

*The Constitution*

Canada to be a land rich in opportunity. They came from various backgrounds to seek various opportunities in various regions.

Did these citizens from other lands look at Canada and say, "No, I won't go there; my rights won't be protected by their laws"? Certainly not. They chose Canada because it provided not only opportunity but guaranteed their rights and their liberties under the finest written and unwritten combination of constitutional rights in the world.

I say to the Prime Minister through you, Mr. Speaker, "If your constitutional package, which Canadians say they do not want but which you say they do want, is a sound one, why not put it to the Canadian people in the form of a referendum?" In fact, this highly controversial package contains provision for a referendum as a "tie-breaking" mechanism for deadlocks between the provinces and the federal government, so why not use it? Why would the government not use the very device it is trying to impose on the democratic process in Canada today?

I will tell you, Mr. Speaker, why it should not be used, and why it must not be included in the proposed amending formula. First, it is totally one-sided. Only the federal government would have the right to call a referendum. In a situation where all ten provinces had agreed on an issue, but the federal government did not agree, one vote out of 11, the federal government, and only the federal government, could unfairly utilize the referendum to carry its way. The ten provinces would not have that right.

Second, a referendum can be written, perhaps I should say manipulated, in such a way as to virtually ensure the answer the writer wants. This is totally unfair to the provincial partners and is contrary to the principles of federation, not to mention the undermining of our democratic system of elected representation.

Earlier I said that Canada was built by and on consent—consent of the provinces to come together, to build together and to prosper together as a federation. Now that federation and that democratic process are to be cast aside by a government which does not reflect the wishes of the majority of Canadians, and even worse, which does not care that it does not reflect that majority.

Before democracy fails totally in Canada, I urge the Prime Minister to change his hard, unbending stance, to conduct himself and his office in the parliamentary and statesmanlike way of his predecessors, and try once more to find the magic of consent, the consent which is Canada. Bring the British North America Act home. Find an amending formula of consent. Take the time to devise a charter of basic rights and freedoms here in Canada, based on the intelligence, regional realities and good will of Canadians.

This is surely not too much to ask. It is surely not too great a task. It is the duty of government to find solutions no matter how difficult. The people expect this and would applaud it. If this government is not equal to the task, this most fundamental and important task of nation building, then it should give way to people who believe in Canada, all of Canada, and who can

get agreement and consent among all the provinces, just as the original Conservative government of Macdonald and Cartier did, in 1867. I am sure I reflect the hopes of all Canadians.

**Hon. Warren Allmand (Notre-Dame-de-Grâce-Lachine East):** Mr. Speaker, I am pleased to enter this debate to support this resolution. I do so with enthusiasm. I do so because I believe it is a major achievement in fulfilling several of my long-standing political goals, goals which originally led me to enter active politics more than 15 years ago. First is the protection of minority rights through entrenchment, including the protection of minority language rights; and, finally, the movement to greater political independence and unity in Canada through patriation, the amending formula and entrenched rights.

While the original resolution tabled last October generally contained these important goals, I believed at that time that it was lacking and defective on several matters, to the extent that I felt obliged to press for amendments and even to vote for them if they were to be presented in this House. This included matters relating to aboriginal rights, language rights and anti-discrimination rights, among others.

I am pleased to say, however, that through the committee process, through lobbying inside and outside this House and through the work of many people, considerable improvement has been made to the resolution. Many amendments were agreed to and I at this time wish to congratulate the government and the Minister of Justice (Mr. Chrétien), who I believe was extremely flexible, extremely objective and who took the time to listen to our arguments and, when the arguments were sound, make the amendments that were necessary.

In the short time available to me today, I can deal with only a few of the many issues and questions relating to this resolution. Consequently, I will restrict my comments, first, to the meaning of entrenchment; second, aboriginal rights; third, language rights; and fourth, the political and legal justification for the process.

First, why entrenchment? Some people that I have spoken to in my riding and across the country do not seem to understand why we need an entrenched charter of rights in the Constitution when we already have a federal Bill of Rights, a Human Rights Act and many provincial laws on human rights. In answer to that question, I should point out with great emphasis that the difference between an ordinary bill of rights, a bill of rights that is incorporated in an ordinary law at the federal or provincial level, cannot prevail over other ordinary legislation, whereas a bill of rights entrenched in the Constitution, as this one is, does prevail over all other legislation, either at the federal or provincial level. I want to read from Section 58(1) because of its importance:

The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

Therefore, a piece of legislation which is inconsistent with what is in the entrenched charter of rights or in the Constitution is ruled invalid.