

*The Constitution*

I should like as well to pay tribute to the hon. member for Yorkton-Melville (Mr. Nystrom), who unfortunately is not in the House at present, for the outstanding work he has done in the committee as his party's chief spokesman. Believe me, I do not do so because the hon. member has announced he is going to split with his party. I would have taken the opportunity to do so anyway because we were all impressed by the very constructive and difficult role performed by him. We knew, those of us who worked with him, that he did not subscribe to the position of his party, and yet he put that position forward, as was his responsibility and duty. I congratulate him and his three colleagues—and especially I congratulate the hon. member for Yorkton-Melville because he is his party's spokesman on the Constitution, so the decision was perhaps more difficult for him—for announcing that they cannot support this package. That, of course, is consistent with the position which the hon. member for Yorkton-Melville took when this measure first came before this House.

Perhaps I might as well put on the record that just a few hours ago the Premier of Saskatchewan held a press conference at which he announced that he could not support this package. He was provincial premier number eight to do so. That means there are eight provinces today in this country which are opposing the process and the substantive parts of what is in this measure before us. The Premier of Saskatchewan said:

I was disturbed because I felt his action would widen the divisions in Canada.

Then he went on to say:

I was disturbed because while the September first ministers' conference failed, agreement on a compromise package of reforms had been so very close.

● (1640)

That was the message all premiers brought to us as they appeared before the committee.

The government can talk all it wants about the second phase of these negotiations. There are very important matters to be dealt with in the second phase. For example, we have been told that a preamble to the charter of rights is something which must come in the second phase of negotiations. We have been told that offshore rights, fisheries jurisdiction and a number of other questions must come in the second phase. But let us think for a moment about the climate which has been created for that second phase of negotiations. Realistically it is not a climate which is conducive to productive agreement on the second or third phase of the Constitution. The government will be sitting down with ten premiers, eight of whom feel that the process is illegitimate, to say the least, and that the government has violated the pact of confederation with its charter of rights and amending formula which transgress areas of provincial jurisdiction. They will do an end run around provincial legislatures, relegating them to nothing but mere municipal councils. This kind of atmosphere would not be conducive to agreement on anything. So, there will be no second phase for some time to come, and that is a tragedy.

I could talk about the charter of rights. A number of my colleagues spoke with a great deal of compassion about the most important and basic right of all—the right to life—and the impact the charter of rights could have on the question of abortion. What will probably happen is that the abortion question will be decided in the cold, harsh, cruel light of the interpretation of the exact wording of the law, not in an atmosphere where human dimensions and social pressures of the time will be brought to bear on that very important question.

Somebody said before the committee that there are two parts to the law. There is the bare bones of the law, but then there is convention and practice which clothe the law in flesh and blood. The flesh and blood element is not a part and, indeed, should not be a part of the judicial process; but it should be and has been up to now an important part of this legislative process.

The right to hold property is basic in a free and democratic society. It was denied us in committee. It had been promised us, then it was denied us. I could talk about property rights and what they will mean. I know how a grandson of an immigrant in Saskatchewan would feel if his grandfather had come to this country looking for land and the freedom which land provides, if he had cleared that land with his bare hands, if that quarter section or whatever was his. How do we explain to that gentleman that his Constitution denies or does not recognize his right to hold and enjoy property?

**Mr. Blaikie:** You are full of it.

**Mr. McGrath:** I heard the interjection of the hon. gentleman. It is worthy to note that the opposition to the right to hold property came from the province of Saskatchewan, which has that very right written into its own charter of rights.

**Some hon. Members:** Hear, hear!

**Mr. McGrath:** Now, how is that for a double standard? I suspect my hon. socialist friends find that the truth hurts.

I could talk about the rerouting of the charter. The hon. member for Hochelaga-Maisonneuve said, "How are you going to get agreement from the provinces if you reroute the charter?" If we agreed to reroute the charter, we would be creating a better climate of co-operation in the country. Because in so doing, we would be recognizing what the provinces have been saying, that is, that under the balance of power of our federation there are two jurisdictions in Canada, and we must respect both jurisdictions. This process of unilateral action and this entrenchment of a charter denies the rights of the provinces to have their jurisdiction protected, protection which I submit is accorded to them under the provisions of the Constitution.

Also the hon. member for Hochelaga-Maisonneuve talked about the importance of the charter of rights in protecting human rights and fundamental freedoms. I happen to hold very strongly the opposite view. I would say, with respect to my hon. friend, that the entrenchment of a charter of rights in