

LEGISLATIVE ASSEMBLY OF MANITOBA
Tuesday, 12 May, 1981

Time — 8:00 p.m.

MR. SPEAKER, Hon. Harry E. Graham (Birtle-Russell): On the proposed motion of the Honourable First Minister, the Honourable Leader of the Opposition.

MR. HOWARD PAWLEY (Selkirk): Mr. Speaker, this afternoon I was dealing with the process pursued by the Prime Minister on behalf of Canada and the process pursued on behalf of the Premiers. I was also dealing with the process that was pursued in the Province of Manitoba by the First Minister and also dealt with the strategy that had been pursued as well by the Premiers pertaining to the launching of court action and other measures that they were undertaking, claiming that this indeed was the best approach. Mr. Speaker, as well, we were dealing with the matter of the Federal Government and those items within the federal proposal that we, as an official Opposition, disagree with strongly and find to be objectionable insofar as the federal resolution is concerned. By that, by way of abbreviation, we were referring to the unilateral patriation on the part of the Federal Government. The objectionable provision pertaining to Senate veto which as a Social Democrat, Mr. Speaker, we on this side find to be most objectionable as well as the provisions pertaining to referendum which we were just commencing to deal with.

Mr. Speaker, the federal resolution permitting the Federal Government to institute a referendum and the later amendments that were undertaken pertaining to the federal resolution which provided for the establishment of a commission that could oversee the holding of the referendum we find to be as well objectionable.

Mr. Speaker, at first it seems to us that any provision pertaining to a referendum should be mutual. If the Federal Government under the Constitution can initiate action pertaining to a referendum at any given time, then surely the provinces should have mutual right to institute a referendum. Unfortunately, Mr. Speaker, the resolution as presently presented by the Prime Minister provides for no mutuality in respect to the referendum.

Mr. Speaker, I find grave difficulty in accepting the very principle of a referendum pertaining to constitutional change. It seems to me, Mr. Speaker, that the principle of accountability is the first and foremost requirement and the only individuals that can assume proper accountability in each and every given case must be the elected representatives. Mr. Speaker, it is a serious departure if indeed grave matters can be transferred over to referendums. The abuse can be excessive in that respect and as well, Mr. Speaker, it removes elected representatives one step further from accountability to the public at large.

So, Mr. Speaker, on a first principle basis, I think that a referendum would be best to be excluded, but obviously, Mr. Speaker, that is not the direction which the Prime Minister is intent on pursuing. Then

if that be the case, Mr. Speaker, the provincial Premiers would have the full support of the official Opposition in this Chamber to pursue mutuality insofar as referendum is concerned, so the provinces have equivalent opportunity to pursue a referendum as the Federal Government enjoys under the resolution they have presented.

Mr. Speaker, there are aspects on the other hand that I would like to at this point express positive support for in regard to the federal resolution. One, Mr. Speaker, is the support of some basic principles pertaining to civil rights, linguistic rights to be entrenched in the Charter. Mr. Speaker, our party has supported entrenchment of basic rights, and continues to do so. Mr. Speaker, when we are dealing with the rights of minorities within Canada, then I say that the entrenchment of fundamental rights within the Constitution to protect minorities is essential. Certainly during a time in history when we see the increase in the size of institutions; the increase in the size of power whether that power be at the levels of government, whether it be at the level of large corporations; the institutionalization of the entrenchment of basic civil rights is a must in any given situation. Surely, Mr. Speaker, the right to equal access before the law; the right to assembly; the right to free speech; the right to basic protection to minority groups, such as the aborigine or to the native, are rights that most Canadians would endorse and would like to certainly see enshrined in a Constitution. I know, Mr. Speaker, there are valid arguments that can be presented and will be presented against the entrenchment of civil rights. (Interjection)— Mr. Speaker, I want to just by way of comment, because one of the members said something about Chili, I believe, across the way.

Mr. Speaker, when you read comments about the First Minister expressing sympathy for the President of Chili then one has to wonder at the motivation of some members pertaining to their position in respect to the entire question of civil rights and freedoms. Mr. Speaker, there are free countries and there are countries that are not free that have the entrenchment of civil rights. What is important and what is crucial insofar as the entrenchment of civil rights is whether or not there is a democratic system that will ensure the enforcement of those entrenched basic rights. Mr. Speaker, there are countries in the world such as Latin American countries and such as the Soviet Union where there are rights that are entrenched but there are no effective means; there are no effective mechanics available in order to enforce those rights.

Fortunately in Canada, Mr. Speaker, there are basic tools that are available within our democratic system to ensure the enforcement of basic rights within our federal system, within our democratic system.

So, Mr. Speaker, although I know that the question of entrenchment of basic rights appears for some reason or other to be a contentious issue within this Chamber, we support the entrenchment of basic civil rights within the Constitution.

But, Mr. Speaker, beyond that, beyond all that, Mr. Speaker, . . .

MR. SPEAKER: Order please. May I suggest to honourable members if they want to carry on private conversations that they do it outside this Chamber. I've been attempting to listen to the remarks of the Honourable Leader of the Opposition and I recognize the Honourable Leader of the Opposition.

MR. PAWLEY: Mr. Speaker, in addition, what I think is most fundamental and certainly we on this side support wholeheartedly is the entrenchment of equalization within the Constitution. For Manitoba not to be in the forefront of supporting the entrenchment of equalization within the Constitution when some 20 percent of the revenues that are received by the Province of Manitoba are by way of equalization payments — 40 percent in total when we're talking about equalization and transfer payments from Ottawa, Mr. Speaker, is beyond any sense of reason. Mr. Speaker, there can be suggestions that indeed that has taken place without entrenchment, but it is interesting, Mr. Speaker, that it is the First Ministers properly throughout Canada that are concerned that those basic payments now are being eroded upon by the Federal Government.

So, Mr. Speaker, since there is obviously an intent that is now being exercised on the part of the Federal Government to erode those payments, to reduce those payments, then it strikes me as somewhat passing strange that the Province of Manitoba would wave the banner demonstrating a lack of concern, Mr. Speaker, insofar as the entrenchment of equalization payments within the Constitution.

Mr. Speaker, we support the entrenchment of civil rights, the entrenchment of civil rights, the entrenchment of basic linguistic rights and the entrenchment of equalization payments within the Constitution. Mr. Speaker, the equalization principle within our federal system is again, basic, is fundamental in order to ensure the reduction of disparities that exist throughout Canada. Manitoba is in a position where it ought to be demonstrating that kind of leadership. It is not.

Mr. Speaker, a third aspect that we do not agree with insofar as the provincial positions are concerned is the position by the eight provinces that would lead to Balkanization of this country. Mr. Speaker, there is but one country, Canada. That country ought not to be Balkanized. Mr. Speaker, the proposal that the First Ministers, the Premier of Quebec, the Premier of Alberta, the Premier of Newfoundland, our Premier has proposed would generate a patch-like system within the —(Interjection)— within Canada.

Mr. Speaker, we do not accept the principle of opting out on the part of provinces. Either we are in together or we are not in as one within the framework of the Constitution. Mr. Speaker, we have supported the Victoria-like formula. Back in 1971 the former Premier of this province, Schreyer, in discussions on a consistent basis supported a Victoria-like formula. It would avoid, it would prevent Balkanization which unfortunately the First Minister is leading us toward if he had his way pertaining to the proposals.

Mr. Speaker, I want to just comment for a few moments; I'm not going to be detracted but I want to say this, that it's interesting that the First Minister has obviously been so close to this issue over the last three or four months that he's lost sight of the

basic issues that are confronting Manitoba and confronting Canada as a whole. And that is the problem, Mr. Speaker, he has become so close to the letter that he's dealing with that he's lost communication with the spirit of what we are dealing with. Mr. Speaker, what we are dealing with is the spirit of Canada. Mr. Speaker, let me tell the First Minister that I am first and foremost a Canadian. Secondly, I'm a Manitoban. But, Mr. Speaker, Manitobans support a strong Federal Government in order to ensure at the same time there is the reaching of provincial aspirations.

Mr. Speaker, the proposals that have been outlined by way of the resolution in Ottawa will neither bring about the Armageddon the First Minister of this province suggests they will, nor will bring about the New Jerusalem the Prime Minister suggests that these proposals will bring about. Mr. Speaker, what is required in this country is not so much a Constitution but the basic change insofar as the ensuring that there are basic social and economic rights that are ensured to every Canadian and to every Manitoban: the right to shelter; the right to decent food; the fair distribution, the more equal distribution of wealth throughout Canada, throughout Manitoba.

