

The Constitution

The issue is not a Canadian charter versus a charter from Westminster. The issue is a charter of rights debated, studied and approved by the Parliament of Canada dealing with the basic attributes of Canadian citizenship, versus a Canada where the guarantees of these freedoms are subject to permanent veto by the provinces or, equally fatal to our country, subject to some provinces deciding to opt out of basic rights.

Let us look at what the charter actually provides and what it will really do. The charter guarantees certain freedoms which Canadians have come to recognize as fundamental: freedom of speech; freedom of association; freedom of conscience and religion; the right to work and live anywhere in Canada; the right to vote in democratic elections; the right not to be detained by the state without having a criminal charge laid; the right to counsel; the right, in the case of certain serious charges, to a trial by jury; protection against the state having unlimited powers of search and seizure; protection at trial against the use of illegally obtained evidence; the right to a bail hearing; and other associated legal rights.

The second thing the charter does is to guarantee what it calls equality rights. This will have the effect of making discrimination on the grounds of sex, colour, creed, religion and mental and physical disability unlawful. It means that every citizen of Canada has the right to demand of his fellow citizens and of his government, whether provincial or federal, that he or she be treated equally and with respect. It means that those citizens who feel that they have not been treated equally can take their fellow citizens and their governments to court to have those rights enforced. It means that certain practices and prejudices will have to change. It means that minorities, however temporarily unpopular, as well as all Canadians will have constitutional guarantees of equal treatment before and under the law.

This is not just a right to fair procedure; it is a right to equality in the substance of the laws themselves. It means that no person and no government is above the law but is subject to it. It means that federal and provincial governments are equally subject to claims by all Canadians, of whatever background, that they are to be treated equally in form and in substance and that, if they are not treated equally, they can take their government to court. It means that this right to take the government or anyone else to court cannot be unilaterally taken away by either the federal government or a provincial government.

This is a charter with teeth, and many of the weaknesses in the courts' interpretations of the Diefenbaker Bill of Rights will be removed because of the clarity of the standard Parliament is setting in this charter. It is to clarify these standards further that our party is putting forward its amendments respecting women and native people.

The third feature of the charter is the section on language rights, the guarantee that French and English will be the official languages of the country and the guarantee that minority language rights in education will be protected everywhere in Canada wherever numbers warrant. I regard these provisions as the fulfilment of the promise of 1867. I am proud

of our official languages, and so is our party. We have to provide for their full expression.

[*Translation*]

To those Quebecers who are convinced that the proposed provisions ensuring minority educational rights strike a blow at provincial integrity and jurisdiction, I must say that I do not agree with these conclusions for fundamental reasons. The educational rights of francophone minorities are now protected throughout the country. It was a long and hard-fought battle, but we won over the forces of reaction and intolerance in the rest of Canada. There will never be another Penetanguishene.

This is not simply a matter of education, but a matter of survival and of cultural development. The French language is as vital for the life of francophones as the air they breathe. If these minority educational rights are recognized, they must also be recognized in Quebec. I cannot believe, Mr. Speaker, that to recognize minority rights in well-defined and limited provisions such as those in the resolution really threatens the francophone majority in Quebec, in view of the vigour shown by Quebec in the last few years and of the sure and confident manner in which Quebec has managed its political and cultural affairs for so long.

Personally, Mr. Speaker, I sincerely regret the decision of the Ontario government not to recognize officially what actually exists already for Ontario francophones as far as the recognition of French in the legislature and in the courts is concerned. If clause 133 were to apply to Ontario, nothing would change in actual fact, but it would have a significant symbolic value for francophones in Ontario and elsewhere in Canada. The rights of Franco-Ontarians should be recognized in the same way as are those of the English minority in Quebec; this would be only fair.

Some hon. Members: Hear, hear!

Mr. Rae: For my part, I am deeply disappointed in the Ontario government which, in the name of certain egotistical interests, refused to be generous to the francophone minority in Ontario. I sincerely hope that the Ontario government will change its policy in this regard.

[*English*]

In addition, the charter of rights sets out to guarantee the principle of aboriginal rights for Canada's original peoples, the Indian, Metis and Inuit. There is also the assurance that the question of land claims and other aspects of native rights will be on the agenda of forthcoming federal-provincial meetings between the first ministers.

The explicit recognition of the historical and collective rights of Canada's original peoples is, in my view, a milestone in our constitutional history—

Some hon. Members: Hear, hear!

Mr. Rae: —a milestone which would not have been achieved without the determination and courage of a number of people,