• (1720)

The concept involved was to take into account the preferences of the electorate expressed at the most recent provincial or federal election. This concept would be implemented by each provincial legislature naming its quota of members after a provincial election, and the House of Commons and the federal government would make their appointments after a federal election.

The house of the federation could delay but not veto the legislation. But it would have authority to affirm or veto judicial appointments, including appointments to the Supreme Court of Canada, subject to an overriding power exercisable by the House of Commons.

Another feature of Bill C-60, the constitutional amendment bill, was the proposal of an 11-person Supreme Court of Canada with four judges from Quebec. The bill proposed a nomination process for appointment involving federal-provincial consultation and a joint nominating council if a dispute arose. The monarchy was to be retained, although the role of Her Majesty the Queen was clearly nominal and the prerogatives and functions relating to the Crown would be exercised by the Governor General.

One other parliamentary initiative which should be mentioned is the Senate Standing Committee on Legal and Constitutional Affairs established in January, 1980. This committee considered an elected Senate, the house of the federation proposal of Bill C-60, and the council of the federation proposed by the Task Force on Canadian Unity. But the point of all these exercises was and still is the necessity of involving the provinces in the process of constitutional change.

This brings me back to my original point which I want to underline. The Government of Canada has ignored in its constitutional proposals the pith and substance of proper constitutional reform. The process and procedure whereby the duly constituted federal authority and the duly constituted provincial governments agree and concur on constitutional change. Only constitutional reform which attracts this kind of concurrence and agreement will benefit the people of Canada.

It may be asked what is the proper procedure for constitutional reform and change. The traditional process and the process honoured by parliaments and governments of the past was to obtain the concurrence of the provinces to any constitutional change affecting the provinces. If one reads the Statutes of Canada and the appendices to those statutes, one will see illustration after illustration wherein the Government of Canada sought the consent and the concurrence of the provinces of Canada affected by changes in the British North America Act. There are amendments to the British North America Act which deal with the extension of the boundaries of provinces. That amendment was made to the British North America Act only after consultation with the provinces and with their consent. Unemployment insurance was the result of a consultative process. There may be cases in which the provinces were not consulted in respect of amendments to the British North America Act, but in each case the provinces were not affected in the manner in which they will be affected by the constitutional proposals now before the House of Commons.

I do not think there is any doubt in the minds of members of Parliament on this side of the House, and I do not think there is any doubt in the minds of Canadians, that the provinces of Canada must be consulted with respect to constitutional change and that only constitutional change which comes about as a result of the consent and the concurrence of the provinces will be effective in Canada. It is much more than a question of process. Hon. members on the other side do not understand that they will enact constitutional changes not only to their peril, but to the peril of all Canadians.

Why should there be provincial consent to and concurrence in constitutional change? It is absolutely necessary in order to have the basic support for the constitutional provisions when they are enacted. I could give a hundred examples, but let me say that in my career I had occasion many times to deal with law in its application to people. Even though a law is carefully written, appears to observe proper standards and is intended to benefit people, that law in its application can result in great injustice and unfairness if it is not properly administered. Yet the Government of Canada in its constitutional provisions is asking the provinces properly to apply, implement and administer a law with which they have not concurred, a law which they have had no opportunity to review and examine. That kind of law will not accomplish whatever the Prime Minister thinks it might accomplish.

I must say that it is not necessary to have complete unanimity; no one has suggested that. The more agreement one has to the enactment and application of a law, the more effective the law will be, whether it is a constitutional law or any other law.

I want members in the House to reflect upon the fact that there is no magic to the constitutional provisions contained in the charter of rights. They are no different from any other words on pieces of paper. They have to be applied by the same people who apply the laws in Canada, they have to be observed by the same people, and they have to have the same spirit and backing as any other law of Canada. There is nothing magic in the House passing a law under the guise of a constitutional amendment, a charter of rights which will go forward to the parliament of the United Kingdom to be rubber-stamped and then come back to Canada. When it comes back to Canada, there will be no magic to its enforcement; it will have no greater force than the people who support that law.

The matter of the constitutional proposals and their application to Canadians has been much discussed in Nova Scotia. Early in the constitutional debate, in November, 1980, I had occasion to participate in a public forum sponsored by the Council on Canadian Unity. The Minister of Labour was present at that meeting, as well as representatives of the provincial legislature. We debated the need for and desirability of constitutional change. I am proud to report to the House what I said on that occasion, that the fight has just begun, that the constitutional debate would be escalated in Canada and that the constitutional proposals would be exposed for what they were—the product of one man with the apparent loyal