Mr. Speaker, the shadowboxing that we have seen between the Prime Minister and between the Premiers have diverted unfortunately the attention too often of too many Canadians to the real basic issues that are confronting us in Canada today: the issues of unemployment; the issues of inflation; the issues concerning lack of proper and decent housing; the province respecting the lack of economic growth, whether it be in Canada or whether it be in Manitoba. Mr. Speaker, what we must contend, what we must put together is the structures that will ensure that humankind are served and not simply institutions.

What I find most frustrating about the approaches by the Prime Minister and by the Premiers is that there seems to be more interest in the institutions. There seems to be more interest in the role of the Federal Government, the Provincial Government, Mr. Speaker, and what we're talking about is people, people in Canada, people in the provinces. Yet, Mr. Speaker, what we have been seeing on the part of so much of the discussion that has taken place is a discussion that is in the absence of the needs and the wants of people within Canada as a whole and their basic needs. We're witnessing many fine legal arguments but as I say, Mr. Speaker, when this resolution is passed, we're not going to have the Armageddon that the First Minister suggested the Constitution will bring about, nor the New Jerusalem that we've been hearing about from the Prime Minister.

I was interested this afternoon to hear the First Minister indicate that the battle would be carried on even after British assent had been arrived at — well, after the British Parliament — that the battle would be continued afterwards. Mr. Speaker, that is a contrary position to the one that the First Minister has been taking earlier. Mr. Speaker, and it seems that he is now changing some ground, that the campaign will be continued and that's his very right to do so. But it is interesting to note, Mr. Speaker, and we do know that there has been some change of

direction on the part of the First Minister in regard to his approach in that regard.

Mr. Speaker, what is required is a presentation of an approach by way of further discussions. These further discussions with the Prime Minister do not take place before the courts of this country; nothing will be accomplished before the courts of the country. What is required is a meeting together of the Premiers and the Prime Minister; proposals to be made, positive and concrete proposals. Mr. Speaker, included in that must be some basic acceptance of a Charter of Human Rights, at the same time as requests are made for reasonable changes pertaining to the amending formula and as well as, Mr. Speaker, the objections, that we have noted are not to be noted by the Premiers, are made to the Federal Government. If, and here is where the First Minister has an excellent opportunity if he would have undertaken that opportunity to have presented to the Prime Minister of this country a more moderate approach; an approach that would have some accommodation, some give and take in respect to the issues that are confronting us. Rather than, Mr. Speaker, as the First Minister did, was paint himself into a position of being in the extreme corner.

The First Minister made a statement about all eight provinces agreed. You know, all eight provinces are not agreed that the Charter of Rights, for instance, is totally and completely unacceptable. Newfoundland and Saskatchewan, for instance, have indicated that they are prepared to accept some form of entrenchment of a Charter of Rights and, Mr. Speaker, that is the kind of reason if indeed it could dominate in regard to federal-provincial conferences that could bring us to some form of understanding.

Mr. Speaker, for the Federal Government to proceed as it is doing, and it is able to do so largely because of the extreme and the irresponsible position that has been displayed by the provinces to this point, is to lead, Mr. Speaker, to a patriation of the Constitution that will be not built upon the strength that it should be built upon, the strength of a consensus, a strength of broad support within the country.

But unfortunately, Mr. Speaker, because of the position that's been adopted by this First Minister and by other First Ministers it has given Trudeau too free a hand insofar as his proceeding to Westminster in connection with this entire matter. Mr. Speaker, I want to say this because it's interesting the First Minister and others can only think in partisan terms. Mr. Speaker, we in the official Opposition are prepared to say that the path that ought to be followed is not the path of Trudeau; it's not the path of Lougheed; it's not the path of Broadbent; it's not the path of Blakeney. What is required that each jurisdiction, each jurisdiction should put aside its own partisan blinkers and be prepared to establish a position which reflects the peculiar interests of the jurisdiction that government represents. That is not the case in Manitoba. What we have in Manitoba, Mr. Speaker is a First Minister that has spent so much time over the past year holding the coat of Peter Lougheed in Alberta that he can no longer recognize the Manitoba position and the need for a Manitoba position pertaining to the Constitution. Mr. Speaker, what is required and what would be expected from the Premier of this province is a

position that would represent some recognition of the interests of the Province of Manitoba.

Mr. Speaker, the position of Manitoba has not been reflected accurately by either the Prime Minister or the Premier; it has not been. Mr. Speaker, I have talked to many, many in the last number of months, and they're certainly not telling me that their position is being represented by the Premier of this province or the Prime Minister of Canada, so let the Premier not pretend, not to pretend that he represents the thinking of the majority of Manitobans pertaining to this issue.

Mr. Speaker, possibly if we would commence and I say this to the First Minister, possibly if we would commence to build this country upon democratic socialist principles we'd be a lot further ahead — a lot further ahead than the playing for months and months and months in a debate which has not resulted in any achievement — real achievement for Canada or for Manitoba. Mr. Speaker, I am proud to be a democratic socialist — I am proud to be a social democrat and, Mr. Speaker, I am prepared to debate — I am prepared to debate at any time the First Minister's adherence to neo-Conservatism — to neo-Conservatism, Mr. Speaker, which indeed has historically generated so much, Mr. Speaker, by way of the poverty and the uneven distribution of wealth that exists in most of the countries of the western world with, Mr. Speaker, social democracy at any time — at any time.

So, Mr. Speaker, we have outlined a position this evening that reflects —(Interjection)— Mr. Speaker, the First Minister just commented that he was prepared to wipe the floor with one of my colleagues with a public urinal.

MR. SPEAKER: Order please, order please. It is difficult to hear the words of the Honourable Leader of the Opposition with several members attempting to get into the debate at the same time. If they're patient we can recognize them all.

The Honourable Leader of the Opposition.

MR. PAWLEY: Mr. Speaker, in conclusion, we look forward to any suggestions, any new initiatives that the First Minister might be prepared to propose. Time is passing by in respect to the matters that are before us. The Supreme Court will be soon handing down its decision. Then there will be two days of debate in the Federal House of Commons. The Prime Minister it appears will then be moving unilaterally to Westminster. Mr. Speaker, if we are to accept the reports as we receive them the resolution is likely to be then passed in Westminster. Mr. Speaker, what is required now on the part of the First Minister is not more rhetoric, is not more partisanship. What is required on the part of the First Minister is some new initiative, some new proposal, some new offers, some new recommendations, Mr. Speaker, that can force the Prime Minister to sit down and to have further discussions with the Premiers. Mr. Speaker, what the eight Premiers came up with some two weeks ago, Mr. Speaker, was not adequate, was not sufficient in order to do that.

Mr. Speaker, unfortunately, what with the lack of what the First Ministers came up with two weeks ago simply handed to the Prime Minister of this country the opportunity to dismiss their recommendations as being extreme recommendations, as being

recommendations that really introduced no new positive thoughts since last September's Federal-Provincial Conference. It represented a position that was still rigid — still rigid, Mr. Speaker.

I call upon the First Minister to again re-examine his position, to make some further offers by way of proposals, by way of further Federal-Provincial Conference. I believe that those proposals ought to relate to the entrenchment of some basic civil rights within the Constitution. Mr. Speaker, that appears to me to be the key to ensuring that there is some accommodation that is introduced in respect to the matters before us. I would hope that if the First Minister indeed did do that we would at the same time be able to reduce and to eliminate some of the negative factors that are in the proposed resolution, pertaining to the Senate as I mentioned earlier, pertaining to the referendum and pertaining to some of the heavy-handed actions on the part of the Federal Government in respect to its unilateral action to patriate the Constitution.

MR. SPEAKER: Order please, order please.
The Honourable Member for Inkster.

MR. SIDNEY GREEN: Mr. Speaker, the Leader of the Opposition, Mr. Speaker, whose federal party has complicated this thing in such a way as to seriously endanger the future of Canada, has said that the First Minister of this province should come out with some new proposals. Proposals which are designed, Mr. Speaker, to deal with the problems that have arisen by virtue of the way in which the Federal Government has proceeded and the Provincial Government has proceeded. But, Mr. Speaker, the Leader of the Opposition made no proposals. And I, Mr. Speaker, I'm going to give the Leader of the Opposition an opportunity to put his money and his votes where his mouth is because, Mr. Speaker, I am going to present some new proposals and, Mr. Speaker, those proposals will save everybody's position. They will yield nothing to anybody and they will patriate the Constitution and they will give the Leader of the Opposition the chance to some day get what he says he wants, some type of Charter of Rights. They will give the leader of this country the opportunity to patriate the Constitution and they will give the provinces the opportunity to try to arrive at a new amending formula. At the same time, Mr. Speaker, they will bring the Constitution to Canada and preserve responsible democratic government in this country, which I may say, the New Democratic Party on the Ottawa scene has done a great deal to endanger, and the Conservative Government on the Ottawa scene has done a great deal to endanger. May I say with regard to a Charter of Rights, Mr. Speaker, because from time to time I have heard it said that I am part of a red, green axis and in bed with the First Minister and I can think of better prospects, Mr. Speaker.

