

*Dominion-Provincial Conference*

deal. There are conflicts built into the constitution which cannot always be solved judicially. When they are not direct conflicts, the courts have held the view they result from concurring powers. Until the constitution is reformed, both jurisdictions must be allowed to exercise the powers which are validly theirs.

• (3:30 p.m.)

On this point I did not quite understand the position of the hon. member for York South (Mr. Lewis). Unlike the Leader of the Opposition (Mr. Stanfield), whose suggestions were not concrete but of a general nature, and unlike the propositions of the speaker for the Creditiste Party which although concrete were irrelevant, the suggestions of the hon. member for York South fell somewhere in between. His propositions apparently are more concrete and less irrelevant than those of the two other opposition spokesmen. Today, I understood him to say he does not want the spending power of the federal government limited. Dealing with the same subject last Thursday in this house, he supported the provincial requests for "bread", and stated the time had come for placing at the head of the constitutional discussions the role of the spending power of the federal government. Was this subject to be placed on the agenda merely so that the provinces could be told the federal government would not make any changes in the spending power or was it to be put on the agenda with the possibility of some genuine give-and-take? I understand it is this give-and-take attitude to which the hon. member now objects. Perhaps what he means is that the equalization payments should be increased. In this sense he would want the spending power freely used, and in other senses not used.

If this is his meaning I would submit the question of equalization payments is not a constitutional question. Does he propose to write into the constitution a criteria of equalization payments which, I submit, according to the experience of the last 20 years in Canada would surely become a new rigidity which we would desire to get out of the constitution.

Section 91 (1A) of the British North America Act gives to the federal government power over public property. The money which the federal government collects is public property and it is entitled to spend it as it wishes. An issue arises where the legislation is not a mere spending enactment, as it is for example in the Family Allowances Act, but is an

exercise of the taxing power or combined taxation and a scheme of disbursements, such as the Unemployment and Social Insurance Act of 1935 which was found to be unconstitutional by the Privy Council.

If the federal government does not use its taxing power in a specified way, it does not fall afoul of the rules which the court has laid down for its use. In general, the federal government is entitled to spend as much money as it desires for whatever purpose it desires, even should that purpose be provincial. This is not only the judicial interpretation; it is the practice of governments of Canada, a practice which has been objected to in various instances by the provinces, but which has been accepted as a general use of valid federal power. Some provincial spokesmen at the constitutional conference did not understand this. Spending power was treated by them as if it were an unconstitutional intrusion. Some premiers suggested a new constitution is not necessary, that we should live up to the present one. The truth is that it is being lived up to. The present constitution gives this vast power to the federal government. If the provinces want to see the federal government use its spending power in a different manner, a constitutional arrangement will have to be made to restrict the exercise of that power.

A more serious problem, Mr. Speaker, arose at this conference respecting the provincial approach to the constitution. The province of Quebec, from a cultural point of view, sometimes makes claims that it in effect is the national state for people who live in that area. In economic terms, the Premier of Ontario made a similar assertion, that the province of Ontario is an entity for all purposes, and that when citizens of Ontario pay taxes to the federal government somehow this money should be credited to the government of Ontario. I submit this is entirely wrong.

Under a federal government citizens are citizens not only of the particular province in which they live, but citizens of the country as a whole. It is as citizens of Canada that they pay these taxes to the government of Canada. No province has the right to a fiscal equivalent when they do not take advantage of a federal program which may be offered to them. It is not possible to go beyond federalism in this way, and escape its bounds. Federalism cannot be restricted entirely to its provincial dimensions or entirely to its federal dimensions. Perhaps the balance in the constitution is not satisfactory. If not there should be concrete proposals to change it.