

subject matter of the debate heretofore. That has been focused on the Charter, and many of us have views different from the government with respect to their conclusions on that matter.

However, on this particular question, I think it is important for the Aboriginal peoples and others, who are concerned with the division of powers as to whether or not any province, by using the "distinct society clause", could expand its powers at the cost of the central government and at the cost of the rights or the interests of native persons that are affected by such an expansion.

Senator Murray: Honourable senators, the Meech Lake Accord does not change the distribution of powers. The honourable senator says that there has not been much discussion on that matter, but I seem to recall answering a question from Senator Stewart on this matter within days of the Meech Lake Accord being signed. Since that time there has been extensive discussion of the matter by witnesses in Committee of the Whole here and in the special joint committee of the Senate and the House of Commons on the Constitution Act, 1987.

● (1500)

The fact of the matter is—if I may use layman's language—that the interpretive clauses, like any interpretive clause, would be used in what you might call the grey areas of the Constitution, and no more than that. The distribution of powers is pretty clear under the Constitution of Canada. I have always found it difficult, and most constitutional experts to whom I have put the question have found it exceedingly difficult also, to come up with even hypothetical cases as to how the interpretive clauses would affect a clear grant of power in the Constitution.

There has been a great deal said on this matter. I can find the relevant testimony for the honourable senator and see that he receives it.

Senator Grafstein: Let me proceed to a case that is not a great case, namely, the impact that the accord would have on minority language education in the province of Quebec. There is a specific case at hand, and Senator Beaudoin and other constitutional experts are quite familiar with the wording of that case, the dicta of that case, and the impact of that decision. My question to the Leader of the Government and to Senator Beaudoin is: Would the courts have come to a different conclusion?

Senator Murray: Come on! That is a silly question. You know better than to ask a silly question like that!

Senator Grafstein: Obviously, the Leader of the Government is concerned about it.

Senator Murray: It is a silly question!

Senator Grafstein: Others are concerned about it as well. Perhaps we might have his response. Is that a hypothetical case as well?

Senator Murray: The honourable senator is asking me to say whether the courts would come to a different conclusion if the Meech Lake Accord had been proclaimed and the linguistic duality provisions or the "distinct society" provisions had

been invoked in the courts. That is an impossible question. It is a completely hypothetical question. The honourable senator should know better than to ask that.

Senator Grafstein: I do not mean to inflame the debate—

Senator Flynn: Well, you are.

Senator Grafstein: —but I wish to get some understanding, if I can, as to whether or not this is one of the concerns those who are supporting the accord had, and whether those concerns are satiated by the impact of the legal opinion and the impact of the accord—particularly distinctive rights—on minority language rights in Quebec.

Senator Murray: What distinctive rights? What are you talking about?

Senator Grafstein: The "distinctive society" clause.

Senator Murray: It is the "distinct society" clause.

IMPACT ON ABORIGINAL RIGHTS—NEED FOR FLEXIBILITY OF GOVERNMENT TO AMEND CONSTITUTION

Hon. Charlie Watt: Honourable senators, I should like to go back to the time the government dealt with the first amendment related to the Aboriginal people in this country. That goes back to 1982.

I was directly involved in this process, and I was also involved in the actual negotiations in trying to reinstate what was dropped during the first ministers' conference. At that time the government showed some flexibility.

Senator Asselin: When?

Senator Watt: The provinces also indicated some flexibility when we began to deal with this situation in the media. Today, however, I do not see that flexibility. Today is 1990. It now seems as though the Constitution—that is, the Meech Lake of today—is carved in stone, and therefore it cannot be removed or amended. That is unreal in modern times.

If this is the way the country is going, namely, in the direction of a government in power that states to the general public of Canada, "You take this or everything will die," something seems to be wrong. You are dealing with my life. You are dealing with the lives of a lot of people in this country. This is a dangerous game that is being played out today.

I should like to ask the Leader of the Government a question. I should like to know whether you can make recommendations to the Prime Minister concerning the possibility of showing some flexibility to the public of Canada, especially to the Aboriginal people in this country. If that does not happen, God only knows what will happen tomorrow. The onus is on both sides.

When I look at senators on both sides and see them laughing, and yet indicating that they are serious, I feel that they are not taking the matter into their hearts; they are not using their heads with regard to what the future should be. When I see that, I question the validity of the system as it exists today.

I believe that I speak for my people. I am an Aboriginal person. I am not the person who initiated the process that took