

The Constitution

He said: Madam Speaker, in introducing the resolution preceding confederation in the Parliament of Canada, Sir John A. Macdonald stated:

The whole scheme of confederation, as propounded by the conference, as agreed to and sanctioned by the Canadian government, and as now presented for the consideration of the people and the legislature, bears upon its face the marks of compromise. Of necessity there must have been a great deal of mutual concession. If we had not felt that we were bound to set aside our private opinions on matters of detail, if we had not felt ourselves bound to look at what was practicable, not obstinately rejecting the opinions of others nor adhering to our own; if we had not met in a spirit of conciliation, we never would have succeeded.

It is with pride that I am able today to introduce a constitutional resolution supported by all governments who believe in a strong and united Canada.

Some hon. Members: Hear, hear!

Mr. Chrétien: The resolution before this House is the product of a consensus among governments; but, equally important, it reflects the values, aspirations, the hopes and dreams of an overwhelming majority of Canadians.

Before I explain the content of the resolution, I want to pay tribute to the members of my caucus and to my colleagues in the cabinet for their collaboration, their advice and their total support over the last 18 months. I want to pay a particular tribute to the Prime Minister (Mr. Trudeau) for this historic achievement.

Some hon. Members: Hear, hear!

Mr. Chrétien: I want to thank other members of the House of Commons for their constructive advice and support. I want also to pay tribute to my colleagues in provincial governments who worked hard to achieve consensus two weeks ago. I want to thank the thousands of Canadians who contributed so much to the work of the parliamentary committee. And I want to point out to Canadians the role of the Leader of the Opposition (Mr. Clark), who spent a year telling us that process is more important than substance. I am sure that in this debate he will criticize the substance resulting from the process.

Some hon. Members: Oh, oh!

Mr. Chrétien: In 1865, George Brown told the Parliament of Canada:

The whole great ends of this confederation may not be realized in the lifetime of many who now hear me. We imagine not that such a structure can be built in a month or in a year. What we propose now is but to lay the foundations of the structure, to set in motion the governmental machinery that will one day, we trust, extend from the Atlantic to the Pacific.

Today we have the opportunity to complete and expand that structure. The resolution before this House provides for the patriation of the Constitution. After 114 years, Canada will finally have achieved its full legal independence. No longer will it be necessary to go to the Parliament of another country to amend our Constitution.

[Translation]

The resolution provides as well for an amending formula, that is, a mechanism which will enable us to make future changes to our Constitution. This is extremely important because today marks the end of one stage of constitutional reform and the beginning of another. The second stage of constitutional reform will deal with changes in our national institutions so that there is better regional input in the workings of the national government; it will deal with the securing of the Canadian economic union and with the division of powers.

Of course it will deal with the constitutional recognition of the rights of our native peoples. I am anxious that this process get underway as soon as possible because it is part of our commitment not only to the people of Quebec and to native peoples but to all Canadians.

An amending formula makes that process easier. The resolution provides that in the future, amendments to the constitution will be made with the approval of seven provinces representing fifty per cent of the population. If, however, an amendment takes away provincial powers, privileges or proprietary rights, it will not apply in a province whose legislature expresses its dissent. I will speak later about the issue of fiscal compensation for those provinces which opt out.

For a few matters including the monarchy, the composition of the Supreme Court, and certain language rights, the consent of Parliament and all provincial legislatures will be required.

[English]

I want now to turn to the Charter of Rights and Freedoms. It is important at the outset to understand that the entire Charter of Rights and Freedoms will be entrenched in the Constitution and that no province will be able to opt out of any provision of the charter. The agreement signed by the Prime Minister and nine Premiers does not emasculate the charter. Democratic rights, fundamental freedoms, mobility rights, legal rights, equality rights and language rights are all enshrined in the Constitution and apply across the land.

What the Premiers and the Prime Minister agreed to is a safety valve which is unlikely ever to be used except in non-controversial circumstances by Parliament or legislatures to override certain sections of the charter. The purpose of an override clause is to provide the flexibility that is required to ensure that legislatures rather than judges have the final say on important matters of public policy.

● (1220)

The override clause in the Charter of Rights and Freedoms will require that a law state specifically that part or all of it