I can say to you, Mr. Speaker, that the Liberal Party, whom I grew up and was nurtured by New Democrats to fear and fight; the Conservative Party, whom I grew up and was nurtured by New Democrats to fear and fight; and the New Democratic Party are all talking about a Charter of Rights entrenched in the Constitution, Mr. Speaker. So who's in bed with who? The New Democrats are in bed with the Liberals and the Conservatives, Mr.

Speaker, on the question of a Charter of Rights, which will seriously impair, Mr. Speaker, responsible democratic government in this country.

Now, Mr. Speaker, the member says the Federal Party, but I heard the Provincial Party get up here and say that we are for an entrenched Charter of Rights, so they are in bed with the Conservatives federally and they are in bed with the Liberals federally, Mr. Speaker. (Interjection)— The honourable member says I am out of step, but he's the one who taught me to be out of step, because when I was a little boy, Mr. Speaker, he said, "Don't step with the Liberals; don't step with the Conservatives. Step along". Mr. Speaker, that's what he said. All New Democrats and all CCFers, Mr. Speaker, and the fact is they are now in step with those two parties.

Mr. Speaker, the Prime Minister and the First Minister have presented two choices. The resolution that the First Minister presents is an alternative to what the Prime Minister of this country presents and I happen to agree more with the alternative than with the proposal that is being made in Ottawa. But, Mr. Speaker, like a famous politician some years ago who was quoted to have said when presented with two alternatives — this was his characteristic — when presented with two choices, he elected a third. There is a third choice, Mr. Speaker, which happens to be much better than the provincial position and much better than the federal position because, Mr. Speaker, the First Minister's position in this regard does have a problem and that is that the provincial Premiers — and I was there for eight years, Mr. Speaker, watching the provincial Premiers operate and it is absolutely true that they tried conference after conference to write additional and entrenched provincial rights into the Constitution. One of them was adopted by the New Democrats with regard to resources, which I think is a dangerous proposition.

The provincial Premiers, Mr. Speaker, wanted to adopt equalization into the Constitution. So for the Leader of the Opposition to talk about the provincial Premiers not wanting equalization is ridiculous. They wanted to put equalization in, Mr. Speaker, but at what expense? When equalization is written into this Constitution it will become, Mr. Speaker, a formula. The Supreme Court will say that there is provision for equalization and therefore the Federal Government is not permitted as they have done in the past, to use their spending power to equalize opportunity throughout this country except under the equalization formula. That was the Lougheed proposition, that was the Davis proposition, that was the whacky Bennett proposition, Mr. Speaker, that was the proposition of all of the rich provinces. They will do the same thing now. You write equalization into the Constitution and then the Federal Government wants to use its spending powers to make a provincial health care program, the provinces will take them to court as Mr. Strom wanted to do, as Mr. Weir wanted to do and they will say since we have entrenched equalization into the Constitution that becomes the law as to how the Federal Government must operate and you must no longer use the federal purse for the purpose of equalizing opportunities throughout this conference.

Mr. Speaker, that's what the provincial premiers did and the provincial governments did. Those are

the directions they were going in. Mr. Speaker, all through those years I was known by the provincial Premiers and the provincial Cabinet Ministers, whom I met with, to be the strikebreaker and the scab with regard for support for the Federal Government because it was I, Mr. Speaker, and other people representing this province who went to Ottawa time and time again and I said that I need the Federal Government to protect me from the Provincial Governments. I am not worried about the Federal Government; I am worried about the Provincial Government, because it was the Provincial Governments, Mr. Speaker, who were trying to Balkanize this country. It was Lougheed; he was the one Premier who sent Levesque congratulations after the Quebec election and said, "We have both the same aspirations", because Mr. Lougheed does not believe in federation, he believes in confederation. He believes that Canada is a country involving 10 separate states. That's why, Mr. Speaker, there was so much difficulty. The fact is that up until the outrageous position that was taken by the Federal Government, the Premiers indeed were in the wrong, but the Federal Government wanted to outflank them in wrongness and succeeded, because he then proceeded to say, Mr. Speaker, that he was going to patriate the Constitution; he was going to enact laws affecting all jurisdictions and what's more, he was going to play the biggest trick of all, because once his laws were passed, no future parliament could ever undo them. At that point, Mr. Speaker, I left my support for the Federal Government and said that the greatest priority now is to protect responsible and democratic government in this country and if I and the Prime Minister of this province have the same attitude, Mr. Speaker, with regard to entrenching laws in the Constitution so that future social and economic policy will be made by judges and not by legislators, that's more credit to the Prime Minister of this province, Mr. Speaker. It has not changed my position throughout on this question as long as I can remember having taken any position on it, which was long before, Mr. Speaker, I was a Cabinet Minister in the Provincial Government of the Province of Manitoba.

The Provincial Premiers have another problem, Mr. Speaker. They only have eight premiers and they are missing one province which contains roughly 40 percent of the population of this country and they know it's a problem, Mr. Speaker, and it will ever be a problem. It will ever be a problem of making constitutional change dependent on the unanimous consent of the provinces. I suggest, Mr. Speaker, that it will likely never happen, although I would be pleasantly surprised if they could agree to something which made some sense, but, Mr. Speaker, it likely will never happen and in that regard and in that lies the Achilles heel of the provincial position with respect to this matter; that they cannot convince the Federal Government or the House of Commons in Westminster that there is ever going to be provincial consultation and provincial agreement and I don't think that there ever will be. I do not think that we can put a permanent stopguard on patriation of the Constitution and so, Mr. Speaker, I say that despite all of the efforts of the provinces, despite their best efforts, they have still come up short. They have come up short because they do not have the only thing that can stop Mr. Trudeau.

I have never said that the Supreme Court, Mr. Speaker, is going to be the decider of this question and I almost find it ludicrous. Indeed, I find it to be the height of sophistry for the Prime Minister and the Liberals, Mr. Speaker, to walk around this country saying that if they went to court they have to accept the court decision. Is the Prime Minister of this country really that stupid? Does he really say that the legal decision must be the right decision, that once something is legal, one must also decide that you want it? Mr. Speaker, it is legal for the Federal Government according to the Prime Minister to pass a law saying that Pierre Elliott Trudeau and his heirs and successors entail in perpetuity shall be the reigning monarchical family in Canada. That is legal according to Mr. Trudeau. Now suppose that went to the Supreme Court of Canada and said it's legal. Does that mean I got to do it? Do I have to do it what's legal, Mr. Speaker, or can I think of doing what is right and doing what I want to do and what is good to do and what is just to do? But Mr. Trudeau apparently can't understand that and most Liberals, Mr. Speaker, can't understand that. They think that somehow Mr. Trudeau has played a good trick. He said that if you had gone to Ottawa and your Supreme Court makes the decision, you took it to Ottawa, therefore, you're stuck with the decision as to the legality, Mr. Speaker, not as to the rightness of the position.

Therefore, it's my position, Mr. Speaker, that the provinces despite their best efforts have come up short and that Westminster will be faced with this question, can we really say that the Federal Government cannot act unless it has all of the unanimity of the provinces? If the eggs are put into that basket, Westminster will say we can't impose that kind of situation on Canada and really Westminster has to be approached, Mr. Speaker, on quite a different basis. They have to be approached where they are most sensitive. They don't want to interfere in Canadian politics and they are right, Mr. Speaker. They are wishing that some time ago some government had passed a law saying that Great Britain no longer has any role in Canadian politics. They have to be told, Mr. Speaker, that they can patriate the Constitution, that they can pass a law, that there is no court in the world, whether it be the Supreme Court of Canada or the House of Lords in Britain who can say to a British parliamentarian that when the Speaker calls "yeas" and "nays", you must vote "yea", which is what Pierre Trudeau is saying. Now isn't that stupid, Mr. Speaker? A man — (interjection)— oh, yes, excuse me. When you say "yea" which Mr. Trudeau says that when a parliamentarian is asked to vote "yea" or "nay", you must say "yea", but as a concession to you, we will let you hold your nose as you are saying "yea". That's the position of Mr. Trudeau. Mr. Speaker, that is the position of Pierre Elliott Trudeau supported by the New Democratic Party in Ottawa so that he goes to Westminster and says I have support in the west. I have the support of the New Democratic party and ye, you British Parliamentarians, you have to vote yea even when the Speaker says yeas or nays, it means not yeas or nays, it means yeas or yeas.

