

*The Constitution*

Canadians, just like some of us here, must be wondering what this all means and what has rendered our constitution so useless in the face of certain events which have happened suddenly and other events which have taken some time to develop.

There is a whole series of such events but I want to mention just two or three which have occurred over a period of time placing certain strains on the framework of our institutions and the fibre of our country.

The first event is the so-called "quiet revolution" which has been taking place in the province of Quebec for some time. Revolutions are really a short cut to evolution and the results of a revolution demand sudden and rapid change. It is really not the fault of English Canada, which was not a part of the revolution in the province of Quebec, that this change is now required so quickly. A lot of my friends from the province of Quebec do not realize that one of the problems there was that the provincial government paid very little attention to the most basic concept in the evolution of a culture—education.

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It was only in the mid-sixties that the government of Quebec established a department of education and assumed that jurisdiction for itself, having earlier left it to the church. As I have said, the revolution made quick change a necessity. This change was proposed in two forms, and those two forms were pursued simultaneously. One of them was separatism, something that is totally unacceptable to the majority of the province of Quebec itself, and certainly to the rest of Canadians. The other form of quick and sudden change was the spreading of certain rights, which our compatriots in the province of Quebec legitimately desired for themselves, to the rest of the country.

The Prime Minister (Mr. Trudeau) can never get it through his head that those of us who stood in this House voting against another resolution dealing with the Official Languages Act were not so much against the Official Languages Act itself but, rather, against the way in which it was being implemented. It was to be implemented over a period of time which coincided with the Prime Minister's own personal time-frame which was too quick for the rest of Canada to accept. However, I do not want to dwell on the revolution in Quebec because it is not as germane to this debate as are certain other factors.

The second event which occurred, again over a long period of time, it could be said, was the incredible technological revolution which took place after the Second World War. Things which happened with respect to the electronic media altered very dramatically and fundamentally our very lifestyle in this country, as they did throughout the western world. Development in this field gave the federal government direct jurisdiction over something which was formerly entirely in the domain of the provinces. The television set is now, for better or worse, the focal point of all our cultural activities. That is probably stretching it somewhat, but it certainly is the focal point of much of our culture, and it is no longer just an

entertainment medium. It is no longer just an information medium, either. It is certainly and most profoundly a medium of education.

As we all know, Canada would never have been possible in the first place if the provinces had not received an ironclad guarantee that they would always be in control of education and culture. John A. Macdonald was a fierce federalist, and he wanted to keep education in the domain of the federal government, but none of the partners would have joined if he had insisted on that. So, with the evolution of radio, television and other means of communication the federal government, through its residual powers, retained jurisdiction over the regulatory control of these media and, in so doing, asserted itself very clearly in a provincial jurisdiction. This caused all kinds of problems, with which we are still trying to wrestle.

Then, of course, there was one other event which occurred rather more suddenly. That was the energy crisis, all the problems which were associated with that, and the obvious need to develop a strategy which would deal equally and fairly with all Canadians regardless of whether they lived in the producing or consuming provinces.

If we look at the three events I have mentioned, we might ask: why was it that our constitution was not adequately equipped? What were the weaknesses in the constitution which made it inadequate to deal with mounting tensions? First, the constitution was inadequate in that it did not provide a formula to redistribute the residual powers which were granted under the British North America Act to the federal government. In other words, in terms of the electronic media and federal intrusion in that area the constitution was not sufficient to bring the partners of confederation together and to redistribute these powers and give some of this regulatory jurisdiction back to the provinces where it belonged. The provinces did not take the initiative of bringing the matter before the Supreme Court for adjudication there.

There is a very weak and vague definition in the constitution with respect to the relationship between the individual and the state, and the constitution is rather weak, as I have said, with respect to the relationship between the provinces and the federal government. There is a lack of a formula whereby meaningful change could occur without creating tensions. The constitution also provides for an electoral system which is not suitable for a modern democracy, particularly one functioning within a framework such as ours, so rich in geography and so diverse in culture and demography.

Institutions failed as well. In particular—and I mention only one example—the Senate did not fulfil the role which was intended for it by the Fathers of Confederation. The Senate, as hon. members know, was to be a regional forum where sober second thought was to be given to what happened in the House of Commons and regional concerns were to find expression. However, as the different provinces joined confederation they had different priorities. The province of Prince Edward Island wanted many senators. The province of British Columbia wanted the railway. As it happens, in British Columbia we have 12 per cent of the population and only 5 per cent of the