

The Constitution

half a century, has failed. We are saying the time has come in light of that failure to take our responsibilities as a national Parliament, representing the citizens of Canada, to strengthen our system of government by clearly defining how changes to the powers of government can take place within Canada.

● (1620)

Why has it failed? The reasons for the failure can probably be left to the historians. I suspect that when they examine the reasons for the failure, they will decide that, understandably, within any federal system there is natural tension between the views of the national and provincial governments. I suspect that they will also decide that the provinces were reluctant to give up an advocacy of unanimity for amendment knowing full well that that provided them with a useful bargaining instrument to try to get greater administrative and legislative powers from the federal government.

It is because we believe that historical evidence has shown us that unanimity is impossible to achieve that we have brought forward for the consideration of the House proposals which deal particularly with two areas: the charter of rights, to which I will refer later, and the question of an amending procedure for the Constitution of Canada.

The hon. member for Provencher (Mr. Epp) said yesterday that the amending formula, whatever it was, should have two characteristics: it should be fair and equitable and should reflect the federal nature of Canada.

The amending process which we have brought forward for the consideration of the House exactly meets those requirements. It reflects the federal and the regional nature of Canada. For the first time, it formally involves the provinces in the amending procedure—a procedure which is designed to ensure that there is substantial support for amendment to the Constitution in each of the four regions of Canada. It is a fair procedure because it provides opportunity for the provincial governments to present an alternative formula for the approval of the people of Canada, if the provincial governments can agree on one to be presented.

Yesterday, the hon. member for Provencher said, "Well, there is virtual unanimity on the part of the provincial governments as to what formula they would like, the Vancouver formula." Then he went on to say that our requirement of seven provinces, seven out of the ten, representing 80 per cent of the population, should agree, and we would put that formula to the people, was, he thought, an "imposition of tyranny". It was a very bizarre statement, because later on, when he discussed his own amending formula, he suggested that what is required at one stage in the procedure is the agreement of seven provinces containing 50 per cent of the population. It is difficult for me to understand why seven provinces containing 80 per cent of the population is a "tyrannical imposition", while seven provinces representing 50 per cent of the population he calls an "achievement of consensus".

An hon. Member: Taking it out of context.

Mr. Roberts: Well, the hon. member says I am taking it out of context. It is a bit difficult to do otherwise because there are so many contexts out of which one can take things.

There have been at least three varieties of amending procedures suggested by the opposition. There is the Tremblay formula, which I gather has now been taken back. There is the Vancouver formula, which they now find difficulties with. There was a whole range of options presented yesterday by the hon. member for Provencher. The difficulty with his point of view is that, literally, one does not know what the end result of his proposals would be?

At one point he said he was against unanimity. Fine. Then he held up the example of the United States as having an equitable constitution. The United States required approval of three quarters of the states. If you apply that to Canada, it means you would need to have approval of only eight of the provinces. That means that you could have constitutional changes imposed over the views of the Ontario and Quebec governments together, or over the views of the Alberta and British Columbia governments together, or over the views of the Nova Scotia and New Brunswick governments together. And he thinks that that is an equitable formula.

Then he suggested that perhaps what should be done is to repeal Section 7 of the Statute of Westminster. The effect of repealing Section 7 of the statute would be to transfer authority from the British North America Act to this Parliament with no role for the provinces in any way. Is that the kind of amending formula that he wants?

Then he suggested that what we should have is the Vancouver formula, because he says there is an agreement in principle by all governments. One difficulty with that is that it is simply not true. Premier Hatfield indicated to the joint committee that there was not support for the Vancouver formula. Indeed, Mr. Wells, a minister in the Ontario government, wrote to the hon. member for Edmonton East (Mr. Yurko). It is a matter of public record. I will just read two paragraphs from his letter on the Vancouver formula which the hon. member for Provencher says is accepted by everyone in principle. I am now quoting Mr. Wells:

I have gone to some considerable length in recounting these events because I believe that they should be carefully considered by you and your colleagues in determining your ultimate stance on the federal resolution. While ministers and first ministers were willing to give various consideration to the Vancouver formula in spite of its potential checkerboard effect in the hope of achieving consensus, they could not come up with solutions to the two serious technical problems the formula contains. The problem of applicability, in particular, reopened all the arguments with regard to the general formula. If opting out could not be applied, then a 50 per cent population requirement was considered too flexible; unanimity was too rigid; 85 per cent left out the Atlantic provinces; a regional formula was regarded as treating some provinces unequally.

In sum, our discussions held out the potential for consensus, but it was not achieved in fact. The explanation lies not in the ill will of any of the participants, but in defects inherent in the formula itself.

Then the hon. member for Provencher says, "We recognize that there are some drawbacks to the Vancouver formula, some uncertainties". So what we will have, as I mentioned earlier, is that if seven provinces containing 50 per cent of the population can agree on something, that is what we will