

- resigned because of the move;
- (c) the cost of new building construction;
- (d) the cost of new services, facilities, and equipment;
- (e) the cost of moving existing equipment;
- (f) the cost, expressed in man-years within the public service, of planning and executing the move.

[Motion carried]

142. Mr. R. Clark moved that an order of the Assembly do issue for a return showing:
- (1) A list of all private schools in Alberta receiving funding from the provincial government, with private Christian schools identified as such.
 - (2) The number of students enrolled in each of the aforementioned schools.
 - (3) The number of teachers employed in each of these schools.

[Motion carried]

MR. CRAWFORD: Mr. Speaker, perhaps I could note that previous to now the House hasn't recorded the fact that hon. members wish to spend this afternoon, or such portion of it as may be required, debating a motion in regard to the constitution. The draft motion was circulated earlier today. My belief and understanding is that all hon. members would now want to give unanimous consent.

MR. SPEAKER: Is there unanimous consent to proceed with the motion on the constitution by the hon. Minister for Federal and Intergovernmental Affairs in the text already circulated to hon. members?

HON MEMBERS: Agreed.

head: GOVERNMENT MOTIONS

15. Moved by Mr. Johnston:

Be it resolved that the Legislative Assembly endorse and support the constitutional agreement for patriation signed by the Premier on behalf of Alberta on November 5, 1981.

MR. JOHNSTON: I'm very pleased to move Motion No. 15. Mr. Speaker, I have a feeling that, as I initiate this discussion on the resolution, we are concluding a very historical period in the life of Canadians, certainly in the life of Albertans, and clearly in the sense of the policies before the government of Alberta. I think the work of our founders of Confederation in 1867 has now been completed to a great extent in that we finally have a constitution with an amending formula, and there is general agreement that the constitution be patriated to Canada.

The British North America Act, as members well know, is one of the oldest constitutions in the world. I think it is significant that it is now truly a Canadian constitution, amendable here in Canada and reflective of the regions of our country, the provinces of our country, and the people of our country.

There's no doubt we've had a very long process of constitutional debate in this Assembly. Mr. Speaker, I thought today I would simply outline the elements of the discussion here in Alberta and perhaps reflect very briefly on the elements in the constitutional agreement, and then hope that Members of the Legislative Assembly can ratify or give legislative authority to what I think is a very

important landmark move and decision by the people of the province of Alberta, as reflected in the government of our province.

First of all, Mr. Speaker, I do not agree that the constitutional history is 54 or 114 years. I think the true pressure on constitutional change took place in 1976 when it was first discussed at the annual premiers' conference. At that time our Premier was the chairman of the conference, and in a very important letter to Mr. Trudeau expressed the views commonly held by the premiers at that time. From then on, the constitutional process has moved ahead, rocky in some cases, uncertain in many instances, and full of conflict at other times.

As a matter of record for our debate today, in November 1976 a resolution was adopted in this Assembly which set out very important and clear fundamental principles from which the Alberta position has evolved. That is that no existing provincial rights, proprietary interests or jurisdiction can be taken away from a province without the specific concurrence of that province. I think those are the two important principles upon which the Alberta position has emerged, principles which I think are very clearly understood and held by the government of Alberta as well as by the members of the government who serve the government.

At the same time, August 1977 was an important date, the annual premiers' conference in St. Andrews, New Brunswick. At that important conference, the premiers agreed to reflect and give best efforts to the use of French language instruction and education among the provinces and agree that they would, wherever numbers warranted, provide instruction in French within their own provinces. I think that was generally known since that time as the St. Andrews communique.

In October 1978, you will remember, my colleague at the time, the current Provincial Treasurer, introduced Harmony in Diversity, which was tabled in this Legislative Assembly, was initially debated before attendance by the Premier and Mr. Hyndman at the first ministers' conference in November, and of course was finally passed by our Assembly.

In February 1979, the Alberta formula, which is now part of the fundamental law of Canada, was introduced to Canadians and was tabled at the first ministers' conference in. I should note that the western premiers' conference was held in April 1980 in my home of Lethbridge, just in advance of that historic referendum in Quebec. It was at that point that all premiers at the western conference agreed, first of all, that they would like to see some real constitutional change take place in Canada, and they made a commitment towards constitutional renewal, should the people of Quebec find it in their hearts to stay within Confederation. The outcome of that referendum was clear, but at that point the premiers clearly rejected the concept of sovereignty association.

