constitutional process by rendering irrelevant its legislature's vote on any future amendments?

The House is to be deprived of the right to amend substantively and, instead, a committee is to deal with the issues, with no guarantee of their ability to change matters of substance.

On the respect for Parliament and the people of Canada displayed by this procedure, I will quote from a less exalted source than those I have been using, namely, from the infamous memo to cabinet from the Prime Minister's constitutional advisers. It reads:

A highly contentious measure may be best contained in a committee where it is more readily managed by the House leaders and his officers, and where easier and more effective relations can be maintained with the press gallery, since relatively few reporters will follow the proceedings.

So members of Parliament are to be dealt with in the arena in which they can most easily be managed, in committee, while press relations are to be based on lack of knowledge. Such a procedure can only result in substantial bitterness as well as real cynicism about the commitment of the current government to the fundamental tenets of democracy.

Some hon. Members: Hear, hear!

Mr. McKinnon: The faith of the citizens in the justice and merits of these changes in the constitutional order will depend, in large part, upon the way in which they are seen to be done. This brings me to an area of broad concern with these procedures: the general spirit in which things are being done and the way in which the changes will be perceived.

I spoke earlier about a feeling of rancour and distrust, and that is surely what will result from the actions taken yesterday and today in voting closure. While it is unfortunate that such unpleasantness is developing over any government action, it is a threat to the nature of politics when it develops over constitutional matters. While constitutional change does not require social unanimity, successful change surely requires the broadest possible consensus that the procedures were fair. On this topic I should like to quote from the classics, not from Machiavelli so in vogue in some quarters of the House, but from Aristotle, who said:

Legislators would therefore direct their attention to the causes which lead to the preservation and the destruction of constitutions and on that basis they should devote their efforts to the construction of stability. They must be on their guard against all the elements of destruction, they must leave their state with a body of laws, customary as well as enacted.

It is precisely this latter element of stability—the customary body of laws and procedures—to which this resolution does violence and which puts at risk the social consent on which the constitution ultimately depends.

On this matter I will use another quotation, this time from Bagehot's study, "The British Constitution." It reads:

There are two great objects which every constitution must attain to be successful, which every old and celebrated one must have wonderfully achieved: Every constitution must first gain authority, and then use authority; it must first win the loyalty and confidence of mankind, and then employ that homage in the work of government.

● (1750)

In seeking to use authority in the form which he alone desires, I fear the Prime Minister may forget the loyalty and confidence upon which it must be based. This House must look with foreboding on this possibility.

Thus far in this debate I have concentrated upon the grave defects in the way in which the Prime Minister wishes to have the constitution patriated and amended. While these procedural considerations are clearly the most important ones, for they affect the spirit of the constitution, there are in addition substantive problems with some of the changes being proposed. I will now turn to those specific defects.

To begin with, I should like to look at section 42 of the resolution. In this formula for future amendments, the government is proposing radical changes in the nature of constitutional government. While the use of a referendum is itself new, the really radical departure from current practice lies in the complete circumvention of the provinces. Before this, any change which affected provincial governments had to involve those governments in the decision. Section 42 would see the federal government appealing directly to the people over the heads of the provinces. Not only would the federal Parliament—and particularly in times of majority government, that means one political party—decide upon the issue and the wording of any plebiscite, but section 46(1) gives the federal government the power to set all the rules for the conduct of any debate or campaign on the question that was to be posed.

The Prime Minister says this will only be applied in case of deadlock, but to him deadlock is when he has one viewpoint and the ten premiers have another. It never enters his mind that the ten premiers might be right and that he could be wrong.

While this power to make the rules under which any campaign would be conducted is an obvious example of the federal government's self-created monopoly on initiating and controlling constitutional change under section 42, a more fundamental source of control lies in its power to choose the substance and wording of any referendum. This gives the federal government all of the initiative.

To understand the consequences of this, consider a case in which the federal government, with or without the support of the bulk of the provinces, wanted a particular amendment but faced adamant opposition from enough provinces to block amendments under the provisions of section 41. In this case the federal government would be able to circumvent the provincial opposition and go directly to a referendum with a question phrased to its liking, at a time of its choosing, with the rules it selects, and as we now know, with an unlimited advertising budget paid by the taxpayer.

Now consider the converse case where there is extensive or even unanimous provincial agreement on a proposed change which faces opposition from Ottawa. In this case there is no recourse for the provinces; the federal government would retain an absolute veto. This asymmetry in the position of federal and provincial governments when it comes to amending