

going to carry on, then it is only fair that we should allow our members to make those speeches they are prepared to make.

The Deputy Chairman: The hon. member for Medicine Hat.

Mr. Churchill: I do not know what is going on, Mr. Chairman, but you are continuing to call members. The hour is ten o'clock and it has been called half a dozen times. However, you are still asking members to get up and speak. I think this is quite wrong. Either we decide to carry on for another half hour or something like that, or we call it ten o'clock and resume tomorrow. This is quite incorrect, to continue in this fashion when it is past the hour for adjournment.

The Deputy Chairman: Shall I rise, report progress, and request leave to sit again?

Mr. Siarr: I appeal again, that if all members of this house wish to carry this item now without further speeches, we are prepared to do that. If members wish to carry on tomorrow, then we will continue with the four or five members who want to speak.

The Deputy Chairman: Shall the item carry?

• (10:10 p.m.)

Mr. Muir (Cape Breton North and Victoria): Mr. Chairman, may I have clarification—

The Deputy Chairman: Order. Shall I rise, report progress, and request leave to sit again at the next sitting of the house?

Some hon. Members: Agreed.

Progress reported.

PROCEEDINGS ON ADJOURNMENT MOTION

A motion to adjourn the house under provisional standing order 39A deemed to have been moved.

[Translation]

THE CONSTITUTION—REQUEST TO SET UP A
CONSTITUTIONAL COURT

Mr. Maurice Allard (Sherbrooke): Mr. Speaker, at a previous sitting, I was allowed to put the following question tonight to the Minister of Justice (Mr. Cardin):

In anticipation of a constitutional reform, or a constitutional interpretation, or an eventual formula for amending our constitution, is the minister considering convening provincial attorneys general to set up a Canadian constitutional court?

Proceedings on Adjournment Motion

Mr. Speaker, my remarks do not reflect in any way on the integrity or personal competence of the Supreme Court justices. They are purely objective and seek to describe the organizations required for the advent of a positive and balanced federalism in Canada.

In a truly federal system, it is important that the arbitrator of constitutional disputes between the two levels of government be independent and impartial and not subject to one of the parties in the dispute, in Canada.

Before 1949, our tribunal notably on constitutional differences between Ottawa and the provinces, was the Privy Council in London. Neither of the Canadian governments had authority over the appointment of the judges. Thus, the objective character was maintained. The provinces also secured favorable decisions against the sometime centralizing efforts of the central Government.

But, in 1949 Canada abolished appeals to the Privy Council and did not establish a true impartial constitutional court when it gave the central government sole authority for appointments to the Supreme Court, and to the latter, the exclusivity of decisions.

That is why the provinces refuse to let the Supreme Court rule on the case and at this time they would rather resort to political negotiations.

If I may digress for a moment, is it necessary to bring back to mind the mining rights on the continental shelf?

In 1949, Ottawa made a mistake and did an injustice that has to be corrected as soon as possible, because 1949 saw the amendment of the constitutional interpretation given in 1867.

It is necessary to convene the representatives of the provinces with a view to creating a federal type constitutional court which would not be the exclusive organization either of the central government or of the provincial governments.

Representations made before different commissions require or suggest constitutional reforms.

The constitution too is subject to interpretations. I just referred to mining rights. There is also the matter of family allowances, where certain persons and certain provinces, question the constitutional validity of the law in view of the fact that it is an indirect meddling in the field of school attendance.

There is also reference to a formula for amending the constitution. Conflicts and interpretations that may arise between the central government and the provinces or