In June 1980, Mr. Speaker, a first ministers' conference was again held. The process of constitutional reform unfolded through the summer of 1980. A list of items was presented to the Continuing Committee of Members on the Constitution which dealt with them over the summer. Of course that lead to the September 1980 first ministers' conference which, I think is a matter of record, was a failure in the fact that Mr. Trudeau would not bend or reflect upon the views of the provinces and subsequently decided, in October of that year, to move on his own with a unilateral resolution, which was objected to in the most strenuous terms and generated the most severe kind of divisiveness in our country, and finally was brought to a

conclusion this past November 1981. Again as a matter of record, I should note that a resolution which opposed the process of unilateral patriation and constitutional change was passed in this Assembly in November 1980 by a near unanimous vote of 70 to 1. Of course, that was the process we've been fighting this past year.

On April 16, 1981, a constitutional accord was signed, again a historic day: the first time the province of Quebec agreed to patriate the constitution. I think that constitutional accord framed and modified to a great extent the way in which the constitutional process emerged over the past year.

On September 28, 1981, a very historic decision was handed down by the Supreme Court of Canada. In that decision, a clear convention was recognized by the Supreme Court. I think that fact reinforced the view taken by the group of eight that agreement among the provinces was necessary before constitutional change could be effected. The conference of November 2 to 5, 1981, is a matter of history now. But of course constitutional agreement was reached at that meeting, and in fact we now have a Canadian constitution.

That's the history, Mr. Speaker. It doesn't seem like much. It doesn't seem like a very great period of time, in fact just six years and one month; a period, as I said, which has been characterized by a great deal of debate on this issue and, I think now, one which we can say has been concluded to the great satisfaction of a majority of the provinces and the federal government, and generally agreed to by the people of Canada.

I want to reflect very briefly my own perspective. First of all, I think I'm very fortunate to have been able to represent the citizens of Lethbridge, my own constituency, in this important debate and, to some extent, to carry their views to the constitutional table. That is a privilege which is not given to anyone too often. In that sense, I'm very pleased I've had that very important responsibility. But more than that is my understanding of Canada. In that sense, I don't think many possibilities exist to explain really the deep understanding which I feel I have come to have of the regions of our country and the perspective of the provinces, and some sense for the way in which each province views its role within Confederation.

I think at this particular point of the small province of Prince Edward Island. Many historians would say here we have a province which, in a constitutional way, was sort of grouped together with a region and did not satisfy the requirement which the province of Alberta attached to constitutional change; that is, equality. In fact, as I cast my mind back over the past few years, I think one of the provinces which really did distinguish itself on principle was Prince Edward Island. I certainly want to express my appreciation for the participation and contribution they made to this national debate over the past few years.

Mr. Speaker, I suppose as students in university we have all gone through the process of history and political science courses. We have been dictated to as to how these constitutional changes take place. But fundamental to all these constitutional changes, whether from an historical or the contemporary perspective as I see it now, is a real belief that there is a national Canadian unity, some sort of federation we can all envision, which reinforces the original decision taken by the four provinces to come together in 1867. The view and the hope they had at that time has been reinforced by the fact that among provinces and, I guess, among politicians there can be agreement

for the betterment of the unity of our country. To me, that has been one of the more important sentiments which to some extent has been extracted by this vigorous and often esoteric debate. I think these are the kinds of the things that make Canada, and your role in Canada, much more important.

For me, I think this was a unique and perhaps a never-to-be-regained experience to be involved in this kind of debate, to have some quick view and expression of the perceptions of Canada from the other provinces and regions, and to be a very small part of accomplishing a constitutional patriation and amending formula for Canadians. At the same time, we cannot deny the role of politicians in this process. Many times, politicians — and that sometimes is viewed as a pejorative expression — are not able to accomplish very much. But to the contrary, here we have one of the most significant conclusions to an issue before Canadians, hammered out with great opposition and great force, but finally, in a sense of trying to reach an agreement, some kind of accommodation was effected. In fact, it was the political will to bring it together that is important. In that sense, I think we should recognize to some extent that the political system — or the parliamentary system, more broadly — is in fact working in Canada.

We're at a conclusion of sorts. Obviously, we have some questions about what has emerged from this debate. We have not all had an opportunity to view the document which will be circulated and tabled in the House of Commons. Of course, some parts require further consideration. Many parts have not been considered at all, and those are the other elements of constitutional debate and reform which must be considered. I know many of my colleagues have said to me, what are we doing on this particular issue, be it communications or various other problems facing us in terms of division of power between the federal government and the province. There's no question that there's much more to do. But we should not deny what has been accomplished in terms of this very important agreement signed last week in Ottawa.

