

if it was to remain in force.

The decision of the government of Quebec not to agree to the principles of the package is most unfortunate. They could not accept the amending formula and certain parts of the charter of rights and freedoms. Yet, with nine provinces and the federal government in agreement, a consensus is clearly formed and we can move now with a Canadian constitution.

We have resolved a century-old Canadian problem here in Canada, among the governments of the provinces and the federal government. The past four days were an indication of how governments should operate to resolve questions of national concern without the threat of unilateral action or coercion.

I want to express our appreciation to members of the Department of Federal and Intergovernmental Affairs, and to the Attorney General's Department, but in particular to my department, which has been involved in this debate for some time and certainly since the formation of the department in 1973. I believe the decision to form that department then, with a very broad mandate and with broad policy responsibilities, has now been reinforced by the decision we reached yesterday.

This is truly a significant day for our country, our province, and this Legislative Assembly. Canada will now have its own constitution founded on principles understood by the people of Alberta, as reflected through the resolution of this Assembly.

The Canadian federal system, as reflected in this constitutional accord, will be maintained.

Thank you, Mr. Speaker. [applause]

head: ORAL QUESTION PERIOD

Constitution

MR. R. SPEAKER: Mr. Speaker, I'd like to direct a question to the Premier or the minister who negotiated and worked in terms of the constitution. I would like to say that yesterday in the Assembly, I endorsed the move and supported the fact that the Premier and the minister have worked with other premiers and the Prime Minister of Canada to reach consensus at this point in time. I mention that only in that I haven't responded directly to the minister today.

With regard to the charter of rights, could the Premier indicate whether, in terms of the negotiation and discussion that went on, there was a change in Alberta's stance with regard to the charter of rights? In reading the document *Harmony in Diversity*, there was a strong feeling that rights of Albertans should be protected by the Alberta Bill of Rights. Now we have supported the charter of rights entrenched in the new constitution. Is the province of Alberta able to support that position now because of the notwithstanding clause that is going into the constitutional document?

MR. LOUGHEED: Mr. Speaker, I'd be pleased to respond. As the hon. Leader of the Opposition is aware, the document *Harmony in Diversity*, page 22, refers to the fact that after we came to office we as a government introduced our first Bill, the Alberta Bill of Rights and, secondly, The Individual's Rights Protection Act. The hon. Leader of the Opposition will remember that debate in 1972 when we discussed at length the notwithstanding clause and its significance and importance. So when we presented *Harmony in Diversity* during the fall of 1978,

we stated on page 22 that "The principle of legislative supremacy would be undermined." We did that recognizing that over the course of the debate we anticipated would flow, we had opened the opportunity to accept a charter of fundamental rights, legal rights and equality rights, proposed by the Prime Minister, provided legislative supremacy would not be undermined.

During the conferences on the constitution in 1978, 1979, and again in 1980 — my gosh, that's a lot of conferences — in discussing that matter, as the record of 1979 indicates, I raised with the Prime Minister the idea that to maintain the supremacy of the legislatures, the answer was to bring in a notwithstanding provision. In the documents that have been tabled, which I hope will be circulated to Members of the Legislative Assembly, there is an explanation prepared by the conference secretariat with regard to what a notwithstanding clause means, in the sense that we can pass a piece of legislation that states that notwithstanding the Canadian charter of rights, such and such will apply. It was our view, and we studied it very carefully in consultation with a number of other provinces, that to maintain the supremacy of the legislatures across this country and to avoid many of the defects of the American system, that was fundamental to our position at this conference.

When I first raised it with the Prime Minister at that '79 conference, as I believe I mentioned in my remarks in the Legislature on October 15, he took 24 hours of interest in the subject, then decided the next day that he wouldn't find it acceptable. Over the course of the last number of days, we continued to press it. Next to the issue of the amending formula, this was the second most important aspect of our position. We pressed it forward. We received the support of a number of other provinces. In due course, as the hon. leader is aware, it now appears within the final accord.

So the concern we state in *Harmony in Diversity*, that the principle of legislative supremacy would be undermined, has been overcome by the notwithstanding provisions. I think that's a very important step forward for the country.

MR. R. SPEAKER: Mr. Speaker, in terms of the consideration of the notwithstanding clause, could the Premier indicate in a preliminary way whether legislation will be brought forward in the province of Alberta that would have this notwithstanding clause? Could the Premier indicate areas that would be under consideration for such type of legislation?

MR. LOUGHEED: That is an important question, Mr. Speaker. The answer is that there are none. As the hon. Leader of the Opposition is aware, we have this similar provision in the Alberta Bill of Rights. For 10 years now, we have not passed a notwithstanding provision. As I'm sure members of the Legislature are aware, we've considered it on a number of occasions but have not passed it. But it does provide that residual protection of the supremacy of the Legislature.

At this stage we have contemplated nothing at all, but we are conscious of the American experience. The judicial interpretation of the charter and the wording — I'm sorry, Mr. Speaker, if I'm going into too much length. The wording of the charter is somewhat different from the wording of our Alberta Bill of Rights, and it is possible that there could be some judicial interpretation — in any part of the country, frankly — which would not be in accordance with the views of this Legislature, as to

the appropriate social or other policies as we perceive them for the citizens.