And when you are saying yea you are permitted to hold your nose, Mr. Speaker. And what we have to convince the British Parliamentarians is that there

are many people in Canada who do not say you have to vote yea, that you can patriate the Constitution, send it back to Canada, and let Pierre Elliott Trudeau and let the Premier of this province and Peter Lougheed and Dave Davis stew in their own juices. Do not let the Canadians make patsies of their British friends, Mr. Speaker. Let the Canadians work out that problem. Because then at least, Mr. Speaker, however we work it out, it will be the same rules for working it out and unworking it out.

Now, Mr. Speaker, the First Minister has asked a question. The First Minister, Mr. Speaker, has asked a question. What is there about the Constitution that has to be changed? What are we lacking, because I have heard it said that nobody is for the status quo and every time I hear that I say well, wait a minute, I am for the status quo, unless you tell me what's wrong, and why we have to correct it. And the only thing, Mr. Speaker, that I have been able to ascertain, and what apparently is the basis for this entire debate, and the entire rupture of the Federal-Provincial relations, is that Mr. Trudeau wants an educational language rights provision entrenched in the Constitution, that if that were done, Mr. Speaker, everything else would be superfluous.

Well, I wish that were put to the people of Canada, because despite my disagreement in principle, and despite my knowledge, Mr. Speaker, that when I became a New Democrat and entered that caucus, there were virtually nine out of eleven people who did not want to provide for the language of instruction to be in French in this province; nine out of eleven. But when it came up the next year, and to our credit, we discussed it, and we found out, Mr. Speaker, that it was right to do, and we all voted for it. And that thing carried forward. But that's the way it was. And I am far more interested, Mr. Speaker, in the willingness and the desire of the people to do right in this area than I am in having a law that says you shall do what the judges tell you. Because with all the law in the world if the will is not there, it will not happen. And Mr. Speaker, with no law in the world, if the will is there, it will happen. And what is needed is a desire to do right, and if half the effort was spent in this country making it apparent that we enrich ourselves by the fact that we have two official languages and that this characteristic of Canadians accrues to the benefit of all of the other minority groups in this country, if half the effort that was spent in fighting about this Constitution on specious grounds was spent in dealing with that question, Mr. Speaker, we would develop the will, instead of trying to develop the law and we would accomplish far more to good will than we will through bad law. And that, Mr. Speaker, is the weakness of the federal position.

So what is there being perpetrated on the Canadian people? And I have an example, Mr. Speaker, of what kind of machinations are taking place with regard to a Charter of Rights and people saying they are for it, and the statistics being used of who is for it, there is no better example, Mr. Speaker, of what really is happening in that area when we find out that people are not for a Charter of Rights at all. Therefore, trying to get something in the Constitution which will not be able to be changed by democratic vote, which they know they can't get if there was a democratic vote, and if they don't get it

all of their arguments in favor of a Charter of Rights suddenly disappear and they say it's no good. Now, does that sound that I'm being a little bit harsh on those people, that I'm really being too critical?

Well, Mr. Speaker, the Indians said that they want something enshrined in the Charter of Rights with regard to Indians and when they had it there was a celebration. They are now against the Charter of Rights with regard to Indians. When I said what should we change in the Constitution, Mr. Speaker, I know one change that's necessary. Take out that provision about Indians having a separate status in this country. That has condemned the Indian to his present position in this country, which is at the lowest end of every economic and social indices and that has been because his rights have been protected in that Charter, Mr. Speaker, and I say that's a change that I would vote for.

But here is a perfect example of people who say that they are in favor of a Charter of Rights and say in effect that they are not in favor of it unless it says what they want it to say. This is a document sent to me by the Group for Life. It is a pro-life document and their complaint is, Mr. Speaker, that there is no pro-life amendment. I don't think they need it. I think that what's in there is enough to protect the life of an unborn child and the Supreme Court can so hold and then the other people will have a joke played on them, but these people are convinced that they need it, so here is the proposed strategy, Mr. Speaker. "Our strategy should be to forcefully work on all Liberal pro-life MPs who made a commitment in the last opportunity while there is still that opportunity." And then it says, "To be most effective in having the British to refuse to entrench Trudeau's charter package in our Constitution we must make every possible objection. Not just the pro-life issue because on that alone we may not win in wide support. We should also use, for example, the dangers of Quebec separation, western separation, infringement of native rights, language rights, the primacy of the family, the unborn child's right to life, homosexual abusive rights, satisfaction with the present BNA Act, foreign intervention in Canadian Affairs, subversion of provincial rights," — this is what their going to use — "praise for the traditional parliamentary system versus the American system." As part of their argument they will praise the parliamentary system, Mr. Speaker, as distinct from the American system. Now look what it says, Mr. Speaker. So here's a group that's going to come out and say we shouldn't have entrenched charter because our system is better than their system and that we believe in the parliamentary system and that this is a subversion of provincial rights and what have you.

Then it says, "If satisfactory amendments are made, which is doubtful, we can always write again and withdraw our objections, Mr. Speaker." We can always write again and withdraw objections. So are they in favour of an entrenched Charter of Rights? No, unless it contains the pro-life amendment and that statistic is added up, Mr. Speaker, as one of the statistics in favour of a Charter of Rights.

It's the same thing with the New Democrats, unless you put in womens' rights, whatever that means, we will not vote for this; unless you put in Indian rights, we will not vote for it; unless you put in resources

belong to the provinces, which could unhinge — and I've heard the Leader of the Opposition get up here and yell about the fact that the Prime Minister supports Lougheed — there is no greater support for the Lougheed position than the amendment that Mr. Broadbent has put, which says that the resources shall be clearly drawn out to be spelled out to belong to the provinces — no greater support for Mr. Lougheed's position and it's going to be entrenched in the Constitution and the Federal Government cannot do anything about it.

Mr. Speaker, that will be used to say that there is no right, as it has been already used to say, for the Federal Government to levy an export tax on the oil and for the Federal Government to regulate the price of oil that's sold outside of this province, or it can be used, and certainly it will be strengthened by the fact that there's specific suggestions that the resources belong to the provinces.

Well, Mr. Speaker, let me say this, that I can propose, and my honourable friend said that he is going to listen to constructive proposals, I want to save my honourable friend's right to some day vote for a Charter of Rights; save his position. I want to save the Provincial Government's right to say that we want an amending formula; save the province's position. I want to save the Federal Government's right to say that the Constitution will be patriated; save Mr. Trudeau's position. Do all of these things, Mr. Speaker.

Will the honourable members vote for it? Because there is a way of doing it and it really is very simple and it was proposed some years ago, Mr. Speaker, simply patriate the Constitution; say that the Constitution is now in Canada; that what used to be done at Westminster will now be done in Canada. And if somebody says, what is the amending formula; the amending formula is the same formula that exists now, and if the First Minister of this province is right and it requires unanimity and he can show that to be the case in court, he will lose nothing by immediate patriation although the provinces have always been against it, but if he's right, Mr. Speaker, that the House of Commons would not be able to act except under the existing amending formula, then there is no harm in saying that what can now be done in Westminster will now be able to be done in Ottawa. If it can't be done in Westminster, it can't be done in Ottawa. It will save the Federal Government position because they say they don't need the consent of the provinces, and if they are wrong they will have to get it and it won't change anything there, and it will save the position of everybody who says, Mr. Chairman, that they want subsequently to enact new laws. Most of all, Mr. Chairman, and of course one thinks of himself first, it will save my position and the people who agree with me that we should not have laws imposed on this country by one parliament that another parliament cannot change. That, Mr. Speaker, is the basis of responsible government and the basis of our entire democratic procedure.

Mr. Speaker, I went into politics to change things. I grew up with the notion and perhaps it was exaggerated, as some may think, that there was great social and economic injustice in this country, and that what was needed was to be part of a political group that was going to be able to attack

social and economic injustice and there were avenues available to make that attack. The fact is that I saw it work — I saw it work. You got elected and you were able to do it. What I see now, Mr. Speaker, is that all of these years spent in trying to do it can be undone by the government passing a law which says even if you win the election you can't do it because it's illegal. That's what the Federal Government is now saying. What is worse, Mr. Speaker, I don't even know what's illegal. Because the Charter of Rights has so many openings, the right to life, liberty and the security of the person — the right to get a job anywhere in the country on the same terms, the right to work, the right of women, the right of the disabled, the right of Indians — all of these things, Mr. Chairman, all of these things I'm going to have to wait to see what nine judges say about them. I have enough difficulty, Mr. Speaker, when I'm involved in a case and I'm sitting home waiting to know what the judge is going to say about my client's particular position.

But all of Canada, for months and under the new deal, Mr. Speaker, in the crisis of the old order which I read to the members of the committee, he gave examples of 177 injunctions taken out against the government preventing them from passing laws and doing things by virtue of it being contrary to a Charter of Rights. So that if my honourable friend gets to be the Premier of the Province of Manitoba, Leader of the Opposition, or myself, and then find that we are doing nothing but hiring lawyers to fight the fact that the Legislation that we are trying to pass should be passed not by a Legislative Assembly but nine judges. To what effort have we done this? For what reason have we done this, Mr. Speaker? And that's the position that Mr. Trudeau is putting me into.

