

The Constitution

resources to the Supreme Court, stated that this was a political matter and not a legal matter. I suggest to Premier Peckford and to members opposite that there is not a more political matter than the question we are dealing with at the present time. They are prepared to take this matter to the Supreme Court, using as a precedent the Supreme Court's decision in 1979 against a proposed change in the selection process of the Senate about which the Supreme Court ruled on Bill C-60. This would have given the provinces some power of selection over senators. It prohibited such authority. It prohibited, overruled and struck out Parliament's right. It overruled Parliament's right to pass appropriate legislation, and said that Parliament was acting contrary to section 91(1) of our present constitution.

In this present situation we are not dealing with a Canadian bill, nor are we dealing with proposed legislation. We are dealing with a proposed resolution and, as such, we are not talking about Canadian legislation. We are proposing a resolution which will be taken to the British parliament asking them to amend one of their own acts. Certainly, no one can suggest that the Supreme Court of Canada would have control over an act of the British parliament. But other than the legal questions—

An hon. Member: We knew that.

Mr. MacLellan: Thank you, I knew you would. Other than the legal question there is a political question, which is so very important to the premiers who are now advocating taking this test case to the Supreme Court. I suggest the provinces' position in forcing this question on the Supreme Court of Canada will not only damage the credibility and the influence of the Supreme Court but will be damaging as a direct result to all of Canada.

Mr. Kempling: What a weak argument!

Mr. MacLellan: To push this on the Supreme Court would, in fact, be the same situation as existed in the United States in 1856 when the Dred Scott case was presented to the U.S. Supreme Court for political purposes only. It was 40 years later—not until the case of *Plessy v. Ferguson* in 1896—before the Supreme Court regained any kind of authority and any kind of reputation in constitutional matters. This is a situation where the provinces are asking the Supreme Court to do their work for them, to make a political decision and to make that political decision in a situation that is very emotionally strung. If the Supreme Court does do this they could be looked upon by large segments of this country as the villains. I do not feel that the Supreme Court should be put in this position.

● (2050)

As to the question of whether this proposed resolution is necessary, I say that it is, particularly with regard to the charter of rights and freedoms. We need not look any further than the mobility rights provision. What can be more fundamental and necessary to this country than this fundamental right to move and to take up residence in any province and to

seek a livelihood there without discrimination based on provincial boundaries? Yet this right is being threatened by these very same provinces. They are placing their desire for power above the welfare of the citizens of this country.

For example, Quebec has banned approximately 3,000 eastern Ontario construction workers from working in that province. The province of Newfoundland has made out a registry of workers in the offshore oil industry so that they can give priority to Newfoundlanders. The province of Nova Scotia has passed a petroleum resources act whereby the government can step in and regulate who will be given jobs in the offshore oil and gas industry of that province. It is incredible that such a thing could happen in this country.

At a time when the provinces should be working closer together to solve the problems of this country, they are driving wedges between themselves. It seems that the only thing which the provinces seem to have in common is the fact that, in their disagreement amongst themselves, they see the strength of the federal government as a threat to their desires for more power and authority. It is all to the detriment of the country as a whole.

It is not this proposed resolution which is a danger to this country, but the attempt by the provinces to balkanize this country. We cannot allow the commerce of this country to be severely handicapped by the restrictive practices being put forward by the provinces. For example, the Alberta Petroleum Marketing Commission will not put the Ontario-based company, Petrosar, on their list of approved purchasers. Newfoundland cannot export its electricity to the United States through Quebec. The province of British Columbia is giving 10 per cent preference to purchasers and suppliers within the province, while giving other provinces only a marginal advantage over foreign suppliers. This will not make for a strong Canada, nor is it the Canada which people envisioned at the time of confederation.

I would like to comment on a couple of other provisions which are very important to me as a member of the Atlantic region. They deal with the provisions of equalization and regional disparity. We have heard the term equalization used numerous times in this debate. It is a term which has been very much maligned. It has been said that equalization should mean equalization payments. To do that would feed the paranoiac tendencies of the provinces. The term equalization is much more than equalization payments. Equalization payments refer to the services which are provided by the provinces.

There is such a large federal package which is owing and which should be forthcoming to the people of Canada in the form of equal shares. Transportation, pensions, and disability compensation are areas of assistance in which a country of this nature and this wealth should be able to give to its citizens as a right.

I would also like to refer to section 1(c) which refers to the providing of essential public services of a reasonable quality to all Canadians. Anyone who would say that such a section is not necessary should, I suggest, look at the present practices of