MR. R. SPEAKER: Mr. Speaker, a supplementary question to the Premier with regard to Alberta's position relative to the referendum. There was a very strong statement from the Premier indicating that the referendum could bring about divisiveness in Canada. In an earlier Legislature here, we had a referendum Bill and discussed the possibility of the use of referenda for certain purposes. I wonder if the Premier could indicate why the change of attitude, if there was one, and the circumstances surrounding that referendum discussion.

MR. LOUGHEED: Mr. Speaker, that point certainly requires clarification. When we introduced the referendum legislation last fall, we did it reluctantly and only for the purpose of a defensive position relative to the referendum provisions contained within the original proposal by the Prime Minister on October 2, 1980, relative to the amending formula. We felt we would have to have — or might need to have, is a better way of putting it — referendum legislation in this province, to ensure that if such a referendum situation occurred two years from the date of proclamation of the new Canada Act, we could respond in an effective defensive way. As the hon. Leader of the Opposition is aware — and I'm not sure whether I was asked this question in the fall or late last spring — the Minister of Federal and Intergovernmental Affairs and I advised the House that it was not our intention to proceed with that legislation at this time.

The position taken Wednesday on the referendum was very important. The Prime Minister had proposed that the provinces sign a document that concurred with two referenda, one with regard to the amending formula. To sweeten the picture, so to speak, he said he would put in the April accord and the Victoria charter, and it would be either or. But the vote would not be by provinces but by regions. If it were defeated in any one of the four regions, we would return to the deadlock position, as he described it, of unanimity.

We opposed that for three reasons. Number one was because we believe that referendum divides this country in a serious way. We believe it divides it even more if it is done regionally, and certainly we don't accept the idea that a referendum that ignores the position of the provinces should be counted. With regard to that referendum, we also felt that it would cause great tension within Canada.

The second aspect of his proposal was another referendum that had to do with the charter of rights, and that was an either/or situation. In our judgment, that either/or situation would again cause problems, perhaps very serious problems in the province of Quebec, but also in the rest of Canada.

So Alberta took a strong position in resisting Wednesday afternoon's initiatives by the Prime Minister to resolve the impasse through referendum. It wouldn't have changed the substance of his Bill one iota if we had signed that agreement, but it would have given legitimacy to our participating in the process and would have precluded us from taking any advantage of the Supreme Court of Canada decision and presenting our position before the United Kingdom Parliament, if we were forced to do so. So that approach by the Prime Minister was essentially defeated by the premiers.

MR. R. SPEAKER: Mr. Speaker, a supplementary question to the Premier with regard to the final consensus where the province of Quebec, led by Premier Levesque, only allowed 10 governments to sign the agreement, and Premier Levesque was unable to. I wonder if the Premier could explain the situations where Premier Levesque disagreed. And where are the potential areas of future negotiations that could bring Premier Levesque into the consensus so that we have 11 governments as signatories to the agreement.

MR. LOUGHEED: Mr. Speaker, I spent quite a bit of time with Mr. Levesque yesterday morning, trying to convince him to sign the accord. As I understood it, and as he stated in his closing remarks in open, televised conference, he had two objections to the accord.

The first one had to do with mobility rights. He felt that mobility rights could be used by the federal government as the thin edge of the wedge in expanding into what the Prime Minister, in the summer of 1980, referred to as the powers over the economy, which would mean a very significant intrusion into provincial jurisdiction. In our assessment and in our legal advice, we in Alberta did not feel that that was a realistic concern of Mr. Levesque. Both in private discussions and in the meetings where the ministers and officials were in attendance, I said to Mr. Levesque that if that was his sole concern, surely, as we did with Newfoundland — and as the hon. Leader of the Opposition can see in the document now before him, we responded to the Newfoundland concern — we could have had wording that would have responded to the concerns of Quebec.

The second objection, which I believe was the major objection of Quebec as stated, was that if a province opts out, pursuant to the amending formula that Alberta presented at the discussions in Vancouver during the summer of 1980, financial compensation should be provided to that province. The Prime Minister and other provinces took serious objection to the view that a province, Alberta, could opt out and be compensated by the federal taxpayer for opting out.

We, on Alberta's behalf, had never argued that in the opting out we should be entitled to compensation for that. We take that as a matter of jurisdiction, not a matter of compensation. But in the events leading up to April 16, Mr. Levesque and his government argued that if they were giving up their veto, which was traditionally theirs under the proposed Victoria Charter, they needed to be protected by this fiscal equivalent provision that appears in the amending document the hon. Leader of the Opposition has.

I tried to argue with Mr. Levesque that the realities of Canada would make his concern really not credible, because I can't see a situation — and in his closing statements, the Prime Minister underlined this — where a province such as Quebec would opt out of a situation and fairness would dictate that compensation would flow, either by not taxing the citizens of Quebec or in fact providing compensation in some other way. And the Canada Pension Plan of the early '50s, I guess — maybe I don't have my dates right — was certainly an example of that. But I don't want to prescribe motives to Mr. Levesque; he simply wasn't prepared to accept that argument.

