

The Constitution

Some hon. Members: Hear, hear!

Mr. Crosby: Because he took that stand when the Prime Minister said he had the people behind him, when it appeared the proposal would go through and would be endorsed and accepted by the people of Canada. He took that stand on principle because what the Prime Minister was doing was wrong, and today it has been proved to be wrong. It does not have the support of the people, and it is the Prime Minister and his supporters who will suffer for that mistake.

Canadians have heard the Prime Minister say time and time again that his proposals for constitutional change evolved from the frustration of years and years of federal-provincial disagreement and inaction. He says that over 50 years of effort failed to produce agreement, that the only effective method and process for constitutional change is unilateral action by the Government of Canada which will exercise its control and authority over the Parliament of Canada.

Certainly proposals have been considered and rejected, but what in specific terms has the Prime Minister done to bring about constitutional reform? Between 1968 and 1971 federal and provincial ministers met seven times in constitutional conferences and produced the Victoria charter which was rejected by the province of Quebec. Apart from these meetings the only real initiatives the Prime Minister promoted or permitted are the following: the establishment of the Special Joint Committee on the Constitution of Canada in February of 1970; the creation of the so-called Pepin-Robarts Task Force on Canadian Unity in July of 1977; the constitutional amendment bill introduced in this House on June 20, 1978, Bill C-60. Apart from first ministers' conferences, these were the only real catalysts for constitutional change launched by the Prime Minister in the 1970s.

We know the conferences failed. Some of us suspected the last effort in September of 1980 was intended to fail in order to justify the unilateral proposals now before Parliament. That is why we are considering this important proposal in an atmosphere of suspicion and mutual distrust.

Let us examine some aspects of those three initiatives, because I think we will see quite clearly that the thrust of the proposed constitutional reform is very different from the changes discussed in those three initiatives. The special joint committee began its work in 1970 and tabled its report two years later. A feature of the report was Senate reform but the proposals were not dramatic. The proposal was that the Government of Canada make all future appointments to the Senate, but that one half would be of persons nominated by the provincial governments. Distribution of Senate seats would be changed to increase representation from western Canada and review of judicial appointments by the Senate was rejected. Also, the Senate's veto over legislation was to be reduced to the right of a six-month suspension of legislative measures. The role of the Senate was to be largely investigative and advisory. The joint committee did not advocate major changes in the Supreme Court of Canada although the report advocated a consultative process with respect to appointments.

The second area of initiative was the Task Force on Canadian unity. After much fanfare and publicity the task force tabled its report in this House on January 25, 1979. Those who remember the establishment of this task force know that it followed the election of the Parti Québécois. There was implicit in its creation the implication that federal government institutions were not responding to the needs of Canadians, particularly those in Quebec, and the task force was intended to direct attention to the revitalization of those institutions. The report contained a long list of 75 recommendations with three areas of special interest, the Senate, the Supreme Court of Canada and the House of Commons, and reflected its concern with revitalizing federal institutions.

As for the Senate, the task force recommended a council of the federation, the real purpose of which was to institutionalize and integrate into the parliamentary system the process of federal-provincial consultation. In other words, the council of the federation would reflect the concerns and interests of Canada's provinces. Its membership would include 60 voting members appointed by the provinces with non-voting participation by the federal cabinet. It would also have the authority to review judicial appointments to the Supreme Court and some federal boards.

As for the Supreme Court, the task force rejected the idea of a separate constitutional court but said the Supreme Court should be composed of five judges from Quebec and six from the common law jurisdictions in the other provinces. Consultation with Quebec and other provincial authorities would be required before appointment to the Supreme Court and the council of the federation would review those appointments. The judges would be separated for some purposes but would jointly deal with constitutional questions.

The most controversial recommendation of the task force related to the House of Commons and involved proportional representation. This complicated proposal was intended to relieve problems of regional representation and the distortion that occurs when one party wins all the seats and no representation is given to the opposition parties from that region. Needless to say, these major proposals respecting the Senate, Supreme Court and House of Commons remain sterile recommendations of a spent force, even though the co-chairman of the task force now sits in the highest council of the Canadian government and from time to time holds the office of Acting Prime Minister. One wonders, Mr. Speaker, what the Minister of Transport (Mr. Pepin) now thinks of his government's constitutional proposals.

The third initiative was Bill C-60, introduced in this House June 20, 1978, which proposed important changes with respect to federal institutions. The primary thrust for constitutional change was the Senate. The proposal was to replace the Senate with a house of the federation consisting of 118 members, 59 of whom would be appointed by the House of Commons and 57 by the provincial legislatures, with two members appointed by the Government of Canada for the Northwest Territories and Yukon.