

*The Constitution*

ask the former prime minister, the Leader of the Official Opposition (Mr. Clark), to be careful when he misleadingly suggests that the constitutional amendments proposed by Parliament and the government will be altered or redrafted by the British government.

Mr. Speaker, I think that it is absolutely incorrect and he knows it as well as all other members do.

I think, therefore, that on this point the Leader of the Opposition should be corrected.

Moreover, he stated that yesterday we voted against the patriation of the constitution, which is not correct. Hon. members on the government side voted yesterday on the patriation of the constitution and the Vancouver formula, a formula which is unacceptable to people like me and to all hon. members on this side of the House.

When the former prime minister, therefore—

**An hon. Member:** Temporary.

**Mr. Gauthier:**—yes, temporary, for a six-month period—when the Leader of the Opposition makes such a statement—I know him as a man who is honest most of the time—he knows that this is not correct, I can only assume that it is fully partisan and directed at the electorate.

Mr. Speaker, I have listened attentively to this debate and I feel that this resolution is extremely important for Franco-phone members born and living outside Quebec—they are few and far between in the House. The proposed resolution is extremely important, because we would no longer operate under the supremacy of our provincial governments, but rather under the rule of a constitution with our rights entrenched and protected by a court of justice, which we hope will demonstrate as much generosity and enlightenment as those we have enjoyed for several years.

Still, Mr. Speaker, we are faced with two different concepts, one of which is the concept expounded by several Progressive Conservative members and which upholds the supremacy of Parliament. Personally, I agree with those who firmly believe that today, after 113 years, it is time for us to effect this change and to entrench our rights in the constitution and then move to the other aspect which I stand for, that is judicial supremacy. And in the course of my remarks I will try to demonstrate why today minorities in Canada, linguistic minorities not only outside Quebec but within Quebec as well, support and back fully this resolution which aims at enshrining within the constitution the rights of minorities. If I were to put a title on my speech, Mr. Speaker, I would say that minorities need more rights and more power than majorities do. This would be the title of my remarks because to anyone wondering what promises of success any constitutional resolution may hold I would say that the most fundamental matter is the entrenchment of a charter of rights and liberties, including

language rights. In my opinion, any country must be defined from this basis.

Therefore it seems to me, and it is not a surprise to hon. members, that I linger over this vision, over this popular concept, we want to establish the independence of our country and in a move of pride and fairness, we want not only to patriate the Constitution in Canada but also to include the fundamental and individual rights, including some linguistic rights.

As a matter of fact, minorities need more rights than majorities. The latter protect themselves naturally because of their number, their political influence, and the environment they create. Within the time allocated to me I shall try to demonstrate why we should act today and enshrine linguistic rights of minorities and of all Canadians. In the present system, those fundamental and individual rights are under the jurisdiction of Parliament, which means they depend to a large extent on legislative action, whether under the principle of the supremacy of law or through common law and some other texts which govern us. The constitutional bill of 1980 proposes to change this system and replace it by the enshrinement of rights, which of course favours the principle of judicial supremacy. These rights, I repeat, cannot be changed or circumvented by an amendment to the constitution, a procedure which is more difficult than the mere passing of an ordinary law.

Mr. Speaker, I am among those who believe that, after 113 years, parliamentary supremacy over rights and freedoms, including language rights, must be replaced by the entrenchment of those rights and freedoms in the constitution, including language rights, in order to guarantee and protect those rights. It is fairly easy to explain why minority groups have tended to support the supremacy of the courts. The reasons underlying that support are historical and confirm the experience several of us have had. Indeed I will give several examples.

I support the entrenchment of fundamental rights because, in my opinion, it provides greater assurance and therefore greater protection against possible abuses by governments and majorities. Besides, most major democratic countries have already acted in that direction. A charter of individual rights and freedoms is the most common aspect of all federations in the world. The European Community, for example, to which England, France, and other countries belong, is bound by the European Convention on Human Rights and by the decisions of the European Court of Human Rights. Finally, Mr. Speaker, who can deny the educational and moral value of entrenching human rights in a constitution.

I also endorse the proposal to include in the constitution the right to education in the minority language. This will, of course, surprise no one. This will guarantee Canadians the right to educate their children in their mother tongue, where numbers warrant. It is not exaggerated to say that Franco-