

The Constitution

of the eight provincial premiers. Opting out remains. I might add here that we have been told during this debate by members of the opposition that without opting out there would have been no Canada Pension Plan, Quebec Pension Plan or medicare. I want to remind hon. members that neither the Canada Pension Plan nor medicare is a constitutional right. They were enacted by statute as a federal expenditure.

Mr. Trudeau: By a Liberal government.

Mr. Chrétien: And by a Liberal government acting against the will of the provinces.

Some hon. Members: Hear, hear!

Mr. Chrétien: I have to tell the opposition that there is a very big difference between opting out of a statutory program and opting out of a provision in the fundamental law of the country.

Then the Conservatives propose that there be a special provision to the effect that the Constitution does not abrogate Parliament's power to legislate with respect to abortion and capital punishment. The law officers of the Crown have expressed their opinion that nothing in the proposed charter affects the power of Parliament to make laws respecting abortion and capital punishment. However, a precise statement to that effect in the Constitution would open the door to questions as to why other subject matters have not been specifically excluded. There is a rule of interpretation that I learned in my second year of law school: "*inclusio unius exclusio alterius*". In English, that means to include one but exclude others. That is why we cannot accept the opposition's proposal; it could have a devastating effect on the Canadian charter of rights.

The final change proposed is the creation of a permanent constitutional conference—this is one of the good proposals—but the conference could not begin its functions until its creation is approved by seven legislatures. In other words, until the provinces agree on an amending formula, perhaps as late as 1983, or perhaps never, there could not be any constitutional conferences. The formula has to be approved first by the provinces before the conferences can start. Therefore, I prefer our proposition that there be two meetings in the next two years. Everyone will have to be there. In the meantime, we will apply the unanimity rule. It is less complicated. It is clear. We could wait a heck of a long time before the other proposal came into effect.

The view of this government is that there should be at least two constitutional conferences in the next two years. The opposition has been asking us to meet the premiers, but has proposed a mechanism whereby there may never be a constitutional conference. After 54 years of frustration, the Tory drafters are proposing more delay. It is the view of the government that we must act now.

● (1540)

[Translation]

We have come a long way since last October. When I introduced the resolution on behalf of the government in October, quite a number of people thought it was deficient in many regards, and it was so because we had tried to propose a charter that would please each and every one, all the premiers at the same time, and that is very, very difficult. Today, we have reached the end of this debate and I am very happy to see that we can bring it to a close in a more civilized fashion because finally, the majority of hon. members can express themselves as democracy would have them, and tomorrow evening we can vote on these amendments. Then we shall wait for the Supreme Court ruling. The matter was not referred to the Supreme Court by us. How many times have I said in this House that the judiciary was not to be involved in the legislative process. The provinces are the ones who dragged the matter before the courts; we won two decisions and lost one.

But what is astonishing, with the beginning next week of the last phase which will lead to the final result, is that the opposition is changing its mind and that the provinces are now saying that legality is not important. It is not so much a legal issue as a political one. But who instituted legal proceedings against us? The governments of Quebec, Manitoba and Newfoundland. Who asked us to wait for the Supreme Court's ruling? The opposition. So we are saying today that we will respect the supremacy of God, as it is enshrined in the Constitution. The opposition is saying: no, no, no, it will become a political issue if you win, but it will remain a legal one if you lose.

[English]

I do not want to take too long as my time is quite limited, but let me tell you, Mr. Speaker, that the result of the work we have done will be one of the most important pieces of legislation to be enacted in the last 50 years.

Some hon. Members: Hear, hear!

Mr. Chrétien: It is hoped that what we have here today will determine what will be the Canada of tomorrow. There have been more contributions toward this piece of legislation than any other piece of legislation. How many provisions do I now read in the charter of rights that were not there in October?

I note the presence of the hon. member for Don Valley East (Mr. Smith) who is chairman of the committee on the handicapped. His committee put pressure on me. We were not sure that we should include their proposal but it is now there. I remember that the members of the NDP, of my party and the Tory party were very cheerful in the committee on the Friday afternoon when we agreed that we should recognize at last aboriginal rights in the Canadian Constitution.

Let me say a word about women's rights, and I will terminate on this subject.