

future of Canada, have always cast their shadows over the various constitutional reform conferences that have attempted to come to grips from time to time with this issue. It is my belief that these shadows are becoming longer, which indicates that perhaps we are now getting into the twilight of the day in which we have an opportunity to resolve these matters in a manner that will be satisfactory to all concerned.

It was my privilege to attend all federal-provincial constitutional conferences between the years 1943 and 1968. These were held under the leadership of four Canadian prime ministers: King, St. Laurent, Diefenbaker and Pearson. Having attended and participated in that long series of conferences, I know something of the sense of frustration that so often emerged when these issues were debated—issues which, by the end of the sessions, were still as far from solution as when the conference began. I have listened from time to time to the statements of men who have said that what we need to do in Canada is scrap the whole business, and write a new Constitution. I suggest to you that people who talk that way have had no experience whatever with the practical realities of getting the kind of agreement that is essential to bring a new Constitution into being. I submit that in the light of the experience of this country in the past 25 or 30 years it is utterly unrealistic for anyone to think that in the foreseeable future it will be possible to re-write the Constitution of Canada, or develop a wholly new Constitution for Canada, and have it accepted by the divergent interests among the Canadian people.

In commenting on these endeavours to repatriate the Constitution of Canada and develop a formula for its amendment within this country, it is fitting that tribute should be paid to the efforts of two earlier ministers of justice. I refer to Mr. Davie Fulton and Mr. Guy Favreau. These men spent a great deal of time and effort in this field of work, and became the architects of what was commonly spoken of as the Fulton-Favreau formula. Whether that was a good formula or not—and I for one suggest it was far from a perfect formula—it led to the one occasion in all the years of effort when unanimous agreement was finally arrived at, first at the conference chaired by the minister of justice with the attorneys general of the provinces, and secondly at the entire federal-provincial conference.

There was one chapter in the closing part of that long procedure with which I am particularly familiar, and which I do not think is generally known to the Canadian people. There had been a series of these conferences in one form or another from 1950 until the early sixties, when the whole matter came to an impasse largely because of a strong position taken by the then Government of Saskatchewan, who felt that the suggested amending formula would impair too severely the power of the central government, and that the suggested amending formula was too rigid. The matter came to a standstill largely over that difference of opinion.

There was then a change of government in the Province of Saskatchewan. It so happened that in the year

1964 the Province of Alberta was the host province to the annual premiers' conference, and that was the first premiers' conference attended by the new premier of the Province of Saskatchewan. As chairman of that conference, I had an opportunity to discuss with the Prime Minister of Canada before the conference the question whether in the light of the change of government in Saskatchewan there might be some different position with respect to the points upon which the former government of that province had felt strongly, and which had led to the impasse to which I referred.

At that premiers conference we had an opportunity to discuss among ourselves whether there was a possibility of now getting a greater measure of agreement. The Government of Saskatchewan felt they could in general accept the proposals that had been developed up until that time. I had the pleasant task, as chairman of the conference, of conveying to the then Prime Minister the view of the premiers that now there was unanimity as far as the provinces were concerned.

Following that, and I think largely as a result of that encouraging indication, the Prime Minister convened a conference in Charlottetown, at which the Minister of Justice was directed to reconvene the Constitutional Conference with the attorneys general for the provinces of Canada, and a strong appeal was made for them to make an all-out effort to reach agreement on an amending formula, especially in anticipation of Canada's centennial year. We all felt that nothing could be more appropriate than to come to the end of our first hundred years with agreement on the means of domiciling the Constitution in Canada, and agreement on a formula for its amendment.

The then Minister of Justice, Mr. Favreau, reconvened the conference of the attorneys general. Two or three meetings were held, the last being in Ottawa on October 14, 1964, the same date as that on which a federal-provincial conference was in session here in the capital city. At the final session the Minister of Justice and the attorneys general reached agreement on what was called the Fulton-Favreau Formula, and it was reported to the full session of the federal-provincial conference that such agreement had been reached.

Honourable senators, I hold in my hand the communiqué that was issued by the federal-provincial conference on that occasion. I will not detain you by reading all of it, but a couple of paragraphs might be of interest. They are:

The conference of the federal and provincial governments, meeting in Ottawa on October 14th, unanimously agreed on a formula to repatriate the Constitution of Canada. This formula, when it has become law, will mean that any future amendment of the Constitution will be made in Canada instead of by the Parliament of the United Kingdom. As a result, our Constitution will have become, for the first time in the history of Canada, truly and wholly Canadian.