

Natural Resources

In my opinion, the political and constitutional nightmare we are going through is due to the fact that we are trying to solve our political and constitutional problems by means of political pressure and administrative decisions. I think the government was wrong in not setting up a constitutional court to proceed with the revision of the Canadian constitution in order to deal not only with mining rights but several other matters.

The new power referred to in the hon. member's motion will interest, in a sense, both levels of government. The question is relatively simple and far from complex: the provinces have exclusive jurisdiction over natural resources and property.

Paragraph 13 of section 92 is clear on that point:

Property and civil rights in the province.

And what is an exclusive right, Mr. Speaker? It cannot be taken away from us by somebody else, because it belongs to us, it is an absolute right and no part of it can be taken away from us unless we agree.

Now, several Canadian provinces are jealous of their property and the benefits derived therefrom.

In another connection, the federal government, as a state, is concerned with international relations, in international agreements; it enters into negotiations, into international agreements, whether it be the law of the sea, freedom of navigation, fishing rights and scientific research under the ocean.

Well, it would be necessary to give definitions and this is a political, not a legal question.

The agreement mentioned a while ago by the hon. member for Coast Capilano, the 1958 agreement of which Canada is a signatory was concerned with the law of the sea. But the 1937 decision on the *Labour Convention Case* before the privy council should be kept in mind. It was stated that the federal government could not sign international agreements and commit the provinces in an area of exclusive provincial jurisdiction, since international law cannot alter the constitutional law of a country. International law, international agreements are related to the constitutional provisions and standards of a country.

If this motion were adopted, it would perhaps mark the beginning of many negotiations and agreements between the provincial governments and the federal government.

Unilateral administrative decisions should cease because they cause political strains

which are harmful to understanding and national unity. Very soon, representatives of governments at every level will have to examine our Canadian constitution and adapt it to the problems of today and those which have arisen since 1867, and find the right solutions. Let us stop putting this problem off indefinitely. This is why since the beginning of the session some members of the house have been suggesting a constitutional conference or a joint committee of the Senate and the House of Commons which would enable us, the representatives elected by the people, to face up to our responsibilities in this respect. It is not the responsibility of the supreme court of Canada whose members are not elected by the people, nor that of the Department of Justice officers, to decide if a constitutional court should be created, but this responsibility lies with us, the people's representatives and it is for us to take a decision on all political aspects of the matter.

I hope the government will take these suggestions into consideration. The fact that this matter has been raised by the hon. member shows how important it is to establish a constitutional court as soon as possible.

If such a court existed today, the provinces would agree, with the federal government, to submit to that court this matter of off-shore mineral rights. But we do not have such a court, and the provinces object, and quite rightly.

At the time the Prime Minister tabled the famous Fulton-Favreau formula in the House of Commons, he said that it was conceived by virtue of a genuine federalism. Now, since they are making this a matter of genuine federalism, Mr. Speaker, let them begin by giving us the organization required for the exercise of such a federalism, that is a constitutional court to which the provinces and the central government would appoint representatives, so as to settle the question put in this motion as well as the ones that will arise, as a result of this new mentality peculiar to each section of Canada. For instance, in some fields such as education, nine provinces have agreed to let the Ottawa government look after it; on the other hand, the province of Quebec has refused. There are many questions that could be solved with the help of a constitutional court. I am, therefore, happy to support the motion of the hon. member.

• (6:50 p.m.)

[English]

Mr. Bert Leboe (Cariboo): Mr. Speaker, all I have time for this evening is merely to state