

*Government Orders*

It is essential that we find a better way to amend the Constitution "to reconcile the need for public participation and open democratic process with the legal requirements now in the Constitution".

[*Translation*]

Discussions surrounding the Meech Lake Accord made us realize that people see the main aspects of constitutional reform in many different ways. That is why the Prime Minister established the Citizens' Forum on Canada's Future on November 1, so that we could have a consensus on the fundamental values and aspirations of the Canadian people which we must take into consideration during our constitutional reform.

• (1530)

The Special Joint Committee and the Citizens' Forum on Canada's Future complement each other, Mr. Speaker. Both will give Canadians the opportunity to take part in Canada's constitutional changes.

[*English*]

Canada's search for an appropriate amending formula began long ago and has a rich and varied history.

The British North America Act of 1867 did not provide a formal amending procedure and when Canada achieved *de facto* independence from the United Kingdom in 1926 with the publication of the Balfour report, there was no agreement in Canada on a formula to amend the Constitution.

The power to amend our Constitution was left, therefore, with the Parliament of the United Kingdom, and in the intervening years up to 1982, a number of amendments to our Constitution were achieved by this route—the transfer of provincial jurisdiction over unemployment insurance to Parliament in 1940 and the sharing of provincial jurisdiction respecting old age pensions in 1951, to name only a few.

However, it was never satisfactory to Canadians that we had to go out of the country to amend our Constitution and during the 1920s and 1930s, the search for a domestic amending formula was on in earnest.

[*Translation*]

Following the release of the Balfour report, an attempt was made for the first time in 1927 to solve that problem at a meeting attended by representatives of the central government and the provinces.

The participants studied a proposal put forward by the then Minister of Justice, M. Ernest Lapointe, recommending that the Constitution be patriated and that a special amending procedure be added.

However, as with many previous attempts, negotiations on a new amending formula failed.

[*English*]

One constant question that permeated all discussions on this matter throughout history was how to combine the elements of stability and flexibility in an amending formula that would permit patriation of the Constitution from Britain.

In the numerous attempts to secure agreement on an amending formula, on only two occasions were the Prime Minister and premiers able to reach unanimous agreement in principle in an amending formula as part of a patriation proposal. They were the Fulton-Favreau formula in 1964 and the Victoria amending formula of 1971.

For that reason, it is interesting to examine these two formulae in a little more detail.

The Fulton-Favreau formula was drafted in the form of an act in 1964 and, like many previous proposals put forward at federal-provincial conferences, it was highly complex.

[*Translation*]

Any constitutional amendment would have been made by legislation of the Parliament of Canada and the approval of provincial legislatures would have been required in many areas.

Unanimous consent was required on certain matters, particularly the division of powers. Otherwise, there were different degrees of flexibility depending on the subject of the amendment.

Contrary to the Fulton-Favreau process, the 1971 amending formula suggested in Victoria was relatively simple. It was quite different from all other amending formulas in that no constitutional amendment would have required unanimous consent by all provincial legislatures.