Now, Mr. Speaker, from time to time I've been given jibes like when I would say that Trudeau is doing this, and my friend the Member for St. Boniface is not here, tonight, he would say, "well, that Lyon is doing the other," in order to show that this is a two-sided fight, that Mr. Trudeau is the pot, and Mr. Lyon is the kettle, and each is calling the other black. Mr. Speaker, there is a significant difference. I probably have more political, philosophical, economic and social disagreement with my friend the Prime Minister of this province than I have with Mr. Trudeau. Maybe, I might be philosophically closer to what Mr. Trudeau thinks than to what Mr. Lyon thinks, the First Minister thinks. That is possibly true, Mr. Speaker, but in this instance, Mr. Speaker, I know that the following is true — I know that my honourable friend, the First Minister of this country, has always said to me and has proved it that we can fight it out and if you win you'll be able to govern, and if I win I will govern. And the majority will try to govern in such a way as to be commendable to all. But I would never and this I'm saying that the First Minister has never said to me that I am so right and you are so wrong, that even if you win I'm going to stop you from governing. And, Mr. Speaker, there is a basic difference and in that respect I find it difficult to do so, I have to bite the words as they're coming out of my mouth but I have much more respect for the First Minister of the Province of Manitoba than I have for the Prime Minister of Canada. How can it be otherwise? The

First Minister of Manitoba says if you beat me you will enact your law. The Prime Minister of Canada says if you beat me, fooled you, you can't do anything because I stopped you already. Now how can it be otherwise, Mr. Speaker? And that . . . gone along with with the party that I spent 16 years with. And I feel, to some extent, having been responsible because I worked in that organization, Mr. Speaker, a lot harder than some of the guys to my right worked, a lot harder, and now I feel that that organization is undoing many of the things which they convinced me to go into politics for. And that is the hardest irony, Mr. Speaker.

But I said at the beginning of these remarks, Mr. Speaker, I said that I would give my friend, the Leader of the Opposition, who says that there should be constructive suggestions that I would give him an opportunity to put his votes where his mouth is. Because I'm going to make a construction suggestion which I say and I'll look at the four corners of his speech and say every one of these suggestions, everything that he suggested can fit into what I am saying and we will patriate the Constitution and he will be able to have the meetings; he will be able to have the consensus; he will be able to try to get provincial agreement, but in the meantime, the big stick that Prime Minister Trudeau is using, namely, that somebody is preventing Canada from getting their Constitution, will be removed and we'll be able to discuss not patriation but what it will say, and at least the red herring that has been thrown out in an attempt to obscure people's view as to what is going on will be removed and we'll be able to discuss not whether it should be patriated or not but what it should say. And when we are discussing what it would say, Mr. Speaker, we would try to find out what are we trying to achieve.

Has anybody told you, has anybody said why we are patriating? What are we trying to achieve? We have equalization in this country. We have the right of free speech in this country. Are we waiting for Pierre? Did we wait for Pierre Trudeau to come along to give us the right to freedom of speech? Mr. Speaker, it's nonsense. What this country needs at the present time is to have removed from it the barricades that have been set up to obscure clear vision. And, Mr. Speaker, I'm going to give Leaders of the Opposition and the members of the Legislature generally, the opportunity to remove that obscurity, because I say, Mr. Speaker, there appears to be now two choices, and I say there is a third. And the third will preserve the integrity of everybody and it's therefore, Mr. Speaker, with some hope that I am going to make a constructive addition because the Leader of the Opposition said, "Where are the constructive proposals?" And you know he pointed to the First Minister. The First Minister, to my knowledge, has made the following constructive proposals. He said, "We have agreed on an amending formula, eight of us," and I say, that that's a problem, because eight is not enough. And he has also said, which I have much more faith in, which I suggested in December when I got into this House, that we go to Britain and tell Britain not to be suckered into passing laws for Mr. Trudeau which he can't pass for himself. Because at the very least, that would mean that if the amending formula proposed

by the provinces or even the one that's proposed by Trudeau, was sent back and said, "Here, amend your Constitution," at least then, all of those laws, Mr. Speaker, which are going to require two-thirds to overdo will have to be passed by two-thirds. And Mr. Trudeau will have foisted on him the same obligation with regard to majority support that he says will be foisted on every government in the future.

So I'm going to propose, Mr. Speaker, I move, seconded by the honourable the Member for Winnipeg Centre, that the resolution be amended by deleting therefrom all the words following the word "Manitoba" in the 1st line thereof and substituting therefor the following: "wishes to declare its dedication to the principle of responsible parliamentary government, as being the basis upon which the well-being of Canadians can best be provided and protected; and

WHEREAS the Federal Government proposal for constitutional change is a procedure which claims for the existing parliamentary majority, prerogative which have never been claimed by any previous government and which will be precluded from the powers of any future parliament; and

WHEREAS the abdication by parliament, of the right to apply the principles of responsible government to numerous issues affecting the average citizen will irreparably impair the democratic process.

THEREFORE BE IT RESOLVED that this Legislature register its approval in principle to the patriation of the Constitution, by transferring to the Canadian Parliament, such powers with respect thereto as are now exercisable in Great Britain.

BE IT FURTHER RESOLVED that the Canadian Constitution should continue to provide for the following basic conditions insofar as they presently exist:

(a) laws respecting the social and economic lives of Canadians will ultimately be the responsibility of the elected representatives at the Provincial and Federal levels, respectively;

(b) no parliament will be entitled to enact a law, which cannot be repealed or modified by a successor of parliament.

MR. SPEAKER: Are you ready for the question?
The Honourable Member for Gladstone.

MR. JAMES R. FERGUSON: I move, Mr. Speaker, seconded by the Member for Minnedosa that debate be adjourned.

MOTION presented and defeated.

MR. SPEAKER: The Honourable Member for Fort Rouge.

MS. JUNE WESTBURY: I wish to speak to the question, Mr. Speaker.

MR. SPEAKER: The Honourable Member for Fort Rouge.
Order, order please. Order please.

MR. GREEN: Unless the mover wishes to withdraw the motion, a debate can be adjourned. (Interjection)— Well, Mr. Speaker, I won't yield to my honourable friend, because he doesn't know what

he's talking about. A debate can be adjourned if a majority of the House will adjourn it.

MR. SPEAKER: The Honourable Member for Elmwood on a point of order.

MR. RUSSELL DOERN: Well, Mr. Speaker, there are rules and there are traditions. If we're now going to initiate a new tradition supported by the Member for Inkster, where a member jumps up in the middle of any debate and demands to adjourn the debate; I've been here 15 years, I've never a House run like that.

MR. SPEAKER: Order please. Order please. Order please.

I appreciate the points raised and brought to my attention on the points of order. The Honourable Member for Inkster is quite correct. This is a debatable motion; debate can be adjourned anytime, however this House has maintained a long tradition that if a member wishes to speak, the member who has asked to adjourn debate normally has the courtesy of allowing the other person to speak.

If the Honourable Member for Gladstone wishes to allow the honourable member to speak, I would recognize the Honourable Member for Fort Rouge.

The Honourable Member for Fort Rouge.

MS. WESTBURY: Thank you, Mr. Speaker.

I also wish to thank the Honourable Member for Gladstone for the courtesy. I wanted to acknowledge it while it was there, Mr. Speaker, before it went away. (Interjection)— Yes, he owes me one, two, three.

Mr. Speaker, I wish to express my objection to the fact that this resolution is coming to us, I think six or seven weeks after sitting on the Order Paper and after in fact the Manitoba position has been presented to the Supreme Court.

I believe that that's an insult to the people of Manitoba, that this should have been debated in this House, so that the Manitoba position being presented to the Supreme Court, while it would still reflect the position of the majority of the House, would have been properly and thoroughly debated within this House, and I happen to believe that that was an improper way for the government to proceed in this particular matter of the constitutional debate.

So having registered my concern on that matter, I want to go to the motion and to the amendment. First though, I want to say, Mr. Speaker, that I hope the First Minister was not under the impression that the silence with which his speech was greeted was a result of the enthralling nature of the speech. It was, I think, a courtesy on the part of members of the House to a speech coming from the First Minister, a courtesy which I suggest would have been well adopted by the majority group in this House in listening or pretending to listen to the reply from the Leader of the Official Opposition, because there was a circus going on in this House, Mr. Speaker, when the Leader of the Official Opposition was attempting to reply. While I don't agree with his position, I hope I was courteous enough to listen to all three speeches so far on this particular debate, even though we get a little excited once in a while and we're driven to intervene. I was driven to intervene to some of the comments made from the seat by one or two of the Ministers. Nevertheless, I do try to

extend that kind of a courtesy, Mr. Speaker, and it was extended to the First Minister and I'm surprised that a person of his stature wouldn't insist that his caucus would extend the same courtesy to the Leader of the Opposition.

