

The Constitution

province, from having a say because in the Atlantic area three provinces are needed to obtain 50 per cent. Therefore the provision would eliminate one of the four Atlantic provinces, of one of which the minister was premier at one time?

Mr. Regan: I thank the hon. member, who comes from a great Nova Scotia family and whom I have known since he was about 16 years old and a so-so tennis player. I thank him for his question and I say to him, through you, sir, that I believe it is under the Victoria formula that two provinces or more are required in a region, constituting 50 per cent, and certainly Prince Edward Island can be part of the majority. But Prince Edward Island and one other province alone would not constitute the needed number, based on the present population. However, when you draw up a constitution, heaven knows what the population changes may be tomorrow. They are drilling for oil in P.E.I., they may establish it and maybe their population will grow. Let me point out that the Victoria formula was not something that was thrust on us by the "feds".

An hon. Member: We are talking about section 42.

Mr. Regan: Yes, but the regions are based on the Victoria amending formula, the same regions as are outlined in the Victoria formula which was developed by the premiers, and I was one of them.

Some hon. Members: Oh, oh!

Mr. Deputy Speaker: Order, please. The hon. member's time has expired. The Chair recognizes the hon. member for Annapolis Valley-Hants (Mr. Nowlan).

Mr. J. P. Nowlan (Annapolis Valley-Hants): Thank you, Mr. Speaker, I know the minister has to go and I do not wish to take up too much time commenting on his remarks, but I hope he has taken the bill with him on his plane ride west and will really read it because there is a real difference between the Victoria charter, the Vancouver proposal and the amendment procedure under section 42 which effectively rules out Prince Edward Island, because of the population statistics, from having any input by itself together with one other province. The fact is that two provinces are needed under the Victoria charter and the Vancouver proposal. They spoke about two provinces in a region, not about 50 per cent of the population which would effectively eliminate Prince Edward Island under section 42. But the minister has gone and what he has said will stand on the record. I say again, I hope he will read the resolution. Frankly, I do not think many members, including government members, have read the resolution, and I know we did not have much opportunity to read it, although it is pretty fundamental in terms of the future of this country.

A week ago last night the Prime Minister (Mr. Trudeau) in calling Parliament a week early, said that all members from coast to coast would have the opportunity to make a speech on a subject that cannot be any more important than what we are talking about, which is basically the heart and soul of this nation. This constitution is bound up in phraseology and legal verbiage. You can talk about patriation, although it is not very sexy, seductive or exciting, but the fact is that when you shake

it all down, you are talking about the heart and soul of this country. That is why, right from the start, I want to make it clear, as my leader made it abundantly clear on Monday when this debate commenced, that there is no member in this party, nor is there, I believe, any member to my left in the New Democratic Party, who is against the patriation of the constitution, the bringing of the constitution back from England to Canada. If that is what we want to do, it could be done on one page which could be agreed to in one hour. We would not have to send Mark, Luke or John cap in hand to have tea with the Queen.

I will talk about the constitution in a very calm way because it is a very serious matter. It strikes at the very foundation of this country. Before I come back to the matter of the patriation of the constitution let me say that it occurred to me on Thursday night when I was listening to the Prime Minister—and I say this to members in an objective way—and then to the Leader of the Opposition (Mr. Clark), followed by the leader of the NDP (Mr. Broadbent), that we are talking about the polarization of the two solitudes in their constitutional dimension. This is what I thought when I heard the Prime Minister's speech over the national airways and also, to a lesser degree, when the debate started here on Monday. The reason I say that is the following. I used to practice law and it was only when talking about the constitution relatively recently that the great difference in philosophies became apparent to me. I am not saying that one approach is right and the other is wrong, but this is the polarization of the two solitudes because these are two fundamentally different approaches. I listened to my Prime Minister speak about freedom in the land and say we need freedom here and freedom there. I can understand this coming from the Prime Minister because he was brought up under the civil code. I will not make pejorative comments and say one is Gallic and the other Napoleon against the British, and I hope my friends opposite will understand that when I refer to the British I will try to stay within the common law and I will try to stay even tempered and take any pejorative overtones out of my comments. We are talking about civil law and common law. Under the common law in nine of the provinces, every Canadian has every right and freedom in the world except those restricted or abridged by law, yet under the civil code one has no rights unless one can point to a piece of paper, a right or freedom. This debate is very interesting because it starts out from two separate polarities; it is almost like the north and south poles. It is difficult to bridge the gap between those people who believe in and have been brought up in the jurisprudence of common law and those who have been very ably brought up in the jurisprudence of the civil code. Later in my remarks I will have more specific comments to make about the entrenchment of the bill of rights in the constitution, but in general as one listened to the Prime Minister and the Leader of the Opposition on that Thursday night, one would have thought, from some of the interpretations that we really did not have the freedoms unless they were put on a piece of paper. The whole foundation of this country in nine provinces is that we have all the rights in the world