

Fisheries Commission Recommendation

I think I had read the telegram from the Secretary of State for External Affairs to the point where I had made it clear that he had notified the executive director of the commission of the acceptance by the government of Canada of these amendments to the annex to the treaty, as proposed by the commission. The rest of the telegram deals with the matter of an appointment to the commission to succeed the late Mr. G. R. Clark, and I need not quote that part of it.

The particular point which I think bolsters my argument that the government treated this matter very lightly is this. I am trying to bring home the fact that in the light of the letter and the telegram to which I have referred, according to the executive director the treaty amendment came into effect on May 8; yet the commission had no notification from the government of Canada, according to this file, until two days later, May 10. I think I could argue that that in itself is a rather strange state of affairs. I could also point out that the letter from the executive director dated May 13, which acknowledges receipt of the telegram from the Secretary of State for External Affairs, does throw light on this rather peculiar situation—at least, the situation strikes me as being peculiar. I say that because in the last paragraph of his letter he says:

As we stated in our letter to you of May 8, we were informed orally of the decision of the Canadian government by the deputy minister of fisheries....For that reason the effective date of the amendment of the annex to the convention has been announced as May 8.

I do not know how this situation strikes other hon. members but I was rather shocked when I read through this file. I felt that here we had an international convention, which was ratified by act of this parliament, amended as a result of an oral communication from one of our civil servants. That, in my opinion, is not the proper way in which to conduct Canada's international business. I wish the Secretary of State for External Affairs were here this afternoon, because I feel this is really his responsibility. I should like to point out that under the terms of the north Pacific fisheries convention as ratified by the statute which appears as chapter 44 of the statutes of 1952-53, article V of the treaty reads:

The annex attached hereto forms an integral part of this convention. All references to "convention" shall be understood as including the said annex either in its present terms or as amended in accordance with the provisions of article VII.

I confess I am no authority on these matters, but while it is legal and proper for the governor in council to agree to amendments to the annex without formal ratification by parliament being required, it does seem to me

that when it comes to amending an annex which is an integral part of an international treaty between Canada and two other nations—a treaty which required ratification by this parliament—the government should at least have a responsibility for tabling an official document in this house so as to inform members that an international convention has been changed.

As far as I can find out, this has not been done. According to the statement made by the Secretary of State for External Affairs, no such document exists. I think this is particularly ironic because, as I understand the situation arising out of amendments to this treaty, certain consequential amendments affecting the halibut fishery regulations were involved, and these regulations were gazetted in the Canada Gazette. It seems strange to me that in connection with a relatively minor matter, the amending of certain halibut fishing regulations, the government should be required to record its actions in the Canada Gazette, although it is considered right and proper that the amending of a treaty can be done by a secret minute of the cabinet.

These are the reasons which have led me to feel that the only proper course for the government to take in these circumstances, in the absence of any other documentary evidence of the amending of this treaty, is to lay on the table of the house the cabinet minute referred to in my notice of motion for the production of papers. I do not think I wish to say anything more. As I have made clear, I do not consider myself to be an authority on international law and if a spokesman for the government can tell me why the course of action followed by the government is in line with normal constitutional practice I will be glad to listen to him. But since the ordinary practice is that acts of a public nature carried out by the governor in council must be gazetted in the Canada Gazette or laid on the table of the house, it does not seem right that the government should be able to amend a treaty without anyone in the house having official knowledge that such a thing has been done.

Hon. H. J. Robichaud (Minister of Fisheries): The hon. member prefaced his remarks by making certain observations and I hope I shall be permitted to reply to them. In his motion, which has been transferred for debate, the hon. member asks:

That an humble address be presented to His Excellency praying that he will cause to be laid before this House a copy of the cabinet minute or other official document which authorized the Secretary of State for External Affairs to notify the executive director, the international north Pacific fisheries commission, by telegram under date of May 10, 1963, that the commission's recommendations for the removal of the halibut stocks in the eastern Bering sea and the herring stocks west