Mr. Speaker, in the original motion, which I notice

MR. SPEAKER: Order please. We are dealing with the amendment, not with the original motion.

MS. WESTBURY: My next words were going to say, "the words which I notice were omitted from the amendment." In the original motion reference was made to a united Canada under a Federal Parliamentary monarchical system of government. Those words have been omitted from the amendment and I think that's unfortunate, Mr. Speaker.

I happen to believe also in a united Canada under a Federal Parliamentary monarchical system of government, and I am pleased to support those words as they were expressed in the original motion. I think it's unfortunate that they have been dropped, and even though the dropping of those words may or may not have represented a philosophical statement on the part of the Member for Inkster, nevertheless the very fact that they were dropped is significant and will be, I think, to the people listening to this debate, Mr. Speaker.

The suggestion has been made that the Federal Government is ramming something down the throats, and this is an old phrase that I think goes back to the flag debate. But I want to point out, Mr. Speaker, something that has not been mentioned in this House, and that is that of the 14 Manitoba Members of Parliament, nine of them support the entrenchment of the Bill of Rights, and this has not been said very much. I think it's a pity that it has not been said because this is exactly what I meant about a full debate not having taken place within this House.

There is a point to be made that a majority of the Members of Parliament sent to Ottawa from Manitoba did in fact support the entrenchment of the Charter of Rights. And that is something that I want to stress.

Now, much has been said by the mover of the amendment and by the mover of the original resolution on the matter of an amending formula and the matter of eight provinces apparently agreeing on an amending formula. How can you agree on an amending formula which means that everybody will only follow the formula if it suits them? Mr. Speaker, the Liberal Party in Manitoba cannot and will not support the principle of an opting-out provision in the amending formula, and without that opting-out provision there is no agreement on an amending formula.

Mr. Speaker, in listening to the speeches in the House since February, at almost every possible occasion, some members have spoken on the Constitution. And I had the impression that the friendship which has arisen between the First Minister and the Member for Inkster on the matter of the Constitution, where I believe both are sincere in their positions, but they seem to be united more in hatred of the Prime Minister than in their conviction on the principle. And I find this disappointing as a

basis for discussion. I find it disappointing that they don't rise above their personal dislikes in order to have a true and thorough discussion of the whole matter of the Constitution and the entrenchment, because this is a very fascinating and interesting debate if it's conducted within the bounds of polite debate, and without resorting to personalities.

I can thoroughly enjoy — perhaps enjoy isn't the right word — I can thoroughly appreciate the debate as such, with differing views opposed, Mr. Speaker, but I really think it's a pity that we have to get down to personalities and the debasing of individuals, the insults to the Leader of the Opposition, the personal references to the Prime Minister. (Interjection)— There were personal references this afternoon. Well, Mr. Speaker, the Member for Inkster cannot demand that I illustrate the points I'm making.

Mr. Speaker, in the opting-out provisions we have — and I want to say that the Liberal Party in Manitoba is not irrevocably married to the amending formula as it's been presented in Ottawa. We can and will support alternative provisions that are reasonable, and that are acceptable to most people in Canada, but I repeat that we will not accept any opting-out provision.

Before I go on to talk any more about this resolution and the amendment, I want to make a brief reference to the Montreal Gazette matter, Mr. Speaker. I do feel that the Gazette should have published an apology because they did publish wrong information. The shocking thing to me in that whole matter of the Montreal Gazette, Mr. Speaker, was that everybody believed that the Premier of Manitoba was capable of doing what the Gazette said he had done, and that is what is shocking. (Interjection)— And this is exactly what I am talking about. Everybody believed he was capable of that kind of bullying tactic. The people who support him said, oh, you know, there he goes, rah, rah, rah, here he's saving the world, saving Canada, saving Manitoba, and those who don't agree with him said well, what can you expect from a person like that. But everybody believed he was capable of it and I couldn't understand why he got so excited and demanded apologies when everybody believed whether he did it or not that he was capable of it, Mr. Speaker.

Now, among the opting-out provisions, we have for instance, the Newfoundland Premier's belief that Ottawa — he's expressed it — that Ottawa should have only those powers which the provinces delegate to it. Well, I'm a Federalist, as I've already said, and I reject that utterly, and I deplore the implied agreement of our own Premier with that statement, Mr. Speaker. I deplore his implied agreement, because he has agreed with the opting out provision.

Mr. Speaker, I don't see the area of human and civil rights as being of a purely local nature. One brief that was presented to the Legislative Committee considering the constitutional proposals, that it is not only illogical but immoral for a country to have different rights recognized by different provinces. And I believe that, too.

I support the Government of Manitoba in one area, and I've said this before. I'm not going to go into it very much because I have referred to it on several occasions, and that's the area of jurisdiction over divorce. And the Attorney-General knows well, he's

not here to hear me say it this time, but he knows well that I and most women in Manitoba support the government in this particular matter. This is a principle that Federal jurisdiction would insure uniformity in the matter of jurisdiction over divorce, and it's the principle that we want entrenched, that is that we should have equal rights whether we live in Manitoba, the Yukon, or Newfoundland.

One brief that came to the committee quoted our Attorney-General as suggesting that entrenchment of rights is an elitist notion, and that's an extraordinary suggestion if he really said that, Mr. Speaker. The elite of this nation have been white, English-speaking males without obvious handicaps. And those are the very people that are not clamouring for entrenchment of rights.

The Premier of this province was quoted as saying it's legitimate for subsequent governments to remove rights determined by their predecessors. That's the way he should be, he said, that's our democratic system. That means that any of our rights that have been granted by government can be taken away at the whim of another government if it has a sufficient majority, Mr. Speaker. They could all be eliminated through our own complacency or neglect at election time, or through deceit, but there are in Winnipeg, people who believe that some of their rights were taken away from them as recently as 1977-78, Mr. Speaker. I'm talking about the elimination, the changes in the Family Law legislation, the changes were enacted after the 1977 election and removed automatic and immediate ownership of the family home by a surviving spouse. There are many people in this province who feel that that was one of their rights that was eliminated by this Legislature.

I remember hearing the Premier of the province saying that we don't need entrenchment of a Bill of Rights because our rights are better preserved by Legislatures. There are too many of us, Mr. Speaker, who do not feel our rights are protected at all by this Legislature, and possibly by other Legislatures, either provincial or federal. We want our rights entrenched.

Who protects our rights in this province, Mr. Speaker? The Manitoba Association for Rights and Liberties pointed out that Human Rights Commission members have no tenure to free them from political pressure. The Human Rights Commission, they pointed out, has not been able to effect resolution of any complaint against government. I referred to that also in the Estimates. I was told it wasn't right, there was nothing to prevent that, but the fact remains that they have not been able to effect any satisfactory resolution of any action against the government.

So do we rely on the Premier, on the First Minister, Mr. Speaker? First Ministers of this province have been rather colourful characters at times. We had one First Minister who, probably reflecting, possibly reflecting the majority of voters of his time, assured people that nice women don't want to vote. Nice women don't want to vote, he said. Why do you want to vote, you're a nice woman, he said to one woman who believed she should have the right to vote. Nice women don't want the vote. That was a premier of this province, Mr. Speaker. Largely because of this man, the women of Manitoba, although among the first to vote in Canada, I must admit, were something like 24 years getting the vote,

a whole generation behind the women of my native land, New Zealand, in getting the vote.

Our own Premier was quoted as saying, how can you say that we Conservatives are against women? Why, we're among the best breeders in the world. Now, Mr. Speaker, people have asked, what's wrong with that? He was just joking, you know, he was just trying to make you all feel comfortable. Mr. Speaker, that made me sick, as the mother of women; that made me sick.

Mr. Speaker, when I speak of those lovely young women who are proud and dignified young women who are our daughters, and when I hear someone referring to women as if they're breeding stock, I have to say, Mr. Speaker, it is no . . .

MR. SPEAKER: Order please. Is the honourable member speaking to the amendment or to the main motion? I would suggest she confine her remarks to the amendment which is presently before us.

MS. WESTBURY: Mr. Speaker, I'm speaking to both the amendment and the main motion and I will not speak a second time on the main motion when the amendment fails. I'm speaking to both. Human rights are a matter of both the amendment and the main motion and that's what I'm speaking to, Mr. Speaker.

