

*The Constitution***GOVERNMENT ORDERS**

[English]

THE CONSTITUTION

RESOLUTION RESPECTING CONSTITUTION ACT, 1981

The House resumed debate on the motion of Mr. Chrétien, seconded by Mr. Roberts, for an Address to Her Majesty the Queen respecting the Constitution of Canada.

And on the amendment of Mr. Epp, seconded by Mr. Baker (Nepean-Carleton)—That the motion be amended in Schedule B of the proposed resolution by deleting Clause 46, and by making all necessary changes to the Schedule consequential thereto.

Hon. Allan B. McKinnon (Victoria): Mr. Speaker, I am rather surprised that we were able to gather a quorum this quickly after the dinner recess, considering the other attractions in town this evening with President Reagan's first visit to Canada. However, before dinner I started to point out the effects of the Liberal initiative to bring the Constitution back to Canada, particularly the process the government has recommended to Parliament.

I should like to go into the history of this by pointing out that hon. members on the government side are fond of telling us that the search for an amending formula has been going on for some 54 years. That would put it ahead of the search for Chloë in the Louisiana swamps. Each day during those 54 years has not been spent actively searching. Not only is this a false impression, but I want to point out that there was very little mention to the constitutional issue through long periods of time, particularly during the 1980 election when the current government received its mandate from the people of Canada.

The real impetus behind the resolution we are considering this evening comes from the May, 1980, Quebec referendum in which the majority of Quebec residents voted for renewed federalism. They turned their back on sovereignty-association because of the federal government promises of a better deal for Quebec. The extent of the double cross of Quebec is now becoming more and more apparent, particularly to the people of that province. I am sure most hon. members opposite are well aware that a recent poll indicated that 44 per cent of the people of Quebec are now opposed to the Liberal-NDP resolution, 37 per cent approved and 19 per cent are undecided. The 73 Liberal Members of Parliament from Quebec should be considering why they are moving on this unwanted course which breaks another Liberal promise. That course is now being opposed by both the government and the people of Quebec.

The government seems to have taken advantage of the confidence expressed by the people of Quebec in the federal system in the May, 1980, referendum by coming up with a resolution which reflects its own lack of faith in our federal nature. The government may deny this, but it can be proved by looking at what other authorities have to say about federalism and the unilateral act the government is now contemplating.

Let us look at the 1965 white paper on amending the Canadian Constitution, which said:

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In a federal state, there are particular considerations that add to the importance of... built-in certainty and stability. A federal system is one in which the powers of all legislatures and governments are limited, not only by definition but by their relationship to each other. The very nature of the federation requires that the rights and powers of its constituent units be protected.

This is from the 1965 white paper which had the foreword signed by the Right Hon. Lester Pearson. In its introduction, former Prime Minister Pearson wrote:

In any federation, the two most critical questions are the distribution of powers between the two levels of government and the manner in which the Constitution can be changed. A federation is necessarily a delicate balance between conflicting considerations and interests. It is to be expected that the most delicate of all questions should be the way in which such a balance might be altered.

Our present government is approaching this question with all the delicacy of the proverbial bull in a china shop. The United Kingdom's consideration of the changes to be requested in our Constitution has resulted in the Kershaw report, which says:

The federal character of Canada's constitutional system affects the process for amending that system. For it would be inconsistent with that federal character to treat the Canadian federal government of Parliament as having the power to secure the amendment of all parts of that system on its own initiative, regardless of the will of provincial governments and legislatures affected by those amendments.

Finally, let us have a look at what our Prime Minister (Mr. Trudeau) formerly thought about federalism. In the 1960s he said:

Federalism is by its very essence a compromise and a pact... It is a pact or quasi-treaty in the sense that compromise cannot be achieved unilaterally. That is not to say that the terms are fixed forever; but only that in changing them every effort must be made not to destroy the consensus on which the federated nation rests.

The white paper in 1965, which would bear reading by everyone interested in this subject, proposed the following clause as part of its amending formula:

No law made under the authority of this part affecting any provision of this act or Section 51A of the British North America Act, 1867, or affecting any provision of the Constitution of Canada relating to

- (a) the powers of the legislature of a province to make laws,
- (b) the rights or privileges granted or secured by the Constitution of Canada to the legislature or the government of a province,
- (c) the assets or property of a province, or
- (d) the use of the English or French language,

None of this is to come into force, or no changes are to be made to any of these provisions unless concurred in by the legislatures of all the provinces. These were the amending proposals of the 1965 white paper. It goes on to say:

Paragraphs (a) to (d), and especially (a) and (d), could be said to represent essential conditions on which the original provinces united to form the Canadian confederation, and on which other provinces subsequently joined the union. Changes in these basic conditions—such as in the powers allocated to provincial legislatures—could alter their status in relation to Parliament, thus changing the conditions on which the provinces entered confederation.

The 1965 white paper noted that the BNA Act "left Canada without any clearly defined procedure for securing constitu-