

The Constitution

How many members opposite appreciate that the Habeas Corpus Act of 1670, the Bill of Rights Act of 1689—

The Acting Speaker (Mr. Blaker): Order!

Mr. Nowlan: In conclusion, you do not build for the future by breaking faith with the past and by unilateral action. Yet that is what is being done.

Some hon. Members: Hear, hear!

Hon. Allan J. MacEachen (Deputy Prime Minister and Minister of Finance): Madam Speaker, it is an honour for me to take part in this debate and particularly to have the opportunity to follow the hon. member for Annapolis Valley-Hants (Mr. Nowlan). Maybe later in my comments I will touch upon a number of the points which he made in his spirited intervention.

I have attempted to follow the debate from the beginning. It is an interesting debate. For the most part, it has been a serious attempt by members of the House of Commons to deal with a fundamentally important matter. I hope the conclusion or the outcome of this debate will permit us to begin in a concrete way the process of constitutional renewal which we promised the people of Quebec in the course of the referendum and which, in my view, is in accordance with the deep wishes of the Canadian people.

● (1540)

Before discussing the motion put forward by the Minister of Justice and Minister of State for Social Development (Mr. Chrétien) I would like to express to him my appreciation for the difficult work he did in the course of the summer. I know he is disappointed that it did not have the same result as the previous campaign in which he participated, but I am confident that the constitutional discussions held this summer will eventually bear fruit.

I want to disagree with the cast and approach of the hon. member for Annapolis Valley-Hants. I disagree with him that Parliament in the present circumstances should not be asked to act on this very important resolution. In fact, I believe Parliament has a duty to act and it has a duty to act now in order to bring home the constitution, in order to entrench in the constitution fundamental rights and freedoms of Canadians, in order to entrench in the constitution the principle of equalization, sharing, and also to set in motion a procedure whereby a definitive amending formula can be developed, and that, too, entrenched in the new patriated constitution.

Even the hon. member for Annapolis Valley-Hants agreed that it is necessary to patriate the Constitution of Canada. It is simply not normal for constitutional acts of this country to be the laws of a foreign parliament. That abnormal situation is obviously humiliating for Canada and it is embarrassing for the United Kingdom. We are all convinced that this final remnant of colonialism should disappear from the Canadian political scene. All political parties in the House of Commons and all provincial governments agree with this aspect of the resolution.

There is obviously no disagreement on the principle at stake; there may be disagreement on the procedure. In fact, there has been an interesting shift in the debate, not only in the House of Commons but among the provincial premiers, away from substance to process. That to me is a very important development.

It is necessary also to settle on an amending formula. Every state must have some way of changing its fundamental law, and it is obvious that this requirement is even more important in a federal state where the constituent parts, the provinces and the federal government, must be involved in the constitutional changes which affect all of us.

Canadians want constitutional change; they want constitutional renewal and they cannot have that without an amending formula. That is why in my view it is necessary for Parliament to act as well on an amending formula.

It is necessary also to entrench fundamental rights and freedoms.

An hon. Member: Why?

Mr. MacEachen: One hon. member asks why. It is my view that the Canadian people, perhaps for deep reasons of their own, maybe deeper than we all can understand, want to have their fundamental rights and freedoms protected and guaranteed by the constitution. I firmly believe that this is the wish of the Canadian people, and I believe it is the duty of Parliament to respond to that wish of the Canadian people.

Some hon. Members: Hear, hear!

Mr. MacEachen: The resolution moved by the Minister of Justice provides for a Canadian charter of rights and freedoms binding upon Parliament, all provincial legislatures and all governments. Of course, the Minister of Justice in his introductory speech outlined in some detail the substance of that charter of rights and freedoms. He said:

Some have told us that provincial legislatures are better able than courts to protect the rights and freedoms of Canadians. If rights and freedoms were to be dependent upon individual governments, there would be no such thing as rights and freedoms common to all Canadians. I believe that Canadians wherever they live in Canada should have common rights and freedoms.

That statement was made by the Minister of Justice, and I agree with the effort contained in the resolution to provide rights and freedoms that are commonly applicable to all Canadians in every part of this country.

I know there is a case to be made for parliamentary sovereignty—there is no doubt about that. I have often made the case, but I have not been as schizophrenic as members of the opposition have been on this question of parliamentary sovereignty and the rights of Parliament.

Today Parliament has been given an opportunity to deal with this great challenge and opportunity facing the future of Canada. The Parliament of Canada; the members of Parliament representing all the people of Canada, have been asked to deal with this question, yet members somehow shrink away from that opportunity and that challenge. I cannot understand