More recently, in the post–World War II German constitution, the constitutionalization of the electoral processes is achieved in the constitution, in electoral laws and in a substantial series of decisions by the courts.

I do believe that this will come to pass in Canada, that the courts will recognize that the electoral processes go to constituent power, which is a pre–constitutional power but it is the basis on which constitutional government operates: fair, open, and honest elections, open to public scrutiny in all aspects of the processes.

I think the best way is to draft it into the Constitution itself and certainly have an active, vigilant constitutional court that has the sophistication not to be afraid of electoral issues, as for many years our own courts were. They are not difficult to examine. The issue of basic fairness and the probity of the issues have been discussed and examined by supreme courts as diverse as those of Germany, the United States, Japan and India. The process works.

• (1300)

What has been done is that a very strong committee of the House—I call it that in the language that the courts use but it is a strong committee—which happened to have excellent representation from the main opposition party, the second opposition party and government members, made a long examination of this issue and has brought forward a bill.

It does not touch the issue of whether one province should have 25 per cent representation in the House. It would not have been germane to its mandate. In any case, I would have thought that with the evolution of constitutional democracy in Canada such an issue now could only be decided by full participatory democracy with the assent of the Canadian people expressed in a popular referendum vote. The Charlottetown process at least established that principle and I think all parties wish to work with it.

I listened with great sympathy and admiration to the arguments advanced by members of the second opposition party. However, I feel this was not the arena in which to discuss limitations or increases to the size of the House other than those that followed logically and inevitably from the census figures, which is one of the vines that we have in terms of the electoral process as it now stands.

What has been done here is that an attempt has been made to open up the process of the establishment of electoral boundaries by looking to the issue of who makes the decisions. If it is constituent power it goes to the power of Parliament itself and it is probably a power more awesome than that of the judges. Yet to date, it has been exercised by commissioners who were appointed on the discretion of the government of the day and answerable to nobody other than their own conscience in so far as the courts have not, as I have mentioned, exercised a review control in Canada.

What has been done in this bill is a compliment to the collegial atmosphere in the committee on this particular point. A system has been set up where while the executive retains the power of appointment—at least Parliament does—there is a process of public advertising and consultation. There is the obligation to consult with the leaders of all the parties. Does it go far enough? We shall see. However, it is certainly an advance on the present system.

I say that having served as an electoral commissioner myself. I was asked by the then Speaker of the House, Madam Sauvé, if I would serve as the electoral boundary commissioner because she wanted to get it out of politics. It is not a job that gets any particular awards but it is something to do in the spirit of public service. This is fine but it is still a system without controls. That is why the present proposals are an advance.

If we look again at the reports of recent boundaries commissions, the justifications are at best skeletal, a few lines. They do not really explain the why or how and on what basis and what criteria the decisions were arrived at.

In this particular bill which the committee has brought forward, the boundaries commissions are now required by law to provide three alternative maps for every constituency in which they report. They are required to provide a justification for their choice of opting for one rather than the other two.

Again I think it is a significant advance. It may be that one could have gone further, but in the nature of the committee as it was operating and the desire to build a consensus, the chairman of the committee felt this was the way to go. I think it is a good choice. Therefore, I am optimistic about the progress that will be made when this bill is adopted. We do need an open process. We also need as much public participation as possible and a high degree of scrutiny.

I think there is still a role for the courts. I would like to see this in the same way the justice ministry has financed litigation involving the Official Languages Act. Maybe test cases could be taken up when issues of electoral boundaries come up that raise constitutional principles: Is the principle of equality of representation adequately recognized in what the commissions have done? There are constitutional principles that can control this. Courts in Japan, India and other countries have little difficulty in applying them and the road would be open here.

• (1305)

This bill is an example of a committee interpreting its mandate in a full respect for criteria of relevance. It has not tried to go beyond the mandate as defined. It recognizes that other