

*Natural Resources*

Columbia was not to have its policy and its historic claims represented in this way.

Critics of the position taken by the federal government generally assume that Ottawa is challenging the constitutional rights of the provinces with respect to their jurisdiction over those natural resources which lie within their boundaries. This is not true. The federal government gives full and frank recognition to the rights of the provinces in respect of natural resources. They have complete jurisdiction over all resources that lie within their boundaries. But it is a matter of boundaries and not resources that is in dispute. In effect Ottawa is asking the Supreme Court to determine where the provincial boundaries begin and end.

Certain facts are at hand. We know, for instance, that under international law Canada has the ownership of the soil under what might be referred to as internal waters, those inside the base lines and those out and beyond the limit from which our territorial waters are measured. The question with which the constitutional lawyer is faced is whether that ownership vests in Canada as a national state or in the separate and individual provinces that border on these submerged areas.

There are, admittedly, sharp differences of view on this matter. The governments of British Columbia, Quebec and Nova Scotia have each taken the stand that these resources belong to the provinces. Ottawa, having itself negotiated these rights with other nations, has some reason to believe that they belong to the nation as a whole. In other words, we face an impasse but it is an impasse that should not be allowed to hold up the development of these valuable resources.

It could happen, but I doubt it, that the Supreme Court will find that the federal government has no jurisdiction in this field. The Prime Minister stated quite categorically at the federal-provincial conference in July, 1965, that if this were to be the case, Ottawa would "accept the decision and implement it as rapidly and as effectively as possible". He went even further and said that "all revenues collected from federal permit holders, for any area which the Supreme Court found not to be within the federal jurisdiction, will be remitted to those entitled to them", namely, to the provinces.

Equity demands that the provincial governments, on the other hand, adopt a similar attitude with regard to federal rights and property. I understand it has been the advice

[Mr. Davis.]

of the law officers of the crown that offshore minerals are not within the boundaries of the provinces and that they belong to Canada as a whole.

This opinion is not one of recent date; it has been given to successive federal governments and, indeed, whenever Ottawa has had occasion to inquire into this matter. Given this consistency of opinion, the federal government can scarcely turn over rights and benefits to the provinces which are legally thought to be those belonging to Canada as a whole. These opinions at the very least should be put to the test in a court, in this case the Supreme Court, which will take into account arguments advanced by the provinces themselves.

Should the Supreme Court find that these offshore rights do indeed belong to the federal government, and I am again quoting from the introductory remarks made by the Prime Minister to last year's federal-provincial conference—"equitable arrangements may then be negotiated between the federal government and the provinces".

There is another aspect of this problem which I think bears discussion and it is this. Because federal regulations for the disposal of mineral rights by lease or permit differ—they differ as to charges and in other ways—from provincial regulations there is a possibility, and I suggest a distinct possibility, that private individuals, private corporations and companies engaged in exploration for oil and gas may take either level of government or both to the courts. Thus an administrative impasse occurring before the legal position has been determined in accordance with constitutional requirements could lead to legal proceedings before a local court.

Although the case would probably reach the Supreme Court, the dangers inherent in such a reference reaching the Supreme Court should rule out a political agreement between the two levels of government prior to a determination of the constitutional position. In other words, I am saying that were the federal government to withdraw its reference, were this matter to be subject to a series of federal-provincial negotiations, there could well be a dispute arising as a result of these overlapping jurisdictions and different regulations. Private actions could be taken, they could proceed in the courts, and we would be in an unholly mess.

Perhaps, Mr. Speaker, I will be permitted to deal with yet another aspect of this problem. It has been suggested that while this