

*The Constitution*

Minister to stand in the way of bringing forward this constitutional resolution which will give Canada its first, updated and modern constitution. I think it is nothing but another example of this political myopia to which I alluded a few minutes ago that our premiers want to think only of their provinces and regions instead of putting the interests of the nation as a whole first and foremost.

What advantage could be gained from yet another constitutional first ministers' conference before the resolution goes before the Supreme Court of Canada, if most of those ministers cannot agree among themselves as to what a new constitution should be all about? At their second last ad hoc meeting in Montreal they could not issue a press release because they could not even agree on an agenda. After a half century of fruitless bargaining with the provincial premiers, I say it is fair and reasonable for us at the federal level to proceed. I am afraid that another first ministers' conference would lead only to another first ministers' confrontation, in spite of the so-called compromise consensus announced last week by eight of the premiers. What is to be gained from an amending formula, the very basis of which is the right to opt out? When human rights are enshrined in a charter, those rights must be inviolate. All Canadians must be protected, not just some.

I would like to draw special attention to the work of two members of my caucus in their successful efforts to give our native and aboriginal peoples a fair deal. If it had not been for my leader and the hon. member for Nunatsiak (Mr. Ittinuar), these peoples would have been no further ahead in their struggle for rights and freedoms than they were before the resolution was drafted. In the original draft, only those native and aboriginal rights already recognized by the federal and provincial governments would have been included in the document. Thanks to the hard bargaining of my leader and the hon. member for Nunatsiak, all aboriginal and treaty rights are guaranteed and enshrined in the constitutional resolution, much to the chagrin and extreme displeasure of most of the provinces.

Further, there has been much discussion and debate as to the position of our Commonwealth colleagues at Westminster. Many Tories and other opponents of the constitutional resolution have argued that we are forcing Westminster to do our dirty work for us; that we are forcing them to pass a charter of rights and an amending formula that we could not have passed here in Canada. I find this argument not only spurious but deliberately provocative and contrived. If the argument had any validity at all, I would ask the question; Just what have Canadian parliamentarians in this House of Commons and in the constitution committee room been doing for the last five or six months? Surely the opponents of the Constitution do not think that they can seriously expect the people of Canada to accept their argument?

The constitutional resolution is a Canadian document. It was written by Canadians, here in Canada, for Canadians. All we are doing in sending the document to Westminster is using, because of legal necessity, a traditional and historic technicality, I hope for the last time. It forces the British parliament to

pass the constitutional resolution, because in so doing the British parliament is patriating the British North America Act of 1867 which we all know is an act of the British parliament.

As far as the resolution's fate at Westminster is concerned, I am strongly optimistic that our Commonwealth colleagues in London will appreciate the wisdom of passing it with little or no debate. In my judgment, they have no alternative.

In conclusion, Mr. Speaker, I should set the record straight on one point. The constitutional resolution is not the Prime Minister's Constitution. Because of the hard work done in committee, the original draft has now become a dynamic, compassionate, effective and reasonable document. The constitutional resolution is the product of many parliamentarians. I have no illusions about its application. As in all other federal jurisdictions in the free world, there will continue to be jurisdictional disputes, there will continue to be differences of opinion, there will be continued differences in adjudication. But I feel that we have a document that is both relevant and workable and that future parliamentarians, prime ministers, provincial premiers and jurists alike will, over time, continue to mould an even better constitutional framework for future generations. For the present, I am satisfied that we have done a good job.

● (1700)

There are two aspects to this debate that I find somewhat difficult to comprehend. One is the argument raised mainly by the Conservatives about the exclusion of property rights in this resolution. It is my understanding, based on the British North America Act, that both property and civil rights are under provincial jurisdiction. When we wrote the charter of rights, we were in effect taking away a very large area of jurisdiction from the provinces and putting it under federal control. I find it incomprehensible that we would also try to take away the other major area of jurisdiction from the provinces, namely property rights, if we were at all serious in the first place about getting provincial consensus and support for the Constitution.

I would like to state very clearly that in supporting this resolution I am in no way voting against the right to own private property. I simply say that property rights and property ownership rightfully come under provincial jurisdiction for a variety of reasons. It is much easier and legally feasible if, for example, arguments concerning rights of way, easements and expropriation of private property are adjudicated, along with the legal struggle or battle, among the municipalities and owners of private property under the auspices of provincial governments, rather than taking the legal battle to the Federal Court in Ottawa.

That is one reason why I support this Constitution as far as property rights are concerned. Property rights and ownership of private property belong with the provinces. Let them pass laws dealing with whether governments at all levels can expropriate; and, if the expropriation goes through, there should be fair compensation.

The other point I cannot understand is why the Leader of the Opposition (Mr. Clark) would for so long support five, six