MR. SPEAKER: Might this be the hon. leader's final supplementary for the time being, followed by a supplementary by the hon. Member for Olds-Didsbury, the hon.

Member for Edmonton Norwood, the hon. Member for Edson, and the hon. Member for Spirit River-Fairview, in that order.

MR. R. SPEAKER: Mr. Speaker, to the Premier. At the conclusion of the conference, was there any type of strategy, plan, or suggestion by Mr. Levesque as Premier as to responsibilities he would take to try to go back and talk to his people in Quebec, then again have discussions with the Prime Minister and the Premier to try to reach an accord or consensus with Canada at the present time?

MR. LOUGHEED: Mr. Speaker, no indication was provided to me, either directly or indirectly, that that would occur. As I think I've expressed on other occasions in this Legislature, I've been concerned, as an outsider observing the referendum debate in Quebec in the spring of 1980, that many Quebecers thought the new constitutional proposals were going to provide Quebec with a new deal in Confederation and would strengthen their provincial governments, in relationship to being in a country in which they were a French-speaking minority and an English-speaking majority in Ottawa. The proposals Mr. Trudeau presented to Canada on October 2, 1980, even as amended, still do not have any significant shift of additional responsibilities or jurisdiction to the province of Quebec, with the understanding clearly across Canada that if it had done so, it would have had to apply to all provinces.

So I believe the Prime Minister will have to struggle with the dilemma that now exists in the country. I don't know how we in the other provinces can do more than we did to try to ensure that Quebec remained within the atmosphere of the accord signed yesterday.

MR. SPEAKER: The hon. Member for Olds-Didsbury, followed by the hon. Member for Edmonton Norwood.

Might I just interject. It would seem likely to me that all members who have indicated their wish to ask questions would wish to ask supplementary questions in regard to the constitution. On that assumption, I would propose to recognize members in the ordinary way, and I would respectfully suggest that possibly the supplementaries be limited to two or, at the most, three per member. We have less than half an hour left in the question period, and of course it remains to be seen whether the Assembly might wish to extend that by unanimous consent.

MR. R. CLARK: Mr. Speaker, my supplementary question deals with Item 5 on the consensus, dealing with a future conference to deal with constitutional matters that directly affect the aboriginal rights of Canadians. In the course of the conference, what were the circumstances that led up to that agreement? Can the Premier give an undertaking that his government will sit down with the native leaders of the province at an early date to attempt to work out what one might see as an Alberta position which would go as far as possible to see that the government's position and the native people of Alberta would be on course, if I could use the term?

MR. LOUGHEED: Mr. Speaker, I'd refer that particular question to the Minister of Federal and Intergovernmental Affairs.

MR. JOHNSTON: Mr. Speaker, just by way of clarification, first of all we don't have the final drafting of some of these sections, and how they will be handled remains

uncertain at this point. But on principle, in referring to Section 5 which the Member for Olds-Didsbury questioned, the following will be the rough understanding as I see it. First of all, the section with respect to native rights will remain in the charter. That Section 25 refers to the existing treaty and aboriginal rights. Those will not be changed. Those are transitional provisions.

Secondly, the section which provides for an agreement among first ministers to meet to deal with the question of aboriginal rights will continue, but instead of a two-year period we'll deal with a one-year period. Obviously, that will compress the objective of finding a resolution of the continuing problem of native Canadians here in Alberta, and in Canada in general.

I think it is fair to say that the reason this was left out of the first ministers' consideration was the clear position taken by Indian brotherhoods, provincially and federally, in a general way, that they objected to the way their non-treaty or aboriginal rights were being recognized in the current charter. With that in mind, Mr. Speaker, it was agreed that we find some way to accommodate their objectives, their problems, and their concerns. I think it's fair to say that the province of Alberta has always been willing to meet and discuss their positions with the various groups here in Alberta, and certainly will undertake to do that as well in the next year.

MRS. CHICHAK: Mr. Speaker, my question is directed to the hon. Premier. In his reply to one of the questions of the hon. Leader of the Opposition, he referred to the Supreme Court decision on the constitution. I wonder if the hon. Premier could perhaps expand a little with respect to the impact or role that decision played in bringing about the consensus with all members, bearing in mind that the Prime Minister had consistently taken the position that he had the legal right to act unilaterally, what aspects in fact brought about a change of his position, and the entire role of the decision of the Supreme Court.

MR. LOUGHEED: Mr. Speaker, that's a very important question. I think the very fact that in the opening statements the three parties — the federal government and the provinces of Ontario and New Brunswick — did not in any way mention the judgment of the Supreme Court of Canada and that the other eight provinces mentioned it significantly, indicated to me and continued to indicate to me, as I mentioned in the Legislature on October 15, that the judgment was very strong and was weighing heavily upon the Prime Minister, in terms of reaching a conclusion that he would have to make some significant changes. I would say that the fact that the resolution was not concluded by the House of Commons or the Parliament of Canada prior to that judgment, as a result of efforts made by the Official Opposition party in the House of Commons, certainly was a very major factor in creating the pressures upon the Prime Minister to make the very significant modifications that were in fact made yesterday.

