

truly unacceptable. As Members of the national Parliament, it is our role to promote the fundamental characteristic of this country. In the current context, the silence of the Meech Lake Accord puts into question the legitimacy of this role, and that is unacceptable.

Finally, there is this question of fundamental rights. Here I reach my absolute bottom line. The litmus test of a democratic society is how it treats its minorities. The balancing of the democratic principle of majority rule with the protection of the rights of the individual is always a sensitive issue. Once you have a society that agrees to govern itself by the democratic vote of the majority, what safeguards have been provided for the rights of the individual? As I see it, the primacy of individual rights is fundamental to democracy. Individuals may choose to exercise their rights with others to address collective concerns. This is legitimate so long as these collective concerns are not then invoked to justify the withdrawal of fundamental individual rights. The right of individuals lie at the roots of collective action. Undermining individual rights undermines the ability of a free society to respond to the changing needs of its constituents. Believe me, I heard plenty about that as I travelled across this land in committee when we dealt with Section 15 of the Charter of Rights.

● (1520)

In 1982 we chose to counterbalance majority rule by enshrining a Charter of Rights which protects basic freedoms such as expression, religion, association, mobility, equality and non-discrimination. We gave the individual redress to the courts when Governments representing the majority interests infringed upon those rights.

It is true that the Charter is not perfect. I have noted in this House Section 33, the notwithstanding section, which allows the Government to override the Charter. That is an aberration and should be repealed. Mr. Eric Malloff, to whom I am indebted for his help, put it so succinctly:

That is precisely when those rights are most needed.

Downgrading of rights is rarely justifiable and we have the protection of Section 1 of the Charter for just such a situation. There have been many significant decisions in this respect and I would be pleased to list some of them if a Member asks me to.

Meech Lake undermines the whole principle of equality rights. Clause 1 stipulates that the entire Constitution, including the Charter of Rights, is to be interpreted in light of Meech Lake. Clause 16 provides that only multicultural and aboriginal rights under the Charter shall not be affected by Meech Lake. These specific exemptions lead to the clear conclusion that the remainder of the rights under the Charter may be affected by Meech Lake.

Senator Murray and other witnesses argued that the courts already take Quebec's distinctiveness into consideration in interpreting the Charter. Yet it is a well-known principle of constitutional interpretation that the legislators are deemed to

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have meant something when they speak. Consequently, if it is true that the Charter was already being interpreted in light of the distinctiveness of Quebec, then Clause 16 must have meant something else. It is because of this that virtually every minority group who appeared before the committee expressed grave concern. The experts who appeared were divided. I find it unacceptable that an amendment to our Constitution should render basic rights more uncertain rather than clearer and stronger. In Clause 1 the amendment says:

(4) Nothing in this section derogates from the powers, rights or privileges of Parliament or the Government of Canada, or of the legislatures or governments of the provinces—

Unlike Clause 16, the operative word is "derogate", not "affects". In other words, the Governments have gone out of their way to ensure no diminution of their prerogatives but they have not done the same for ordinary Canadians. Yet a Constitution is for the people. That was also why women's groups, visible minorities and unions were worried, and rightly so. Neither Meech Lake, nor the Government, nor the process, has provided any tangible assurances.

Senator Murray stated in his testimony that neither the Charter nor the duality distinctiveness provisions would be paramount one over the other. Unfortunately, if that is true, there is an egregious error. The amendment in Clause 1 clearly states that the entire Constitution, which of course includes the Charter, is to be interpreted in a manner consistent with this part. If neither is to be paramount, as the Senator says, then this motion should be amended according to the proposals tabled by my Leader.

Furthermore, we must either amend Clause 16 to make it clear that the Charter and the amended Section 2 are on an equal footing and are to be interpreted one in light of the other, or amend the amendment to Section 2 to state that the Constitution shall be interpreted in a manner consistent with the recognition of the commitment of Canadian society to the fundamental rights and freedoms and equality of all Canadians.

To those who argue that Meech Lake does not diminish the rights of Canadians, I refer them to the report of the joint committee, page 51, paragraph 91, which says that Meech Lake is unlikely to erode in any significant way the existing entrenched constitutional rights of the English-speaking minority in Quebec. The committee says "unlikely". It does not say "does not erode". It does not say "unlikely to erode any rights". It says "significantly" erode any rights. Shall we debate the meaning of the word "significantly"? Absolutely not. The price of Canadian unity must not be the erosion of the rights of any Canadian.

That finding by the committee is all the more shocking in light of the proposed Section 2(1)(a) which says:

The Constitution of Canada shall be interpreted in a manner consistent with
(a) the recognition that the existence of French-speaking Canadians, centred in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec, constitutes a fundamental characteristic of Canada;