

If they do not agree, then we should perhaps ask ourselves is parliament to be required to take the course I have suggested, and which I think has been very succinctly and accurately described by the hon. member for Halifax. This would be my preference. If the House wants to spend some time on this matter for other reasons, I have no objection. It would be a matter for the House leaders to see if this has sufficient priority at this time to take up the time of a committee.

**Mr. McGrath:** Mr. Speaker, this is a question that is particularly vital to the small provinces, and certainly to my province which was the last to come into Confederation. I should like to ask whether the Prime Minister feels that in the absence of agreement, as a last resort, the Parliament of Canada by an address of both Houses has the right to bring back unilaterally the British North America Act, which is what we are talking about, and then, following that, whether the same parliament of Canada has the right to change the BNA Act?

**Mr. Trudeau:** No.

**Mr. McGrath:** If that does not follow, my question to the Prime Minister is this: What is the point in bringing back the constitution unilaterally in the absence of an agreement on an amending formula?

**Mr. Trudeau:** Mr. Speaker, without wanting to play on words I would say that the proposition as stated by the hon. member does not follow but in a sense it precedes. What I mean is that the Parliament of Canada now has the legal right, and in fact it has exercised that right historically, to act unilaterally in amending the constitution. It has done so in circumstances where provinces in effect have objected to the federal parliament addressing the Parliament of Westminster to change the BNA Act. This has in fact been done.

What I am proposing now is that patriation be followed by a situation where the federal government would not unilaterally have this power. It would only have this power to act, however, with the unanimity of the provinces in a preferred formula, with a certain right of veto to the provinces, but not an absolute right.

The hon. member then proceeds to ask what is the point? That is something which I am afraid I cannot make a satisfactory response to in order to satisfy the member. If he is satisfied with the situation in which for 110 years the constitution of this country has only been amendable by a foreign parliament, I cannot convince him that it is a matter of pride, perhaps, to seek the national purpose which will permit us to demonstrate that in such a basic matter we can act, in deed, and will not have to wait another 100 years.

**Mr. McGrath:** Mr. Speaker, the province of Newfoundland, which came into Confederation 27 years ago as a dominion under the Statute of Westminster, carried with it certain sovereign rights which are embodied in the BNA Act; for example, offshore mineral rights, and the Labrador boundary which is still not totally acceptable to certain elements in the province of Quebec. This is a matter of some concern to my province. I would therefore ask the Prime Minister, under the proposed formula which he is

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now presenting to the provinces, what protection would there be of the rights of individual provinces, apart from the provinces of Ontario and Quebec which would enjoy veto rights?

**Mr. Trudeau:** Mr. Speaker, it depends on what particular formula is acceptable to and agreed to by the provinces. If it is the Victoria formula to which all provinces agreed, there would be a right of veto to exercise in certain circumstances by a combination of provinces. If it is the first proposition, the most simple one, the one to which I believe the former leader of the opposition referred, there would be an absolute veto by all provinces on amending the constitution. There is where it cannot be amended now.

● (1650)

I must point out to the hon. member there are many areas where the Canadian constitution, and indeed the constitution of the provinces, can now be amended in Canada. This would not change. What would change is that in those fundamental aspects of our constitution which cannot now be amended in Canada, following this action they would be amendable in Canada, however, I repeat, with the guarantees to the provinces which I just discussed.

[*Translation*]

**Mr. Joyal:** Mr. Speaker, the letter which the right hon. Prime Minister has sent to the provincial premiers mentions in its first part that the constitutional guarantees which are included in the project and defined in paragraph 38, chapter 4, were requested on the express representations of the Quebec premier. The contents of this paragraph 38 is broad enough to include an extensive definition of the French language and culture. During the discussions which the secretary of the Privy Council had with the Quebec premier, was this concept defined so as to make room for immigration and communication issues?

**Mr. Trudeau:** Mr. Speaker, naturally the immigration and communication issues were discussed by the representatives of the Quebec and federal governments. The policy written in paragraph 38 does not concern those specific subjects. It is a much broader policy pertaining to the French language and culture as well as everything concerned with the French fact in Canada.

And again, it is a policy which has been adopted after consultation with Quebec. The other issues referred to by the hon. member concerns the division of powers, and as far as this is specifically concerned, we agreed last April that we had better not deal with the subject. It was better to deal with the amendment formula. The premier of Quebec did everything he could. There also had to be constitutional guarantees with regard to the French fact, the French language and culture in Canada, but once again, the April agreement was to the effect of leaving alone the division of powers. And I think the experience of the past 50 years shows that indeed it is better to dissociate the two operations: first to bring it home with or without an amendment formula, and then deal with the question of the division of powers among ourselves, Canadians, rather than thinking that can be achieved more easily because the constitution is still in England.