MRS. CHICHAK: Mr. Speaker, I have one further supplementary, perhaps for clarification. When the Premier dealt with the matter of Quebec's position with regard to the final amending formula and referred that Quebec had given up its veto rights as had been provided in the Victoria formula, does the hon. Premier have any assessment of whether — apart from having given up that favorable position — the amending formula will leave

Quebec in a poorer economic situation insofar as the position they now have, if there were a situation where they took a position of opting out, apart from the additional benefits that might be proposed in some new programming or policy? Would not agreeing to accept that policy leave Quebec in a poorer position than they are today, insofar as the structure now exists? Is the hon. Premier able to clarify that?

MR. LOUGHEED: Mr. Speaker, without a doubt, that goes to the nub of the issue. Those are the two points of view. It's my view — because we've never argued for it here in this province — that if a province opts out under what's now going to be the amending formula, it opts out of recognizing that if there's an element of federal compensation paid for by the federal taxpayers of Canada, the province will have to, in due course in its Legislature, accept that reality.

The other side of the reality, however, is that the history of Canada in the past — I was just mentioning to the hon. Leader of the Opposition the example of the Canada Pension Plan. The other side of the reality quite clearly is that if a province opts out of a move by the federal government to increase its jurisdiction in a particular area and the province wants to sustain its jurisdiction in that area, it has to consider that it may find additional financial responsibilities to do so. That of course has been the argument the Prime Minister made: to provide financial compensation as part of the amending accord, you create a situation where people are almost encouraged to opt out. We have never argued for it, so we went along with it.

I think it will be the crucial debate that will continue in Canada, in Ottawa, and in Quebec, as to whether or not Mr. Levesque's concerns are realistic, in the sense they are credible. To the hon. member, Mr. Speaker: with the number of seats Quebec has in the Canadian House of Commons, frankly I can't see that that's a realistic concern for that province.

DR. REID: Mr. Speaker, in response to the very broad nature of the whole subject and the many issues that have already been brought up, could the Premier clarify to the Assembly the objectives of the government of Alberta at the conference? Perhaps, to avoid a very obvious second supplementary, Mr. Speaker, could he give any indication of the extent those objectives were realized by the government of Alberta?

MR. LOUGHEED: Mr. Speaker, that's been answered in part by the ministerial statement, and in part by my first question from the hon. Leader of the Opposition, I believe. I'll be brief by summarizing.

We had five objectives. That the constitution be made in Canada and not made in Britain. We've accomplished that. The constitution has the Alberta amending formula, which provides for the equality of provinces, no vetoes and no second-class provinces. Thirdly, that the constitution has in it a charter that provides for the continued supremacy of the legislatures. Fourthly, that the decision of the Supreme Court of Canada is respected. And finally, that the matters of constitutional issues are not resolved by way of referendum. Those were our objectives, and those objectives were met. [applause]

MR. NOTLEY: Mr. Speaker, I'd like to direct this question to either the Premier or the Minister of Federal and Intergovernmental Affairs. It's a clarification of the re-

sponse the hon. minister gave to the Member for Olds-Didsbury, with respect to aboriginal rights. Am I to understand from the minister's answer that the agreement does not in any way alter sections 25 and 33 of the charter?

From the concern expressed by native organizations in the country, it's my understanding that in fact these provisions are not going to be in the accord. Provision 25 of the charter deals with:

any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlement.

Section 33:

The aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Metis peoples of Canada.

My question very directly, so there's no misunderstanding: does the accord remove sections 25 and 33, or will these provisions of the current charter of rights be in place?

MR. JOHNSTON: Mr. Speaker, again I must give to my answer the condition that I have not yet seen the final draft of the charter of rights to which the hon. member is referring. But in conversations this morning with my deputy minister, who has been involved in the drafting of this particular document, it is my understanding that the reference to Section 25, under the general protection the Member for Spirit River-Fairview refers to, will in fact be in. I can't confirm whether or not the words are exactly the same. That is merely a transitional provision which provides protection to existing treaties signed by governments with various Indian groups across Canada. It is my understanding that that will be remaining in.

The difficulty is with part 2 of the existing proposition by Mr. Trudeau before the Canadian House of Commons, which deals with the other sections affecting aboriginal rights. Again, it is my understanding that that section, whether it be Section 33 or Section 34, will be removed. Mr. Speaker, we will then go into the process of attempting to find a way to redraft that section or deal in some other way with the recognition of what the native people consider to be their complaints with respect to the drafting of the current proposition for the House of Commons.

MR. NOTLEY: A supplementary question to the hon. minister.

MR. SPEAKER: Followed by the hon. Member for Edmonton Mill Woods.

