. Mr. Justice Rand said:

The main contention was that the legislation and regulations infringed section 121 of the Act of 1867 . . .

Then he quoted the said section and went on to say:

Assuming this section to be applicable equally to action by Dominion and province, is the charge exacted as a condition of the shipment an impediment to that free passage for which the section provides? Viewing it in isolation, as a hindrance to interprovincial trade detached from all other aspects, the demand bears the