

*The Constitution**[Translation]*

Hon. Jean Chrétien (Minister of Justice and Minister of State for Social Development): Mr. Speaker, we witnessed this afternoon what I would call a rather spectacular about-face by the Leader of the Official Opposition (Mr. Clark). What does he propose today? He is proposing this afternoon immediate patriation of the constitution, something we have been urging in this House for months and something all Canadians call for. He proposes an amending formula that at this point does not meet with unanimous approval from the provinces. I attended the constitutional conference and I spent the whole summer, Mr. Speaker, trying to get a consensus.

We worked on that formula. We considered the implications. It was first called the Alberta formula and later the Vancouver formula, because it was considered in Vancouver. It was clear to all participants that it was probably the most rigid one that could be included in the constitution, because even though the provinces might or might not accept some changes, it was clear to all participants that the federal government, with an absolute veto in these matters, would very soon be forced never to accept any constitutional amendment because we would eventually evolve into a kind of Canada where there would be certain rights for some Canadians and other rights for other Canadians. And this is basically unacceptable to those who believe that Canada must be able to guarantee its citizens equal rights across the land.

We did consider that formula, but we did so in the following spirit: We believed at some point that we were going to enshrine in the constitution the basic rights of Canadians, that we were going to guarantee Canadians mobility rights; that we were going to guarantee minorities education rights in their first language wherever they may be in Canada; that we were going to guarantee Canadians basic liberties, democratic freedoms, non-discrimination rights, mobility rights and so forth. Since these rights were to be guaranteed, we could then consider the formula. But this was only further to agreement on the 12 items or a majority of the items that were under consideration. And anyway, we were telling participants that aspects of that formula were not clear. And this was obvious. During the discussion, the hon. Leader of the Official Opposition referred to certain difficulties.

For example, what were we to do should any province use the opting-out clause to withdraw its support of the constitutional amendment, should there be costs incurred by the people, should this matter not be settled? What were we to do should any part of the constitution not be amendable under the Vancouver or Alberta formula? Suppose, for example, that Canada—that is nine provinces out of ten plus the federal government—decides to have an upper chamber different from the one we now have. There is no way to settle this matter because any one province could have stayed outside this institution by using this formula. If we had another formula—the Vancouver formula is incomplete. There were several other

problems of this nature. The Supreme Court, as was mentioned by the Leader of the New Democratic Party (Mr. Broadbent) and all that. And I know—

● (1600)

[English]

I know that today it was because of a possible consensus, but it was not an agreement. It has never been presented as an agreement by the first ministers. At no time. Never. I defy the hon. Leader of the Opposition to prove that the ten premiers were in agreement with that formula.

Some hon. Members: Hear, hear!

Mr. Chrétien: We agreed to study the formula. But the more we looked into the formula, the more flaws we found, and until the last moment we agreed to keep looking into it.

If we patriate the constitution today with that formula, it is to hell with the rights of Canadians because we can never enshrine them in the constitution. It would be impossible to have a charter of rights which would apply to all Canadians. Hon. members only have to listen to the speech of Premier Lyon, who said that he will always oppose any entrenchment of a bill of rights in the constitution. He said that time and time again. So I ask: what will the result be? There will be rights for certain Canadians but not for others. As long as I am a parliamentarian, I want to have rights for all Canadians across this land.

Some hon. Members: Hear, hear!

Mr. Chrétien: For instance, take the situation today about the mobility of manpower.

Mr. Crombie: What about the Indians?

Mr. Chrétien: I will come to the rights of Indians. I am not embarrassed by that because I worked for a long time on that problem.

An hon. Member: He was the best minister, too.

Mr. Chrétien: We put a provision in the act that all their rights would be protected, and the incorporation of the charter of rights will not affect the treaty rights of Indians. It is clear in the constitution. If the hon. member has the guts to come to the committee one day and deal with that, we will be able to cope with that problem. But hon. members are refusing to come to the committee. The committee will start next week and we will deal with all of those problems.

Some hon. Members: Hear, hear!

Mr. Chrétien: However, there are a lot of other rights. There were hon. members who made speeches in Quebec who said they did not want to impose education rights. If the Fathers of Confederation had had the wisdom to put education rights in the constitution in 1867, the Canada of today would have far fewer problems than it has now.

Mr. Clark: They were stupid, too?