

This brings me to the second article of both covenants which the Canadian Delegation considers unsatisfactory. In fact, it is an article to which the Canadian Government takes strong exception. This provision is the so-called federal clause in Articles 27 and 52 of the Covenants. I say so-called because, if we are to be guided by the recent history of international law and indeed by the history of human rights in the United Nations, the text now before us cannot properly be described as a federal clause. As some delegates have already pointed out it should more appropriately be called an "anti-federal clause". As all members of the Committee are aware, the General Assembly decided in 1950 that there should be a federal clause, and for that purpose it directed the Economic and Social Council, in its Resolution 421 C (V) "to request the Commission on Human Rights to study a federal State Article and to prepare... recommendations which will have as their purpose the securing of the maximum extension of the Covenant to the constituent units of federal States, and the meeting of the constitutional problems of federal States."

Nor surely this decision of the Assembly did not come from mid air. There were no resolutions then, and as far as I know there are none now, giving attention to unitary states or to monarchies or to republics or to dictatorships as such, for the simple reason that these forms of government do not present any special problem with regard to the treaty power in relation to human rights. The federal states are confronted with special problems in this connection and it is because of this that the Assembly has taken action in the sense which I have indicated with a view admittedly to securing the maximum extension of the Covenants to units of federal states but also, and this to my mind is the most substantive part of the resolution, with a view to meeting the special problems of federal states. There was no particular need to have a resolution indicating that the Covenants would apply to their constituent units. The normal rule is that any state, whether or not it is a federal state, becoming a party to a convention which does not contain a federal clause, is automatically bound to apply the convention to all its territory.

Now let us consider, in the light of what I have just said, the text of articles 27 and 52. This text reads as follows:

"The provisions of the Covenant shall extend to all parts of federal States without any limitations or exceptions."

I must say it was with some amazement that we learned of the decision of the Commission to adopt this text. For not only does it imply a complete lack of understanding for the special position of federal states but it is in direct contradiction with both the letter of the 1950 resolution and with the spirit underlying the