Northwest Territories have each been given one. This is just a further example of inequality. Ontario as one province has 24 seats. The west has 24 seats divided among four provinces. Senators are appointed at present by the federal government, and although they must come from the designated regions, the appointments, as we all know, are often made as a reward for party services. Consequently, the senators do not truly represent their regions. They will not necessarily defend their regional rights and interests.

If we look at other federated states, we see that this inequity does not exist. For example, in West Germany, the Bundestag is elected on the basis of population like our House of Commons. But in the budersrat, the upper house, the landers, or provinces, themselves exercise authority to protect their rights and prerogatives. Delegates appointed by the six smallest provinces, ten in total, with only 26 per cent of the whole population of Germany, can muster a majority in the upper house. The same arrangement exists in Switzerland.

Consequently, if Canada had the constitution of West Germany, instead of only 54 per cent of our senators coming from the west and the maritimes, 71 per cent would come from these regions. If we had the constitution of the United States or Switzerland, 80 per cent of our senators would come from the less populated areas. With control of the upper house, the west and the maritimes could be assured of receiving a more equitable treatment in all matters that concern them. As it stands now, all our legislative power is concentrated in the House of Commons, which is dominated by the more populated provinces of Ontario and Quebec. Now we are faced with a Constitution which will ensure even more power being concentrated in those two provinces.

The amending formula to be entrenched combines, with the absence of Senate reform, to produce a totally unacceptable situation. What is worse, there is no hope of improvement if this resolution is passed. On February 17 the Minister of Justice (Mr. Chrétien) said:

> —what we are doing today is the start of the process, not the end. Much reform has to be undertaken in Canada in future in terms of constitutional powers.

He gave Senate reform as an example. But how can the west and the maritimes hope for improvement when they have had no say in the amending formula chosen by the government that will be used to reform the last place where they can hope for fair play? The reason the amending formula must have the consensus of the provinces is that it will be used to make future changes that will affect the provinces.

Mr. Irwin: P.E.I.?

Mr. McKinnon: Yes. I wish to comment on the process regarding the entrenchment of a charter of rights, that is, the process that is being followed to entrench it.

On November 7, 1980, the Prime Minister said:

> I am convinced that there would never be an entrenched charter of rights. Particularly, there would never be entrenched educational language rights if it weren't done now by the national Parliament the last time, as it were, that we had a possibility of proceeding in this way to amend the Constitution. In other words, once we have a constitution in Canada, whether it be with the Victoria formula or any other formula, we will never get anything saying that all Canadians are equal—

So instead of having long philosophical discussions about a charter of rights, we are being subjected to what one man considers to be right. The heck with the rest of the country! We are to be treated like little children who do not know what is good for us. Well, I for one hope I know what is good for me, and I can tell you, Mr. Speaker, that I do not need the Prime Minister or his sycophants in the Langevin Building to give me instructions in morality.

The essential function of a charter of rights is the protection of every citizen from injustice, and it should result from a calm, unhurried discussion. Instead, in Canada we are having an emotional, partisan, hasty argument involving pressure groups which are trying to gain a privileged position by having their particular interests entrenched. A charter of rights is intended to provide common rights for each and every individual citizen. It is not intended to protect special groups. If equality for all citizens is the essence of a charter of rights, how can the wishes of some groups be approved and others denied?

I would like to quote the testimony given by Professor Peter Russell of the University of Toronto to the special joint committee which reads as follows:

> I suggest to you that there are three qualities which should characterize the process of defining the rights and freedoms which are so fundamental to Canadians to entrench in the Constitution.
>
> The process should be considered, it should be reasonably popular and it should be as unifying as possible. The process of entrenchment should have those qualities because it involves the creation of a higher law, the law of the Constitution which will limit all Canadian law-makers in the future, and those who fashion constitutional guarantees designed to limit the powers of transient majorities must express and try to express the enduring will of our nation. They must not themselves be simply, and no more than, a transient majority.
>
> By these standards, I judge the means being used now to entrench a charter of rights and freedoms in our Constitution as seriously deficient. The charter has been drafted, I say, in haste, at least pretty quickly, by some government officials. It is being put through this federal Parliament, sometimes closure has been used, deadlines have been and are being applied without permitting the Canadian people sufficient opportunity to consider and discuss all of its important implications. It is to be made part of our Constitution not by a constitutional act of Canadians but by a foreign legislature and in the teeth of some bitter opposition from a majority of provincial governments.

By entrenching a charter of rights in our Constitution, we are handing the protection of citizens over to the courts. That is another problem. As the Hon. James Richardson, a former Liberal cabinet minister, told the special joint committee:

> The essential weakness of written constitutions is that they are inflexible. The courts that interpret a Constitution must look at what the Constitution says, and not at the political and social reality of the times in which the judgment is being made.