

The Constitution

confederation, have been given exclusively to the provinces. The Liberals and the NDP referred to this as a checkerboard Canada; we refer to it as the Canadian federal system. We believe that it is a system that serves Canadians.

Some hon. Members: Hear, hear!

Mr. Beatty: The hon. member for Broadview-Greenwood spoke at considerable length and with considerable eloquence about the value of diversity in our society; about the fact that Canadians live differently; that they have different beliefs and styles of living; about the need to protect that; about the belief that a charter of rights would help to protect the right of people to be different. I believe that and I support the concept of a charter of rights, although I believe that this charter is seriously flawed. He went on to attack the ability of some provinces, under our federal system and under our constitutional amending proposal, to opt out of specific amendments to our Constitution. If it is appropriate for an individual to have the right to lead a life that is different from that of his neighbour, why is it improper for people in one province or one region to choose standards which are different from standards in other areas of the country?

What we are talking about here is not a checkerboard Canada. We are talking about an attack upon the very basis of federalism which has served this country so well for over 100 years.

Some hon. Members: Hear, hear!

Mr. Beatty: The hon. member for Broadview-Greenwood was right when he said that Canada is not a homogenized society. I pray that it will never become a homogenized society. I come from rural Ontario where diversity is a source of pride and where various groups have maintained their ethnic and traditional cultures. This has helped enrich the whole of our society. They have maintained their right to freedom of religion, and I hope that we will never find ourselves in a situation where those rights are taken away.

Why are we proposing, when it comes to the very essence of federalism, when the rights of people to maintain historical legislation, historical traditions, historical ways of life, that these be suddenly swept away by Ottawa and this juggernaut? I say that this is wrong and it is something which this party cannot support.

The Minister of Justice dismissed with contempt what we have proposed in this amendment, that capital punishment and abortion should be dealt with by Parliament, and not under the Constitution. We are concerned that once the Constitution is made law—and the Minister of Justice does not dispute this—inevitably cases would come before the courts based on the charter of rights which would make arguments related to capital punishment and abortion and, as a result of the constitutional amendments we are making today, we could very well find that the power to make decisions on these questions would be taken away from Parliament and put into the hands of the courts and would be virtually impossible to change.

All that we are saying is that the principle which the Minister of Justice says he supports, namely that Parliament should make these decisions, should be explicitly recognized in the Constitution. He says that he has an opinion from the law officers of the Crown to the effect that no court would find that these provisions in any way deal with the issues related to capital punishment or abortion. But on Bill C-60, the Minister of Justice of the day told the House of Commons and told the parliamentary Committee on the Constitution that he had an opinion from the law officers of the Crown that there was no question that the government had the power to do whatever is wanted with regard to the Senate. What happened when that went to the Supreme Court? The Supreme Court found that what the government was seeking to do was illegal and it struck it down unanimously. If the advice of the law officers of the Crown was fallible then, why is it not also fallible today? Why is the minister contemptuously dismissing with the back of his hand, the proposal to ensure that Parliament should make these decisions and not the courts?

The Minister of Justice played an interesting game. He said that initially we were arguing that this was essentially a legal question; that our concern with what the Prime Minister is doing is based on a question of legality; that what was essential was that a court should be heard from; that this was the only impediment to our support for the package, and that now that it is going to the Supreme Court against the wishes of this government, we are shifting ground and saying that we have concern about the propriety or political nature of the proposal. From the outset, anyone who has followed the conduct of this debate since last December knows that we had concerns both about the legality and about the content of this particular resolution. Those concerns remain undiminished today.

• (1640)

Some hon. Members: Hear, hear!

Mr. Beatty: Let us have vigorous debate in this House of Commons about these constitutional proposals, but let us not misrepresent what people who disagree with us are proposing.

When, on March 23, the Prime Minister spoke in the House of Commons, he repeated what has become a familiar Liberal refrain, that this debate is no different from the flag debate and that in time Canadians will forget what the government has done to them. Perhaps they will. Perhaps Canadians will forget that \$6 million of their tax money was used for advocacy advertising campaigns to promote one man's policies. Perhaps they will forget that the Prime Minister had no mandate for his proposals. Perhaps they will forget that in the 1979 election he ran on a platform of constitutional change, and he was defeated. But where in the Liberal literature from the 1980 campaign do we find reference to major constitutional change as the central element in the package? Where does the Prime Minister have an endorsement from the Canadian people?

The Liberals say if Canadians do not like what is being done to them now, that in the next election they can elect a government which will move the Constitution back to Britain