

very important. One might well ask whether a deadlock-breaking mechanism is necessary or whether a referendum or an appeal directly to the people of Canada is the appropriate mechanism to break that deadlock.

The first thing to remember is that a way to break such a deadlock between provincial and federal interests has always existed. It has existed for the 113 years of our confederation. But that method will go out of existence the instant the constitution is patriated. It will no longer be there. That safety valve will be gone. That residual power has always been vested in the British Parliament, which has the power to amend the BNA Act without unanimous request. It is not important whether or not the British parliament used that power. In an emergency it was there, and the fact that it was known to be there had a salutary effect on many considerations.

When we bring home the constitution we shall be living in new circumstances. The British parliament will be washing its hands of Canada. It will say it will not enact any more legislation, and its members will probably say thank God they are rid of us. But that parliament will no longer be in a position to be the safety valve, no longer there to be the deadlock-breaking mechanism. We must substitute a new deadlock-breaking mechanism or have none.

I fear that those who assail the deadlock-breaking mechanism by way of referendum have not applied logic to understand the result of not having one. I for one would be extremely uncomfortable to have a constitution in a federal country as diverse and as vast as Canada without provision for an ultimate appeal to the people, or some deadlock-breaking mechanism.

Surely as Canadians, with our fights between the provinces and federal governments, we have demonstrated ample capacity to reach a deadlock. In all such cases does anyone really believe that a strait-jacket of the status quo is preferable to an appeal to the ultimate sovereignty of the people? If that appeal, that deadlock-breaking mechanism, is not to be to the people by way of a referendum, what else? Would it be an appeal to the Dalai Lama, or some other provision? I think that does not make much logic, and that, of course, is where I quarrel with the Right Hon. Leader of the Opposition (Mr. Clark).

The Right Hon. Leader of the Opposition is a man for whom I have very considerable respect, a respect beyond that which his office and past offices command, but for him to say in very dramatic fashion that section 42 would or could destroy the provinces and could destroy Canada is a very extraordinary statement.

That right hon. gentleman must know that it provides a narrower opportunity of breaking a constitutional deadlock than presently exists and is, therefore, less of a threat to the provincial powers which he mentions. As long as the constitution remains in England the British parliament has the ultimate residual power to make any change, regardless of how drastic. The constitutional practice has been that the British parliament will act on a resolution of the national Parliament

alone. This government is giving up that residual emergency route in bringing home the constitution.

The only case I know of when a province tried to go directly to the British parliament was after Nova Scotia came into confederation in 1867 without a plebiscite in Nova Scotia and the people objected to what the legislators had done. Joe Howe and some of our other boys went overseas and tried to get the British parliament to reverse it. They went as far as getting an independent, John Bright, to make a speech in the House, but the government at Westminster said then, and they have said ever since, that they will deal with the national government of Canada.

This government has far more power to bypass the provinces than it would have under this new provision. Despite the fact that the power has existed for 113 years it has not been used to destroy the provinces. The Leader of the Opposition by his remarks places less confidence in the Canadian people than he does in the British parliament. I would hate to think he shares with René Lévesque comfort in retaining a somewhat colonial status, for if he is willing for patriation I find it hard to believe he would want a constitution without a safety valve. Let us see if his fear is well based, or whether it is another case of contrived hysteria.

In what situation would section 42 be used? It would be used if fundamental disagreement existed between the federal government and some premiers on a constitutional amendment that became necessary and important to the country because of circumstances that could not possibly be foreseen now; maybe 50 or 100 years from now. When you lock yourself into a constitution you lock yourself into it forever.

Let us ask how safe is that safety valve? This appeal to the sovereignty of the people when there is a deadlock between the provinces and the federal government does not just require a majority of the people across the country voting for it.

• (1530)

Because of the regional nature of Canada, the Victoria formula requires that a majority of the people in the Atlantic provinces, a majority of the people in Quebec, a majority of the people in Ontario and a majority of the people in the west turn their backs on their premiers and vote for the federal proposition. That is a very dangerous proposition, is it not? Do hon. members remember the days of the clash between the Right Hon. Mr. Diefenbaker when he was prime minister and Joseph Smallwood who was premier of Newfoundland? It had something to do with a strike there. They had a terrible clash. If an appeal had been made by way of a plebiscite by the federal government, do hon. members think the federal government would have had any chance of carrying a majority in Newfoundland against Mr. Smallwood? Obviously it would be equally ridiculous today. Let us suppose that a federal government was trying to take resources away from Alberta and a plebiscite were called in Alberta. How great are the chances that the people of Alberta would vote against Peter Lougheed, for the "feds" and for a transfer of the resources? Hon.