The Constitution

power of government over them. That is what it was always about. Rights do not come from governments; rights limit governments.

Rights also always rested on the basis of some spiritual entity, a supreme being. This was not merely because it was a nice thing, which it was, but primarily because it had a very practical advantage. When law rests on religion, when legal orders relate to spiritual principles, it allows for diversity and dissent. The roots of democratic dissent have always begun with religious dissent; laws imposed by governments were always fought on the basis of an appeal to God. This is why we insisted in the committee that not only should there be a preamble respecting the supreme authority because it was in our hearts that it should be related to spiritual principles, but it had a practical democratic value as well. The way in which generations of western people have been able to overcome tyranny was by being able to appeal over the head of the government which oppressed them.

The third thing our forefathers learned about rights was that they were very often related to property. It is only people born wealthy who do not understand that to own something not only makes it better for you, but it ensures that you are protected.

The reason all those people came to this country from all those lands was in order to have the security which property gave them, and the freedom to acquire and enjoy it. When my friends in the New Democratic Party on the committee said that property was not for the kind of people they would like to represent, they did not understand. The poor people in this country know the importance of the enjoyment of property. They worry very much when the government of the day will not allow it in the Constitution.

The fourth thing our forefathers learned about rights was that their rights lay in the common law; not always kind, very often harsh, but there was something about it they understood clearly. What they understood was that their rights were to be assumed. They did not need to have their rights listed. In fact, the only listing came when those rights were reduced. As they used to say, "If they can write it down then they can take it away." They understood that right. The rights we have allow us to do anything we like, except what you would restrict. That is how they understood those rights.

● (1700)

The first thing they understood was diversity and the second was the instinct for rights. The third instinct they understood was how to deal with conflicts and differences of opinion. All that diversity, all those needs for rights could not be dealt with on the basis of unilateral action by anybody. The country could not afford it. That is why Canadians organized a way of dealing with conflict, a way of dealing with differences, on the basis of consensus and consent. Tolerance, civility and compromise, those are the tools Canadians used, not the drawing of lines, not compulsion and not unilaterally. The stability, the freedom and the security which brought them to this country, and which is still bringing them to this country, rests on the

fact that in this country we deal with our differences on the basis of consensus and consent. That is why in 1867 the federal principle was adopted. It was not because somebody thought it up and said, "Let's give it to the Canadians." The Canadians sucked it up from their own roots. It is the only way this country can go. Federalism means those three things; diversity, rights and consensus. That is our history.

There were two or three items raised by some speakers yesterday on the government side with which I would like to deal. I think the hon. member for St. Paul's also mentioned them. He mentioned the question of the checkerboard or, as he calls it, the "crazy quilt". They say that somehow the government is opposed to a Vancouver Formula or, indeed, just generally opposed to anything that has different categories of rights. I think those are pretty close to the exact words of the member for St. Paul's.

Let us look at that matter for a second, since the diversity in this country has allowed us to do just that. We have adopted the checkerboard, or the crazy quilt, as the minister called it. I would like to show you one or two things, Mr. Speaker. The British North America Act lays out the checkerboard. It says there are certain powers given to the federal government and there are certain powers given to the provincial government. Section 92 gives the provinces their powers. The province can do as it will in relation to them, subject in some areas to the courts. When Newfoundland came into confederation it came under a different set of circumstances than the other provinces. Section 133, which deals with language rights, imposes on the province of Quebec different categories of rights than it does on any other province, a fact that still remains.

Does the crazy quilt pattern mean all provinces must have the same rights at the same time? If it does, if that is what the minister means, then we are in great difficulty, since most of the social programs in this country were adopted by provinces able to conduct their own social experiments, then later on having them generalized across the country.

Some hon. Members: Hear, hear!

Mr. Crombie: Today, the province of Quebec in its bill of rights offers rights which are not available to other Canadians. I do not know if the minister remembers that, but it is true. One of them deals with sexual orientation. It is included in their charter of rights in Quebec and not in any other province. That is the checkerboard. The province of Quebec wants to do that. Indeed, while I am dealing with the province of Quebec, it was because of that checkerboard, that crazy quilt, that the freedom to protect the language and the culture of the province of Quebec exists. Indeed, the language and culture of all the other people in this country results from the diversity which the crazy quilt allows.

Some hon. Members: Hear, hear!

Mr. Crombie: I do not blame the government for not wanting to remember those things, since it destroys the argument that somehow it is against an amending formula because it is against a checkerboard. At least, it should remember that