Mr. Speaker, it is no more acceptable for women to be described as if they are breeding stock than it would be if women publicly used euphemisms for breeding male animals and referred to men by those euphemisms. It is no more acceptable, Mr. Speaker, to use vulgar terms like that and that is one of the reasons the women of this province want their rights entrenched because they do not believe their rights are protected by this Premier and this Legislature.

When I think of my middle-aged contemporaries, women, who were taught to rely on the protective arms of men, you know, don't let that worry your pretty little head, Mr. Speaker, we'll look after you. I'm sure members remembered, but when those marriages ended in divorce, those women found they had no rights, Mr. Speaker. Their rights ended with the divorce; sometimes with the death of the spouse. We have tired older women who have sacrificed all their lives to work alongside their husbands, knowing that the work ethic to which they ascribed would reward them in their old age, but when they were widowed they found a husband's pension in many cases was halved or didn't exist at all; it was a husband's pension. If the wife died, the pension is 100 percent, still in some cases although that's a declining number of cases. Only if the husband died and left a widow, the pension was reduced. Where are the rights of human beings there, Mr. Speaker? How have they been protected by this Legislature or the Federal Government or anybody else? Why should we women place our faith in Premiers?

We have the handicapped people of Canada who have gone to the Federal Government saying if we are going to have rights entrenched, we want our rights entrenched as well. Mr. Speaker, they are saying that they have to have full and equal protection for those with physical and mental handicaps, and they are saying that because they do not place their faith in Premiers, Mr. Speaker.

We had, I think, nine times during the half hour that the Leader of the Opposition spoke this evening, between 8:00 and 8:30, nine times I heard two

Ministers calling for the entrenchment of the right to own lands. Mr. Speaker, nine times we had Ministers calling for entrenchment of the right to own land, and I'm really surprised —(Interjection)

MR. SPEAKER: Order please, order please. Honourable members will have an opportunity to enter the debate at the proper time. At this time I recognize the Honourable Member for Fort Rouge.

MS. WESTBURY: Mr. Speaker, last September we read with interest of an interview with the former leader of the Conservative Party in Manitoba, and he revealed that even within that party and to the surprise of a number of us, I think, that the party was not united behind this Premier, because he was quoted as saying that he supported the entrenchment of minority language rights and a strong Federal Government. Unfortunately, Mr. Spivak hasn't been heard from since and we don't really know why he came out with that and then didn't come out and fight for it. But he's a former leader of that party — Mr. Spivak is no friend of the Liberal Party and no friend of the Federal Government, Mr. Speaker, and we had a couple of bitter campaigns in 1979 and 1980, but he's a man respected for his work in the area of human rights. I have worked with him on the Canadian Council of Christians and Jews and in the area of discrimination. He's a regional president of the Canadian Council of Christians and Jews and I believe it's through his work and through his knowledge and sensitivity of the area of discrimination that he made that statement.

We have obviously a disunited Conservative Party because we have the two Ministers to whom I've already referred who want entrenchment of the right to own property and yet their Leader is saying we don't want entrenchment of any rights.

So I don't know — I'm surprised that their Leader hasn't stepped on them and I suppose that will happen, but I was surprised to hear them being courageous enough to get up and speak on that and especially in view of the Alberta legislator who was expelled from his party for agreeing with the Prime Minister on the matter of entrenchment.

Mr. Speaker, I believe that this resolution is not an honest statement of the government's real position. I believe that it uses the words of tradition to hide intransigence. It used the rhetoric of patriotism, especially in the first words, to conceal their devotion and commitment to the status quo. Somebody said it's like a laundry soap commercial, that the ring around the collar is still showing, and it's the same thing about the so-called provincial Accord on the amending formula because there was no provincial Accord. If you have to have a provincial Accord that says we will agree as long as we can disagree any time we like, then that's not accord, Mr. Speaker.

We, the Liberal party in Manitoba, believe it is right and proper that individual rights and freedoms be protected in law and that through law citizens be offered a way of protecting themselves against the insensitivities of bureaucracies; private bureaucracies and public bureaucracies and capricious majorities in government, Mr. Speaker. Furthermore, we support the Charter because we believe that some of the principles are of fundamental importance even to the economic development of this province and perhaps

particularly to the economic development of this province.

Now, it's been argued that the transfer of authority from Legislatures to courts is not part of our democratic tradition and we don't accept this argument either. If you examine the historic performance of the Manitoba Legislature concerning the rights of Manitoba citizens, we're not encouraged on the matter of the Manitoba schools question, issues associated with minority rights in our educational system have not been well managed. (Interjection)— Mr. Speaker, I am encouraged when the shout on the other side because I know I'm getting to them.

Mr. Speaker, we've been unsuccessful in developing a system through public education which is a unifying factor in our communities, recognizing the rights of minorities, linguistic rights and religious rights, and the people who have special concerns for their traditions, special anxieties related to the protection of their beliefs, are people who feel that their rights are not being protected historically by this Legislature. Really my purpose here is not to cast blame on past or present governments or individuals in this Legislature, because I think this is a matter of perhaps philosophy and principle. We should be able to debate on its merits and we should be able to debate it without particular personal references to individuals, Mr. Speaker.

Mr. Speaker, within the British tradition, independence of the courts has always stood as a way of protecting individual liberties against the winds of change and against the fashions of today. The courts have always had the responsibility for protecting the rights of minorities and Parliaments have not always protected the rights of minorities, Mr. Speaker. We have in this province — more than 50 percent of the people in this province didn't have the vote at the turn of the Century. (Interjection)— The courts did not give it to them, but what the government can give it can take away without the protection of the courts, Mr. Speaker, and this is one of the points that we are concerned with. We are concerned with the fact that only in the past 20 or 30 years have rural tenants had the vote even in this province, Mr. Speaker. The native people have only had the vote for something like 30 years, and women for longer — 1918, Mr. Speaker.

Our own records have not been above reproach. The Forest case need never have happened if the Legislature had been more sensitive to the needs of Franco-Manitobans, Mr. Speaker, and more sensitive to the emerging scene nationally. We've had protestations about the unavailability of translators but we still have not fully implemented the Supreme Court decision on the Forest case and that should never have even gone to the Supreme Court. If we are concerned here with the overriding rights of the Legislature, that right should have been granted by the Legislature and not had to . . .

We have confusion on the matter of compulsory retirement in Manitoba. Now we have a one man commission, a lawyer of distinction, who is going to review this, but it indicated in the Terms of Reference the government's willingness to consider the adjustment of The Manitoba Human Rights Act to bring a statement of individual rights into line with current practise. Now, Mr. Speaker, that's always the

issue. Should the practise determine the rights or does our fundamental statement of rights and freedoms affect the practise or impact the practise? It's not a simple matter to find an answer to, but just time after time after time we have the question of the rights of individuals and our inability to deal with the matter and who has responsibility and how do we change The Human Rights Act and how do we look after the human rights of this person and that person, Mr. Speaker, because there is just total confusion.

My party cannot accept, on the basis of practise or on the basis of history, that citizens of Manitoba or of Canada are served best when their rights and freedoms are exclusively determined by Legislatures. We are suspicious of a system which leaves the protection of rights in a public administration sense under the authority of a bureaucratic system directed by a political party, whichever party holds the majority.

Without recourse to law, we feel that citizens are too often the beneficiaries of our goodwill rather than courageous action. We say we want to accommodate, we want to consider the human rights. In the case of compulsory retirement, we want to find a solution but it's going to be determined more by administrative convenience.

Mr. Speaker, I will have to further examine the amendments, which is a little verbose, and I need to put in a few commas and see just exactly what they are getting at here, but I would think it is unlikely that I will be able to support it. I certainly do not support the statement by our Premier which is reflected in the amendment to the effect that any rights that are granted by a Legislature should be able to be taken away by any whim of a subsequent Legislature, Mr. Speaker. I believe that we're entitled to have our rights entrenched in law.

I want to, before I sit down, refer to an excellent speech to which I listened last night. (Interjection)— Thank you, Mr. Speaker, I have five minutes.

There was an audience of 700 people last night which listened to a speaker from Ottawa, and this person was emphasizing the status of women in today's society and the fact that we must not stop our fight for a better deal for women, Mr. Speaker. It was an excellent feminist speech interpreting the feminist position, interpreting the lack of rights of women still in this country and in all provinces. The speaker, of course, as everyone knows was Maureen McTeer. It was refreshing to hear a Conservative speaker presenting a feminist point of view, Mr. Speaker. Ms. McTeer said cigarette ads tell women they've come a long way, but, all one has to do is spend one day as a Canadian woman to see how much further we have to go.

MR. SPEAKER: The Honourable Member for Rossmere.

MR. VIC SCHROEDER: Thank you, Mr. Speaker. We've waited a long time to get to this Debate; we've waited since last year. First of all, a year ago, we tried to get this government to move on discussing the matter of the Canadian Constitution before everything had happened. Now, unfortunately we're in the position where . . .

