assuming that no referendum is held to choose an amending formula, or before 1986, if such a referendum is held.

Mr. Speaker, if the Victoria formula under Section 45 of the resolution becomes the chosen procedure, it may seem a good idea at first to postpone any true constitutional reform by a few years so that it may be carried out accordingly by a seemingly more flexible approach than the rule of unanimity which has prevailed until now. In other words, is it not true that it would be easier to amend the Constitution with the agreement of only six, seven or eight provinces and the federal government, as advocated under the Victoria formula, instead of having to seek unanimity in keeping with the constitutional practice followed since 1931? It would seem that the need for unanimity is more restricting, but how does that stand up in light of the facts? As things are now the constitutional debate rests basically on a relationship between political forces of which none can invoke the Constitution to stop the constitutional reform process. But if we do entrench an amending formula such as the Victoria formula, then the veto of the four regional blocs—Quebec, Ontario, western Canada and the maritimes—will have been lawfully and formally recognized.

● (1630)

It is therefore not surprising, Mr. Speaker, that those provinces, with Quebec in the lead, which want to negotiate wider legislative powers in the course of the constitutional review are reluctant to accept new rules for the game which would give Ontario, for instance, a province which would find it advantageous to maintain the constitutional status quo, a power of veto with the full force of the law. Mr. Speaker, it is amazing to witness the self-confidence shown by some people who proclaim the uncontested and incontestable legality of the action of the central government in this matter. Yet they ought to know that the current constitutional debate raises many questions to which constitutional experts give conflicting answers and that, therefore, nothing can be stated with certainty by anyone whatsoever. Thus it is foolhardy, to say the least, to claim that the rule of unanimity is a red herring and that in the current state of our constitutional law the Canadian Parliament can unilaterally and in any circumstances amend our Constitution on the strength of the fact that in the past the British Parliament has always accepted the requests of the Canadian Parliament when it came to constitutional amendments, without even taking into account the objections raised now and then by the provinces.

Incidentally, Mr. Speaker, I would say that the real red herring is rather to make people believe, after it has been asserted that the federal Parliament has the unlimited power to amend alone the constitution, that the provinces will be in a better position after patriation since they will then have the formal right to object to any constitutional change. How can anyone take such an argument seriously, Mr. Speaker, when we know that a veto will be granted to the provinces only after the federal regime has been revamped, and that only in accordance with the views of the central government? Let us go back to the question of the rule of unanimity. First, one has to know that if the provinces were indeed ignored in many instances, it is because several of those constitutional amendments did not change in any way the basically federative elements of the 1867 Constitution. However, in its opinion of 1980 on the Senate, the Supreme Court of Canada pointed out, and I quote:

> The 1940, 1951, 1960 and 1964 amendments concerning unemployment insurance, old age pensions, the mandatory retirement of judges, and the old age supplementary benefits were all made with the unanimous consent of the provinces.

Indeed, in the same opinion the Supreme Court refers to a passage of the white paper on the amendment of the Constitution which the federal government itself made public in 1965. It goes like this, and I quote:

> The Canadian Parliament will not request an amendment directly affecting federal-provincial relationships without prior consultation and agreement with the provinces.

Now, then, no one can deny that the proposed resolution before the House substantially changes the rights, powers and privileges of the provinces, in short it changes the essentially federative elements of our Constitution. Indeed, not only does the proposed resolution contain a charter of rights and freedoms which considerably restricts the legislative powers of the provinces, particularly in the field of education with respect to Quebec, but it also includes constitutional amendment formulas which would dictate new rules of the game as regards federal-provincial relations, more particularly because of the fact that, under Section 46, the central government reserves the exclusive right to consult the people of Canada in a referendum should the two levels of government find themselves in a constitutional deadlock. That being said, Mr. Speaker, I for one refuse to go as far as to argue that the rule of unanimity is truly a principle of law to which the Supreme Court will refer when requested to rule on the constitutionality of this proposed resolution. But the spirit which prompted the 1980 advice concerning the Senate allows all kinds of expectations in this regard.

On the other hand, we must keep in mind that Section 91.1 of the B.N.A. Act specifically provides that the Government of Canada cannot unilaterally bring about constitutional amendments affecting provincial rights and powers, their jurisdiction in matters of education, the use of the French and English languages and the duration of the Parliament of Canada. If, under Section 91.1, these matters have been removed from the federal jurisdiction with respect to constitutional amendments, it is precisely because the federal Parliament was not to be allowed to unilaterally ask the British Parliament to amend the provisions of the British North America Act concerning these matters. And yet, this proposal clearly affects the legislative powers of the provinces and especially their jurisdiction in matters relating to the language of education.