

*The Constitution*

worth while which was generally acceptable, or not unacceptable, to each one of us individually. We never had the pretension of writing a political bible. We hoped only that others would follow the example we tried to set.

Compromise, said the late Hon. Guy Favreau, is "the meeting point between the thoughts of two intelligent beings." As John Kennedy wrote in "Profiles in Courage":

Compromise is not mean cowardice. Indeed it is frequently the compromisers and conciliators who are faced with the severest tests of political courage as they oppose the extremist views.

The content of the resolution before us is a compromise between those who wanted more and those who wanted less and those who wanted both more and less. It may not fully satisfy every one of us—or any one of us for that matter—but it should be accepted, in my view, by the greatest number of people as a first step.

I have learned throughout the years that to compromise with others, one must first compromise with himself. I cannot ask others to give if I remain unyielding in my own first choices of means toward an end which I share with others. So, I am compromising, as I should.

[*Translation*]

Is the kind of unilateral action stemming from this resolution justified? Like everybody here—I am sure—from the Prime Minister (Mr. Trudeau) to the hon. member for Hamilton West (Mr. Hudecki) who was recently elected to the House, I would have wished that government heads would have come to an agreement on four, six, twelve, twenty reform issues before patriation. Unfortunately that satisfaction has been denied to us.

History will doubtless seek to determine who was responsible for the failure of those negotiations, of those which have been going on for so long since 1969, of those which lasted throughout the summer of 1980. Due to the complexity of events, history will fail. I suggest history will consider the list of proposals that the premiers made on that September Friday and will maybe rule that they had worked out marvellous compromises among themselves by adding their first respective choice and disregarding the position of the central government. This is a well-known fact. Be that as it may, two facts remain, the first being that we failed to agree. I deplore the fact we did not, I am sorry we did not, it grieves me that we did not, I could cry about it!

We did not agree, Mr. Speaker, that is one fact. The other is that we do not seem, to my mind, to be about to agree either. So things being what they are, can and must Parliament sanction the present resolution? I ask myself a first question: does that resolution reflect the spirit of Canadian federalism? At first glance, surely for some it does not because it imposes its will upon the constituting governments. But, Mr. Speaker, and I must insist on that point, there is not only one conception of federalism in Canada. Professor Mallory, for instance, after having observed that federalism in Canada—

—is different things to different people—

—writes that Canada has known five forms of federalism since 1867: the quasi-federalism of its early days, the more classical federalism which followed, the federalism of emergency of the war, the co-operative federalism which followed the war, and the mixed federalism of dualism, which he calls the double image federalism of today. And he adds: those forms overlap. Professor Edwin Black, in "Divided Loyalties," speaks of the five concepts of federalism in Canada: the centralist federalism, the administrative federalism, the co-ordinated federalism, the contract theory federalism, and the dualist federalism. He concludes:

[*English*]

A combination of the concepts is required to characterize Canadian confederation at this time. The federation is chiefly co-ordinate in its political essentials, largely collaborative at the senior levels of the public bureaucracies, and tending to adopt linguistic cultural aspects of the dualist concept. Traces of the compact theory were represented in the constitutional amendment movement, but little evidence was to be found of the centralist concept in any influential circles.

[*Translation*]

There, to my mind, is an important idea. Before passing judgment on events and men, as in the case, for instance, of the resolution before the House, one must perforce realize that the concept each one of us has of federalism need not necessarily be that of all the others. And, as a consequence, I feel one must try to reconcile his own interpretation with that of the others.

Mr. Speaker, I suggest that it can still more simply be classified into two schools of thoughts, namely federalism of juridical equality between the two levels of government, to which the Task Force on Canadian Unity generally adhered, and a federalism of juridical seniority of the central government, which this resolution moderately reflects to a certain extent since it claims to be founded on present, previous, former and past agreements with the provinces. This second school of thought, which I call federalism of juridical seniority, emphasizes, because of its wider, more ultimate and final responsibilities, that the federal government has obligations to Canada as a whole which it alone can meet, in the interest of the common good, especially in cases where there exist apparent deadlocks such as the one we are faced with now on the constitutional issue. That is a highly defensible position which I can appreciate for what it is worth, that is to say, a lot. By the way, people would be wrong to think that the rule of unanimity is an essential corollary of federalism of juridical equality. As a matter of fact, several supporters will accept that it may be limited by the will of the majority or for the sake of political expediency.

In any event, I for one refuse to become the prisoner of either one of these two schools, though psychologically I prefer the first one. It seems to me that there are circumstances when the second school is right and this happens to be one of them. Second question: is the unilateral action on the part of the government, on the part of Parliament under this resolution