MR. NOTLEY: Just so there is no misunderstanding, as I follow the minister, Section 25 will be in and Section 33 will be out. Is the minister or perhaps the Premier in a position to advise the Assembly of the reasons? The minister implied that there was concern about the position taken by the National Indian Brotherhood, and The National Indian Brotherhood is reported this morning as expressing concern over the decision. Did provincial or federal representatives see any other obstacles in Section 33 being retained in the charter?

MR. JOHNSTON: First of all, Mr. Speaker, I believe the section to which the hon. member is referring is Section 34 under Part 2 of the general provisions, but I won't equivocate. The section I think he's referring to reads:

The aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

If that's the section he is referring to, that section will be taken out of the current proposal before Canada right now. It will be supplemented or substituted in some fashion by an agreed section, depending upon what kind of input we receive from the various groups across Canada. As I indicated earlier, that will be done within a one-year period at a first ministers' conference, where the groups will be able to present their case. I can't give any more clarification as to the mechanics, and I make the very clear caveat that I have not seen the changed resolution.

I might just note that the proposition, as I understand it, will go by an omnibus Bill which will amend the existing resolution in the House of Commons. So you must allow us at least some time to get that copy in our hands before we can be more specific. Having said that, however, I think it is fair to say that the simple reaction, as clearly expressed by the Minister of Justice, was that in his view, the way the resolution dealt with the concerns of the native people of Canada was not adequate and that we should therefore find some other vehicle or method to achieve or accomplish what they thought would be equitable in terms of their recognition, and we have committed to doing that.

MR. PAHL: Mr. Speaker, my supplementary is to the Minister of Federal and Intergovernmental Affairs. It refers to the one-year time period in which aboriginal rights will be addressed and resolved. I wonder if the minister could assure this Assembly that all due consideration will be given to avoiding an artificial deadline and a time frame that will not allow the native peoples, particularly of Alberta, to have full consideration, and that we're not just chopping it off with an undue deadline.

MR. JOHNSTON: Mr. Speaker, obviously, in communications the Minister responsible for Native Affairs and myself have had with the various groups here in Alberta, we have always held out the commitment to discuss constitutional positions with them. You might note that there was a bit of an eclipse there, when Mr. Trudeau moved unilaterally with his own resolution. It's difficult to follow up on that commitment, because there was not much to discuss if it was a fait accompli.

Now that we've got that back on the table, I can assure you — and I'm sure the hon. minister will agree with me — that we will agree to meet. We will set down a schedule, as we committed during the previous round of discussions on the constitution. We will try to find, in fairness, the position being expressed by the groups here in Alberta. In terms of the mechanism, these groups will then have the right to meet with the first ministers, and that meeting will be described within the charter itself. It will set out ways in which this meeting will take place. I can assure you that we will work, negotiate, and deal in good faith as we have in the past.

MR. BORSTAD: My question is to the hon. Premier. Quebec could not sign the agreement, which is very unfortunate. Will there be ongoing discussions to try to bring Quebec on side?

MR. LOUGHEED: Mr. Speaker, I can only elaborate to the hon. Member for Grande Prairie from what I've said in previous answers. I would certainly hope so. I do believe that that responsibility has to rest primarily upon the Prime Minister. It is the Prime Minister who has proposed a constitutional package that doesn't provide, in the judgment of the province of Quebec, an adequate improvement in their position in the Canadian family.

With regard to the two specific concerns raised yesterday by the Premier of Quebec, both with myself in private conversations and in public with his concluding remarks, I and others will try our best, in whatever ways we can, to convince the Premier of Quebec and his government to reassess their position and that they should be able to find themselves adequately protected from the concerns they've expressed.

MR. SPEAKER: The hon. Member for Calgary Currie, followed by the hon. Member for Lac La Biche-McMurray, whom I previously recognized and I apologize for having overlooked.

MR. D. ANDERSON: Thank you Mr. Speaker, most of my questions have been dealt with through supplementaries. However, could I ask the hon. Premier to clarify whether or not, with respect to Quebec, there are any provisions in the new agreement which would take away their jurisdiction or any rights they currently hold?

MR. LOUGHEED: Mr. Speaker, that's precisely the important point. Under the terms of the amending formula Quebec has, as this Legislature has, protection to assure that their existing rights — proprietary rights, jurisdictional rights; all their existing rights — are maintained and sustained and cannot be taken away from them without the concurrence of the National Assembly of Quebec. That's an important protection for them, as it was fundamentally important for us.

MR. WEISS: Thank you, Mr. Speaker. I thought I was being punished for reading last night. But I can see that may not be the case.

MR. SPEAKER: May I respectfully assure the hon. member that the Speaker has an exceptionally short memory. [laughter]

MR. WEISS: My reading is very short today as well, Mr. Speaker.

MR. R. SPEAKER: On a point of order. Not to detract from the seriousness of our subject, but there is much precedent in the House for reading. I think the member's actions last night were very acceptable.

MR. WEISS: I'll leave that to the decision of the Speaker.