MR. SPEAKER: Order please. The Honourable Government House Leader on a point of order.

MR. MERCIER: On a point of order, Mr. Speaker, my understanding was that the motion of the Member for Gladstone had passed the House and it was only with the consent of the Member for Gladstone . . .

MR. SPEAKER: Order please. Order please. The question was put, I asked if it was the pleasure of the House to adopt the motion. I heard words of "Nay", and at that time there were two members had risen. The Honourable Member for Gladstone yielded the floor to the Honourable Member for Fort Rouge.

The Honourable Member for Rossmere.

MR. SCHROEDER: Thank you, Mr. Speaker, I'll try again. It seems that the government keeps delaying. Could I ask the Member for Emerson to just be quiet for a little while? —(Interjection)— Mr. Speaker, it does bother me because it's a bunch of dribble that the man is speaking. Ordinarily I can hack people talking but the dribble that has been coming from that side this evening is something that kind of gets to me.

On the matter of the amendment, the proposed amendment of the Constitution, we have a resolution here, an amendment which indicates that it be resolved that the Canadian Constitution should be patriated providing the Parliament with such powers with respect thereto as are now exercisable in Great Britain. I take that to mean that whatever the Canadian Parliament now has in terms of an amending power, together with that of Great Britain's, would remain the power of Ottawa.

Right now there's a case in the Supreme Court of Canada, the provinces and the Federal Government are trying to determine precisely what our amending formula is. The reason for that is that we don't have a written amending formula. There is absolutely nothing in The BNA Act which states that there is a specific method of amending the Constitution. In the past the Constitution has been amended by the joint address of the Parliament and Senate of Canada to the Parliament of Westminster. The Parliament at Westminster has always acted on such a joint address to do whatever has been requested by the Parliament and Senate of Canada. The suggestion that we would retain that particular amending formula after patriation, as is suggested in the amendment we are debating right now, is one that we cannot support in any way.

Right now the Federal Government is proposing to provide certain powers to the provinces in terms of amendment, but if this was the amending formula until then, we would have Pierre Trudeau with all of the marbles until there was a different amending formula agreed to. Ottawa would have all of the power, not just a part of it, they would have the whole power to amend it in any way they saw fit. If that is something that members on that side can live with, then certainly they feel differently about it then we do. We have said all along that we believe that it is incompatible with the federal state that one level of government should have the power to amend a Constitution in such a way as to affect the powers of the other level of government. Now it may well be that Ottawa right now has that power, if the Supreme Court says that that is our current amending formula, then it may well be that that is what our formula is,

but we on this side do not support any notion of patriating the Constitution on that basis and bringing it to Canada and leaving that centralized power with Ottawa, but that's what this amendment says. That's exactly what this amendment says. If that is what the law now is, then that is what it will remain. If you think you're having a tough time bargaining now with Mr. Trudeau, you're going to have a lot tougher a time when the Constitution comes back and he says, "Well, look, I have the power to amend it unilaterally in any way I see fit." So that is obviously one method that we should not be supporting.

Now we have another proposal that's supported apparently by eight Premiers and that is the Alberta formula, the Vancouver consensus, the Opt-Out of Canada formula, however you want to name it. It is a proposal under which one or more provinces could opt out of Constitutional reform. We on this side cannot accept that proposal.

Further, we are not satisfied that that proposal has ever fully been baked, we're not satisfied that all of the ramifications of it have been agreed to between those premiers. For instance, what would happen if Alberta chose to opt out of a new health program, a new UIC program, a new pension program or whatever and the other nine provinces opted in. We do have a problem of people moving from province to province and you would have people with certain rights in one province and other rights in other provinces, that's a problem with this opt-out provision. Another problem with the opt-out provision is, if a province opts out, does it never the less get the funds it would have received had it opted in? And if so, do you really believe that we'd have ever got the Old Age Pension, the Unemployment Insurance?

We remember a lot of the members Opposite were present in the late 1960s when the Liberal Government in Ottawa decided, after the CCF had experimented with Medicare, that it was a good system and it should be brought in across Canada. They recall how their government was brought in kicking and screaming into that program and only because if they didn't participate in that program, then they would wind up not receiving that 50 percent. That was how they were brought into the program. What they are now suggesting is a patchwork, a blanket of different kinds of rights in different kinds of areas of the country, and so we're opposing that.

We have said very clearly what we would like to see as an amending formula and I happen to believe that most premiers in this country would support that proposal as well. I'm not saying that the proposal that they have presented doesn't have some support from the eight premiers although it's obvious that there's some problems with it, they keep having to meet to patch it up a little bit. (Interjection)— I would suggest the Minister of Economic Destruction is saying, "What is our proposal?" Well, if the Minister wants to listen, I will tell him what our proposal is. We've said it before. We agreed back in 1971 with the Victoria Charter. Over the years we've modified that to some extent as have other provinces. We agree that for now the Governments of Ontario and Quebec, based on their current population, should have a veto; we agree with the proposal that two Maritime Provinces together

should have a veto; we agree that two Western Provinces together should have a veto; we do not agree with the referendum, as my Leader pointed out, we have serious concerns about the referendum as I'm sure members on that side of the House do. We've said all this before. We certainly oppose the amendment that was brought in late in time by the Federal Government, an amendment we didn't hear members federally in the Conservative Party opposing, giving the Senate a veto on constitutional change. We often heard Federal Liberals talk about the 50 years during which we've talked about Constitutional change. That proposal wasn't even on the table while we had our Constitutional Committee holding its hearings across the province. It's a very new proposal. That doesn't mean to say that we don't have a position on it. We're against it. We're against the Senate veto. In fact, we would prefer to have the Senate abolished as has been our position throughout. That is certainly not a new proposal.

All of these things have been said before. Further on the matter of the veto for Quebec and Ontario, our proposal is that the veto be based on a percentage of the national population; that is that any province which at the then latest census has more than 15 percent of the population of Canada, should be entitled to a veto on its own. That may mean that B.C. in several years will have a veto, maybe, Alberta. Maybe at some time 50 years down the road Ontario will not have a veto or Quebec will not have veto, but we do admit that we have some difficulty in saying that if Saskatchewan and Manitoba together with 2 million people can have a veto, then Ontario with 6 or 8 million people can't have a veto. We don't think that that's necessarily a logical position. It may be that it's politically popular to say, "We don't think that Ontario based on their present population deserve a veto right now." We don't think that it's right that a smaller group can have a veto in one area of the country and a large group not have one in another area.

The amending formula that we propose, I would suggest, is one which can be supported probably by most governments in this country. I'm sure it could be supported even by the Federal Government if they could get it passed that Senate of theirs; the Senate that they and the people opposite have perpetuated; the Senate in which those of us on our side of the House are proud to say that we don't have any of our members, they're all Liberals and Tories out there.

The First Minister, in discussing the matter of a Charter of Rights, started out by saying that if we were a new country, if we didn't have any history behind the country, we could start out by theoretically debating the Charter, but because we are 100 and some years old and he says, it's working — he says it's working; we shouldn't fix it — and then he goes on to mention the difficulty that we could have; the uncertainty in the law and he seems to hang a great deal of his opposition to an entrenched Charter of Rights on the notion that it will in some way create difficulties in terms of certainty of the law.

Well, Mr. Speaker, practically all of the Western Democratic nations in the world since the Second World War have acquired entrenched Charters of Rights without experiencing the kind of difficulty that

the First Minister suggests that we must necessarily get into if we pass a Charter.

We happen to believe that it is important that a nation express in fairly clear terms that there are certain fundamental rights that citizens have, which no parliament, which no government has the right to take away from them. We believe that it is appropriate to say that there are certain areas in which no Legislature has the right to legislate, in terms of discrimination on the basis of sex; discrimination on the basis of religion; ethnic origin; that type of thing.

That is something that was accepted 10 years in this Chamber — I've looked at Hansard from 1971, when our then First Minister announced that he was supporting the Victoria Charter, which contained an entrenched Charter of Rights and that he would present that document to the Legislature, providing all other provinces supported it.

I never heard any party in this Legislature stand up and say, "We won't support that; we're opposed to it." Not a one and some of the members who are here tonight were here then. Some of the members who are here tonight were here then. We never heard a word from them during that session. — (Interjection)— In 1971, I believe it was June of 1971 and probably the Member for Minnedosa wasn't here. He made that statement . . .

MR. SPEAKER: Order please. Order please. The hour is 10:00 o'clock. When this matter next comes up the honourable member will have 23 minutes.

The hour being 10:00 o'clock, the House is accordingly adjourned and stands adjourned until 2:00 o'clock tomorrow (Wednesday).