

—the process of entrenching rights in the Constitution is about as serious a constitutional act as a nation can ever undertake for it means in theory that certain powers are to be withdrawn from the representatives elected from time to time by the people, and it establishes a new set of limitations on what elected legislatures can do for the people.

In that sense, it involves nothing more nor less than a change in the social contract between the governed and the government and it entrusts the judiciary with the task of interpreting the terms of that contract.

You will remember, Mr. Speaker, that I mentioned earlier the hon. member for Rosedale's (Mr. Crombie) three guiding principles of Confederation: diversity, rights and consensus. To these may be added three more from one of our leading constitutional authorities: that the process of constitutional change should be considered, that it should be popular, and that it should be unifying.

This brings us to the point where we can crystallize the essential difference between the government's proposal and the Conservative alternative. That crystallization is the matter of process, for it is here that we differ fundamentally; it is here that the government has departed from the will of the country; is here that it has affronted the rights and dignity of the provincial legislatures, and it is here that it threatens to provoke a bitter feud with the Parliament of Great Britain, perhaps our dearest and most amicable friend in the world.

Let us examine this point of process as it applies to both the amendment formula and the charter of rights. Under the proposed formula, any province attaining "a population of at least 25 per cent of the population of Canada" according to any census, past or present, would be forever armed with the power of veto over proposed amendments. The reasons for this clause, as it applies to Ontario and Quebec, are very clear. It implies that for a very long time to come, all the other provinces will be relegated to a second-class status, without having, singly, the power of veto.

However, it seems to have escaped the attention of this government and, indeed, of the entire country, that this veto power could be extended to a third province in the future by virtue of this entrenched requirement.

Could not Alberta or British Columbia, for example, be viewed as major contenders to become the third province in Canada to attain 25 per cent of the total population and thus acquire the power of veto over all parts, all regions, of the country, if it was in their interest to do so?

Let no member mistake my remarks that somehow they constitute an anti-provincial or an anti-western position; rather, they are meant to indicate a position of national democracy based on broad consensus and not on regional prejudice.

As an expert witness to the committee pointed out, the Victoria formula gives any province that acquires 25 per cent of the population the power of veto. In this regard, he said, "You must remember when you are talking about constitutions that you are not talking about a law for today or tomorrow or this decade. We are talking about a law for centuries ahead."

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This is a point of view that I could heartily endorse. I encourage all members to realize that what we are debating will be conceivably a matter of importance for centuries, not just for the last year or two of the Prime Minister's tenure.

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This describes just one example of the shortcomings of the amending formula. Another no less important weakness deals with the area of native and aboriginal rights, so hard fought for in the committee and over the years. It is instructive to look behind the highly publicized recognition of aboriginal rights which have been given recently.

In Section 35(2) of the present proposal, in Part IV which deals with constitutional conferences, provision is made to include in the agenda of the conference the following:

—an item respecting constitutional matters that directly affect the aboriginal peoples of Canada,—

Section 35(2) further on reads:

—and the Prime Minister of Canada shall invite representatives of those peoples to participate in the discussions on that item.

Who will the Prime Minister appoint to represent these people? Which representatives of the native people will the Prime Minister invite to attend? Who will decide the item on the agenda?

In the aftermath of all the delirious self-congratulation in the committee on the recognition of aboriginal rights, what has been the more sober upshot of it all? What do the native peoples themselves say to the doubletalk of the Minister of Indian Affairs and Northern Development (Mr. Munro), the member for Hamilton East, who said that failure to entrench the charter of rights "would be an intolerable disappointment to the native people—" if aboriginal rights were not entrenched?

What are the native people saying to the Leader of the New Democratic Party (Mr. Broadbent) who said in his speech that "no one in Canada, no government or individual will again be able to disregard the rights of Canada's original people." In a word, they are saying "nonsense." These rights may be entrenched, but how will they be interpreted? They will be interpreted by the courts, by government appointed judges to the Supreme Court. They are the ones who will interpret difficulties or confrontation over aboriginal rights. That is the "government" and the "individuals" mentioned by the Leader of the New Democratic Party who, in the future, will decide native rights.

Del Riley, the President of the National Indian Brotherhood which consists of ten provincial and two territorial groups and represents 300,000 Indians, said he will resign over constitutional amendments that ultimately provide for the courts to define aboriginal rights. Indian provincial groups in British Columbia, Alberta, Manitoba and Quebec have threatened to withdraw from the National Indian Brotherhood unless these constitutional amendments are dropped. And I know that Indian groups in my own riding in Ontario, represented by the Union of Ontario Indians, are opposed to the government's constitutional amendments.