Mr. Speaker, my question is directed to the Premier. I'm sure all Albertans are very pleased that the constitution has now been resolved, similarly as they were with the energy agreement. But unlike the energy agreement where Albertans could assess how it directly or indirectly affected them, would the Premier advise — when, after 114 years, we go to a new constitution — what it really means to Albertans, to me, and to others?

MR. LOUGHEED: Mr. Speaker, the only way to answer that question is what it means to us as Canadians. It

means we have a constitution that, in terms of its future, will not be determined by a parliament in another country. It means we will have a country which will be a federal system in which provinces are respected and in which provinces are treated equally. It means we will have a constitution in which the protection of rights we have in our Alberta Bill of Rights are extended across the country. It means we have a constitution that will sustain a system in which the people who live in the regions of the country, and not in the centre of the country, can be assured, through their elected representatives, that they will have a fairer and more equitable place in the Canadian nation. That's what it means to me. And that's what I hope it means to all Canadians. [applause]

MR. WEISS: Mr. Speaker, a supplementary to the Premier. What method of communication will be made to see that this message goes to all Albertans?

MR. LOUGHEED: Well, I don't know if I can answer that, Mr. Speaker. I realize that Albertans are very troubled, as we all are, by national economic concerns and the problem of interest rates. Perhaps it's a subliminal matter that really gets to the soul of a person rather than to the pocketbook. I just hope that Canadians within Alberta will, over time, understand what happened yesterday and its significance.

MR. ISLEY: Mr. Speaker, my question is directed to the hon. Premier and is related to the entrenchment of minority language education rights in the charter of rights, an action that many of the residents of the Bonnyville constituency applaud. Mr. Premier, my question with respect to this entrenchment is: what are the implications for Albertans in general, and for Alberta education in particular?

MR. LOUGHEED: Mr. Speaker, our best judgment on that important question is that we've made such significant progress in this area over the last number of years that there will not be a significant change, and that we have moved forward with our best-efforts approach to assure that there are adequate facilities and adequate instructors for those who wish instruction in the French language, where:

... the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language [education]
...

In answer to the hon. Member for Bonnyville, I believe that is being met within the province of Alberta today. If it is not being met, for our part we certainly will commit ourselves to providing the funds to meet the full spirit of that provision.

For those who are concerned because of the multicultural nature of our province, it's important to note that the resolution also provides that:

This Charter shall be interpreted in a manner consistent with the preservation and enhancement of the multicultural heritage of Canadians.

That's Clause 27. I know the hon. Member for Bonnyville has the concern within his constituency of both the multicultural nature of our province, peoples of our province, but also the minority language instruction. That's our best judgment of it, and we believe it was an important step for this province to take.

MR. ISLEY: A supplementary question to the Premier, Mr. Speaker. Is it possible for the notwithstanding clause to apply to the minority language education rights?

MR. LOUGHEED: No, Mr. Speaker. We considered that, but it really doesn't follow that a notwithstanding clause can apply in that particular area or in two or three of the other areas. Not to be superfluous with regard to the matter, we looked at official languages; that's federal jurisdiction. We looked at the minority language instruction and said, you can't have a notwithstanding clause there. We really didn't feel that under the democratic rights which oblige us to have elections every five years, we could have a notwithstanding clause there.

MRS. CRIPPS: Mr. Speaker, my question is to the Minister of Federal and Intergovernmental Affairs. Since it is so important to all Albertans and Canadians, at many times an agreement appeared to be an impossibility. Could the minister outline to the Assembly the circumstances leading up to the final agreement reached on the constitution yesterday?

MR. JOHNSTON: Mr. Speaker, someday I may write a book about that. But at the present time I could summarize two or three points, which I think should be reinforced for the Legislative Assembly.

First of all, as the Premier has pointed out, the clearly and carefully established principles of constitutional change to which this Assembly and the province have agreed made it relatively easy for us to debate at all levels — ministerial, premiers and, of course, official — the real essence of what might be included in a new constitution for Canada. So in that sense, I think we could clearly and safely say that there were elements of predictability and certainty as to what our position would be and how it would emerge.

Again, as I think about it over the past few hours, having come out of that tense situation, it was interesting to note that obviously various provinces continued to present new positions. They'd present them at various times. They'd evolve, emerge, and debate and, to some extent, be cast aside. But it seemed to me that they kept coming back more and more to the principles which I think our province and, to some extent, other provinces agreed to. Selective items were being taken from the other positions and added to what seemed to be this consensus which was emerging.

I think our debate, our principles, and the leadership of our Premier clearly marked the success of this conference. Without any qualifications, I give a great deal of recognition and kudos to our Premier for the leadership he provided. [applause]

MR. SPEAKER: The time for the question period has elapsed, but I have indications from not only the hon. Member for Macleod but also two other members who wish to ask their first questions on this topic and two members who wish to ask a second supplementary on the topic. What is the wish of the Assembly? Do we agree on a fixed time, or just go until the subject is complete?

AN HON. MEMBER: Leave it open.

MR. SPEAKER: Leave it open. Does the Assembly agree?

HON. MEMBERS: Agreed.

