

The Constitution

chosen to create a life together which transcends the differences of blood relationships, language and religion, and which willingly accepts the experience of sharing our wealth and cultures, while respecting our diversity.

We have chosen to live together in one sovereign country, a true federation, conceived as a constitutional monarchy and founded on democratic principles.

Faithful to our history, and united by a common desire to give new life and strength to our federation, we are resolved to create together a new Constitution which:

- shall be conceived and adopted in Canada,
- shall reaffirm the official status of the French and English languages in Canada, and the diversity of cultures within Canadian society,
- shall enshrine our fundamental freedoms, our basic civil, human and language rights, including the right to be educated in one's own language, French or English, where numbers warrant,
- shall define the rights of our native peoples, and
- shall define the authority of Parliament and of the legislative assemblies of our several provinces.

We further declare that our Parliament and provincial legislatures, our various governments and their agencies shall have no other purpose than to strive for the happiness and fulfilment of each and all of us.

Some hon. Members: Hear, hear!

Mr. Roberts: It was not the federal government which prevented the adoption of that preamble.

Mr. Siddon: You have the power to put it in right now.

Mr. Roberts: It was not the federal government which objected to a reference to divine majesty, it was provincial governments representing the party of hon. gentlemen opposite which rejected that view.

Mr. Siddon: That is a cop-out. Put it in right now.

An hon. Member: Listen and learn.

Mr. Roberts: I still want that preamble in the Constitution. The government still wants that preamble in the Constitution. We are determined in our further discussions with the provinces, and there will be continuing discussions with the provinces, to have that preamble in the Constitution. I hope they will take place soon, and I believe there will be that preamble in the Constitution.

Some hon. Members: Hear, hear!

Mr. Roberts: The hon. member for Provencher misrepresented our views even more fundamentally yesterday. He argued passionately for inalienable rights. I agree; we agree. He argued that rights are not created by governments. I agree; we agree. What we are saying is that rights are inalienable. They are the essential condition, the context, for the fulfilment of the human personality and the human potential, including the moral and religious capacities of men and women. They flow from the nature of man. We argue that rights are inalienable, and we also argue that the time has come to have the Constitution recognize that inalienability and to make that recognition legally enforceable.

Some people disagree that that is a proper approach. I will go on a little bit later to explain why I think it is the proper approach. However, I think the hon. member for Provencher

honestly misunderstood and misunderstands our position on rights. I will go further and say quite frankly that I do not understand the view of rights held by the hon. member for Provencher. He argued eloquently and passionately for inalienable rights. How can he then, in virtually the next breath, argue that they should be subject to provincial approval and to provincial opting out? He wants a charter of rights but he does not want this charter of rights.

An hon. Member: We live in a federal system.

Mr. Roberts: He does not want this charter of rights because, although he wants inalienable rights, he wants the provinces to be able to alienate them. I do not know how anyone can make that argument consistently. It is not credible, I suspect, to very many members of this House.

Our great objection to an amending formula based on the Vancouver principle, which the hon. member supported so strongly yesterday, is, as is commonly said, that it could create a checkerboard of rights. I would not use the word "checkerboard". There is a certain consistency about checkerboards. It would be a "crazy quilt" of rights across the country. However, the hon. member said a checkerboard is acceptable. Why is it acceptable? Because we do not live in a unitary state? I suggest it is not acceptable, and the question has not to do with whether one is in a federal or unitary state. It is not acceptable because it transgresses exactly that ideal of inalienable rights the hon. member expressed and because it creates different categories of rights for Canadians living in different parts of Canada. It is an exact contradiction of what a right is.

I believe passionately, as does the hon. member, in inalienable rights. I believe strongly that they must be entrenched with legal protection for all Canadians and not be subject to the whim of acceptance by provincial governments nor, for that matter, the whim of acceptance by a federal government.

There are those who protest—this was a point the hon. member made yesterday—that protection by Parliament and by legislature has been a safe enough protection for individual rights in Canada. I do not think history bears that out. There have been infringements of those rights based on racial discrimination, and I refer to Japanese-Canadians. Rights have been infringed on religious bases, and I refer to those of the Jehovah's Witnesses. Language rights have been infringed. The rights of free expression have been infringed by padlock laws. I do not think those aspects of Canadian history we are not so fond of recalling would justify the view that always the protection of rights by parliaments and legislatures has been satisfactory. There is a good reason for that. It is that parliaments and legislatures are dominated by majorities. While it is important to protect the rights of majorities, it is most often the rights of minorities and the rights of individuals which are threatened by governments and require the protection of the rule of law.

In any case, even if one does hold strongly to the view that parliaments and legislatures are an adequate protection for natural rights, there is nothing in these proposals which prevents legislatures from respecting the rights of their citizens.