

Oral Questions

on their obligations under the Constitution towards aboriginal people? Why has he created a leadership vacuum on this issue of aboriginal rights so that the Province of Nova Scotia has had to come in and vainly try to fill the void?

Hon. Ray Hnatyshyn (Minister of Justice and Attorney General of Canada): Mr. Speaker, I do not think I have to apologize for the position taken by this Government and by the Prime Minister. I repeat, the observations made by Mr. Trueman I think are shared by any independent or impartial observer of the political scene in Canada. The fact is that if the Hon. Member and his Party had all the answers, I do not understand why we have not already had this great constitutional amendment. They had lots of time to make a constitutional amendment and they did nothing. It was only through the efforts of this Government and this Prime Minister that strides forward have been made, and we are going to work as hard as possible in order to make sure that agreement comes about.

SUPREMACY OF CONSTITUTIONAL RIGHTS

Mr. Keith Penner (Cochrane—Superior): Mr. Speaker, I would like to ask the Minister of Justice if he does not honestly think that constitutional rights can never be contingent upon agreements which are signed with Governments? Does he not believe that constitutional rights, including aboriginal rights, must stand on their own and can never be compromised? Does he not accept that?

Hon. Ray Hnatyshyn (Minister of Justice and Attorney General of Canada): Mr. Speaker, the reality is that constitutional rights which stand on their own have to be defined in some way. The Hon. Member will understand that. Is it the position of the Liberal Party that the courts should determine the extent and nature of self-government? Or does he share the view put forward by all the aboriginal representatives, indeed, by all provinces, that the method of determining aboriginal self-government rights should be by political negotiation? I think the Hon. Member, if he considers and reflects on this, will decide that this advice is the best advice to take, and that is what I am taking.

BRITISH COLUMBIA LAWSUITS

Mr. Jim Fulton (Skeena): Mr. Speaker, my question is also directed to the Minister of Justice. The Supreme Court of Canada split three-three on the landmark Nisga'a-Calder case 15 years ago. Now the British Columbia courts are addressing the Gitksan-Wet'suwet'en case. The Federal Court is addressing the Kaska-Dene case, the Sparrow case, Haida sovereignty on Lyell Island, Meares Island, and the list goes on.

Negotiation has been replaced by lawsuits. Is that the route that the Minister and his Government wish to pursue in affirming aboriginal title in British Columbia? If it is not, why are there no active negotiations between the federal Government and the aboriginal people in British Columbia at this time?

Hon. Ray Hnatyshyn (Minister of Justice and Attorney General of Canada): Mr. Speaker, I know the Hon. Member has been following this particular matter very closely. He will know that this litigation originally took place between the Indian peoples to whom he referred and the Province of British Columbia. We were only brought into the litigation by an application on the part of the Province of British Columbia. Accordingly, we were not any part of initiating or being a party to that litigation. We are now in that litigation. The matter is before the courts, Mr. Speaker, and you will have to determine whether or not it is appropriate for us to comment on it. However, I think the Hon. Member has indicated already, as far as I know, that he thinks the position being taken in that litigation by the federal Government is a reasonable position to take.

MINISTER'S POSITION

Mr. Jim Fulton (Skeena): Mr. Speaker, my supplementary question is directed to the Minister of Indian Affairs and Northern Development. Would the Minister, on behalf of the Government, state unequivocally whether it recognizes and affirms, and intends to affirm, aboriginal title in British Columbia, the Yukon and the Northwest Territories?

Hon. Bill McKnight (Minister of Indian Affairs and Northern Development): Mr. Speaker, the Hon. Member asks an important question. However, when he refers to those jurisdictions, the ability of the federal Government to act unilaterally is now placed in jeopardy when we cannot enter into negotiations. We can only affirm where we can negotiate. If we cannot negotiate, as my colleague, the Minister of Justice has put forward, then we are in court. That is not where this Government would like to be, but that is where we are. We hope to be able to negotiate and come to conclusions where we are not forced into having courts make decisions which should be made by negotiation.

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[Translation]

IMMIGRATION

REQUEST THAT THREE CHILEANS BE ADMITTED TO CANADA

Mrs. Lise Bougault (Argenteuil—Papineau): Mr. Speaker, I have a question for the Minister of Employment and Immigration. Although the hunger strike started by the Chileans in Montreal is rather drastic and the Government should not act as a result of such action, the case of three Chilean women, one of whom is seven and a half months pregnant, who are being held in Buenos Aires is something I find particularly distressing. Could the Minister give some special consideration to the case of these three women and take steps to have them join their husbands in Canada before the pregnancy precludes flying for one of these women?