MR. FJORBOTTEN: Mr. Speaker, my question is to the Premier. On November 3, 1978, all members of this House agreed to an Alberta constitutional position as stated in *Harmony in Diversity*. Now three years later, nearly to the date, we have a constitutional agreement. How does that final agreement differ from the position the Legislature agreed on in *Harmony in Diversity*?

MR. LOUGHEED: Mr. Speaker, I'd have to summarize that question very quickly. *Harmony in Diversity* extended itself to a number of subjects, because at that stage we were discussing a multitude of issues of division of powers. It was decided and agreed to that we would come down to three issues: patriation, amending formula, and charter of rights. I'm sorry, I should add the question of equalization and, to a degree, resources, but not in a full way. Having got to that stage, the other matters that were discussed had been put aside, under the provisions of the proposed constitutional Canada Bill, for meetings of the premiers in constitutional assembly as part of the arrangements within the proposed Canada Act.

I presume the hon. member is asking: how does the *Harmony in Diversity* document — which, subject to correction, I did think had one dissent within the House — compare with the final result? The amending formula is really the same amending formula that is set forth in the document *Harmony in Diversity*. I just want to say one thing on that, Mr. Speaker. In the fall of 1976 when we debated that amending formula, and prior to it, I was the chairman of the premiers conference' and proposed that formula. We had support from no province; we were alone. Not one single province approved that basic approach set forth in *Harmony in Diversity* and today forms the amending formula of Canada. Not one single province; we started alone.

On the question of entrenchment of rights, I believe I answered that in the answer to the first question directed to me by the Leader of the Opposition: we met it, but we met it through the use of a notwithstanding clause. We did alter our position on the basis of the entrenchment of language rights in the sense that we have agreed to accept the guarantee of minority language education rights, as I answered the recent question from the Member for Bonnyville.

So to sum up, Mr. Speaker, with that one exception I have just now mentioned, the final result in those areas in which the Canada Act applies to *Harmony in Diversity* meet *Harmony in Diversity* as presented by this government and debated in the fall of 1978.

MR. BRADLEY: Mr. Speaker, my question is to the hon. Premier. I think it has already been answered in part. With regard to the notwithstanding clause in the charter, the Premier has mentioned that it does not apply with regard to minority language education and democratic rights. Could the Premier clarify if the notwithstanding clause applies to any other parts of the charter? Could the Premier also advise the Assembly as to what exactly the five-year renewal clause means, with regard to the notwithstanding clause in the charter?

MR. LOUGHEED: Yes, Mr. Speaker, I'd be happy to. I'd refer the hon. member and other hon. members to the fact sheet attached to the documents circulated today. That document was prepared by the secretariat during the course of the afternoon. I believe it's accurate. It men-

tions the Alberta Bill of Rights there.

The notwithstanding clause applies to three areas of the charter: fundamental rights, legal rights, and equality rights, and those three only. The five-year sunset provision was a suggestion by the Prime Minister yesterday morning — I'd better choose my words carefully here — with a view of perhaps anticipating that it might not be acceptable to Alberta and other provinces that wished a notwithstanding provision. I fairly quickly told him that I thought it was a very good idea and should have been included in our own Alberta Bill of Rights in the first place.

What it means, because we did spend some time in clarifying it, is that if, say, two years from now we passed a Bill which said that notwithstanding the Canadian charter of rights, such and such will apply, from the date that Bill is proclaimed it only has a five-year duration. At the end of the five years, it would automatically lapse. The Legislature could renew it at that time, or it could allow it to lapse. I think it is a good idea, because it forces you to go back and look again at whether what you thought was so pressing and important in 1983 is as pressing and important in 1988.

MR. MANDEVILLE: Mr. Speaker, my question is to the hon. Premier. We did have the opportunity to endorse the government's position on the constitution. I wonder if the Premier has given any consideration to letting this Legislature endorse, in some short method, the agreement signed yesterday.

MR. LOUGHEED: Mr. Speaker, I believe there is some merit to that. I just haven't had time to think about how, and the approach to it. I'd like to reserve the answer to have a discussion with the Government House Leader over the weekend. Perhaps we could respond to that suggestion on Monday.

MR. HIEBERT: Mr. Speaker, my question is to either the hon. Premier or the Minister of Federal and Intergovernmental Affairs. It flows from the question from the hon. Member for Bonnyville, with regard to minority rights and education. Does the charter of rights in any way alter the rights and privileges of minorities to form separate school systems which presently exist in the province of Alberta under the Alberta Act of 1905?

MR. JOHNSTON: Again, Mr. Speaker, I would have to caution that I haven't read how these sections will emerge specifically. But I'm sure that it will give the commitment that it will not, and we'll confirm that in checking with the Attorney General's Department. It is my understanding now that it will not detract from the rights of the separate school system in Alberta.

MR. R. SPEAKER: Mr. Speaker, my question is to the Premier. The Prime Minister is intending to pass the Canada Act prior to the budget coming down next Thursday. I wonder if that causes any concern to the province of Alberta, or the Premier, at this time.

MR. LOUGHEED: It has been causing me, and I would have thought some other provinces, considerable concern. I have not yet been able to understand why the budget was deferred until after the meeting of the provinces. I believe I did mention in this House a week or so ago that that caused me — and I'm sure the Leader of the Opposition — some apprehension. Unless there is a de-

ferral of the federal budget, though — and I'm not up to date on this — I would think that the nature of the revised or amended resolution would result in debate in the Canadian House of Commons that would extend after the budget. It will be interesting to see that, but that's our best reading of the circumstances as of today.

MR. KOWALSKI: Mr. Speaker, my question is to the Minister of Federal and Intergovernmental Affairs. It arises from some words found in the clause and section dealing with mobility rights, as found in the agreement signed yesterday. My question is very specific. Would Alberta be able to continue legally to initiate job opportunity programs that discriminate in favor of people who are identified as "socially and economically disadvantaged individuals"?

MR. JOHNSTON: Mr. Speaker, I can answer that question by saying yes, we will be able to protect that objective. The change in the mobility rights section in the charter was to recognize the problems that some economically developing provinces have, in that they would like to assure that job opportunities remain open to their own citizens. I think that's a fair responsibility which was quite important to at least three or four provinces. But to move around that test, we agreed that we would essentially take the mobility section and add to it a provision that the mobility section would apply until some measurement of economic activity, such as rate of unemployment or level of employment, could be confirmed.

None the less, that section will not prevent a province from undertaking affirmative action programs for socially or economically disadvantaged individuals, providing that some minimum test is met.

MR. KOWALSKI: A supplementary, Mr. Speaker. Could the minister identify which government will identify those socially and economically disadvantaged individuals? Will it be the federal or the provincial government?

MR. JOHNSTON: Mr. Speaker, I imagine it will be done by the provincial governments, since in fact it is their responsibility.

MR. KOWALSKI: A supplementary, Mr. Speaker, again to the Minister of Federal and Intergovernmental Affairs. Would this clause dealing with mobility rights prohibit a province from initiating a provincial preference with respect to hiring employees for the public service?

MR. JOHNSTON: I would have to say that I don't think so, Mr. Speaker. Again, once you get into the words and the interpretation, it's left to the courts. I can't predict totally what will happen in terms of the interpretation, obviously. I think it's safe to say that at this point we would not expect any problems in the province of Alberta. Our position has been that we would respect the movement of people within Canada to job opportunities and, on top of that, we'd try to establish opportunities for these disadvantaged groups through our own affirmative action programs. So I don't see any conflict with what the province of Alberta would do. And with respect to the question of the member, Mr. Speaker, I would say that I don't see any problem at all with what the province of Alberta would continue to do, in terms of our approaches.

MR. NOTLEY: Mr. Speaker, I'd like to direct this question to the hon. Premier. It really deals with the issue of aboriginal rights, but the general approach of the government on the matter. In response to the Leader of the Opposition, the Premier indicated that the resolution would be coming before Parliament. Of course, as a resolution before Parliament, it's quite possible that amendments could be put to it. I'm also given to understand that the native organizations will be emphasizing their concern about Section 33 and asking that Section 33 of the original charter be reinstated.

My question to the Premier is simply this: is the government's continued support for the accord reached in Ottawa contingent upon Parliament not reincorporating Section 33 of the charter?

MR. LOUGHEED: Mr. Speaker, I don't know how to answer that question. It was an accord which was signed yesterday. I don't believe there would be any prospect of altering that. I certainly got that impression from the Prime Minister. Representations may be made in Parliament on the point raised by the hon. member, but I would think our position would have to remain in the way the Minister of Federal and Intergovernment Affairs responded to it this morning, subject to any further consideration.

ORDERS OF THE DAY

head: COMMITTEE OF SUPPLY

[Mr. Purdy in the Chair]

MR. DEPUTY CHAIRMAN: The Committee of Supply will please come to order.

ALBERTA HERITAGE SAVINGS TRUST FUND CAPITAL PROJECTS DIVISION 1982-83 ESTIMATES OF PROPOSED INVESTMENTS

Department of Recreation and Parks

MR. DEPUTY CHAIRMAN: Has the minister any opening comments?

MR. TRYNCHY: Mr. Chairman, I have today — and I wish to have the pages now distribute them — Kananaskis folders for each member. As I've travelled the province this last year, I've been asked a number of questions in regard to Kananaskis. People are saying: what are you doing there; what is our progress; how do I see it helping Albertans? They ask me to provide to them in some way a story of what it's all about and what we have.

Let me begin with an update. I read my opening comments in my report to the House last year, and I noticed I made a commitment to bring the members up to date on what we're doing and on our progress. If I may, I'd like to start again from the beginning and suggest that I will try to review what has taken place from October 1977 to March 31, 1981.

If we go back, Mr. Chairman, we'll recall that on October 7, 1977, the Premier had a news release which announced an exciting new concept of recreation facilities and opportunities for Albertans. Its planning was that we would provide a modest beginning of some \$40 million —