Let me just speak briefly on the process. As I've said, the past year has been a debate on the process. We have seen it reflected not just in the constitutional debate but also in the energy debate. The Premier and the Minister of Energy and Natural Resources have stated that in their view it was a question of process being debated here, and this process and the way in which this process has emerged. There's no doubt in my mind that we have adjusted a view of Canada held by some which suggests that decisions should be centralized within an Ottawa government and should be done unilaterally, against the will of the provinces if necessary, for this centralized view. With the energy agreement and the constitutional agreement, I think it is now clearly understood that that process has been revoked. From this day forward, I suggest that agreement among the provinces on many of these important issues will become the password of the Canadian federation. I think that is a significant outcome of this conference and one which historians will look back on through 1981, and two cases as being significant to this year itself. I want to have that on the record.

Secondly, Mr. Speaker, there is no doubt that the Supreme Court of Canada itself made a major contribution to the debate on the role of the provinces. True, there was a legal argument that Mr. Trudeau could proceed to London with the resolution he had. But even more important was the outcome of that Supreme Court decision which stated clearly that constitutional conven-

tions had to be recognized within Canada. From September 28, 1981, the agreement of the provinces will in fact be required before constitutional change will take place. As a byword, of course, we did have some more certainty added to the interpretation, which suggested that unanimity among the provinces was in fact not necessary. However, the Supreme Court decision and the efforts of the various legal people who argued that case, for or against, can be recognized as a very major outcome of 1981.

Let me turn to the important elements of the constitutional package. First, let me state that I'll try to outline simply some of the elements and thoughts on them without dealing with the words, commas, or legal language, because in fact that has not been arrived at, at this point. I'm sure we will have the opportunity to debate it further. Secondly, I think you'll have the opportunity to question the Premier, as you did today, with respect to some elements of the decision-making process and how we'll handle, by way of public debate or public policy, some of the elements reflected in that constitutional resolution.

First of all, with respect to the charter, Mr. Speaker, I guess I could draw from the package of paper in front of me several resolutions, several positions which we have taken. For example, I could draw out the Alberta Bill of Rights, the first piece of legislation this government passed on behalf of the people of the province, which I think is a very important position both in terms of the fundamental aspects of what should be included in a charter of rights and, more importantly, establishing for the province of Alberta what is known as a notwithstanding clause. I will expand on that somewhat further. At the same time, in our carefully debated position on constitutional change, *Harmony in Diversity: A New Federalism* for Canada, our position on the charter for Alberta and for Canada is outlined. So those two points have been put on the table.

Mr. Speaker, we also know that the Canadian Bill of Rights was passed by the Canadian Parliament in 1960. Although that Bill was not enshrined in the same sense as this charter will be enshrined, in fact it did represent a signal to Canadians with respect to the importance of a charter, and in fact it was applicable to the federal legislation.

What was included in this particular charter of rights? Mr. Speaker, there are certain fundamental and democratic freedoms. I think these two freedoms are generally well recognized and, I would say, almost unanimously held in some cases as being fundamental to the rights of the individual: the freedom of religion and the freedom of the press. We've all grown up to accept those as imperatives and not really challenged them to any great extent.

Democratic rights — the right to election every five years, the right to Parliament — are also recognized. I can honestly say that until I went to one of those political science classes we all attended at one time, I thought this was in the constitution. But as you know, it never has been fully enshrined in the constitution in the sense that it is now part of the charter. In the BNA Act there was reference to election, but it is now a matter of a democratic right. Also, Mr. Speaker, we have mobility rights, legal rights, and equality rights. These rights are important in any constitution, and have essentially been reflected in one way or another in our own Bill of Rights, and clearly deserve merit in any constitution.

I should note, Mr. Speaker, that as I said on Friday, this charter of rights is tempered by what is known as a

notwithstanding clause. That simply means, as we handed out on Friday as well, that if we wanted to pass legislation in this area and it came up against a judicial interpretation under the charter of rights, we could pass legislation notwithstanding the charter of rights. That would have to be reviewed every five years. So in that sense, some of the criticisms which many have levelled against a charter — that a judicial interpretation of legislation becomes more fundamental than the parliamentary process — have been controlled in that manner. Further, I think the review process which will take place every five years calls upon a legislative assembly to reflect upon whether or not that notwithstanding clause should stand, and calls upon elected people to re-examine their roles with respect to the charter of rights. That's a very healthy and positive aspect which is an outcome, I guess, of the constitutional debate which took place last week.

Let me look very briefly at the official languages. As I said, since the St. Andrews conference the province of Alberta has always been on record as supporting the language of instruction in French, where numbers warrant. Moreover, I think it very safe to say that through the various ministers of education, that in fact has become a principle of our school system in Alberta. I think it's generally recognized among Albertans that we have extended the right to instruction in French, not under the numbers test but generally wherever possible. I would note that in most cases the numbers are made up by non-Francophones, and that the spirit of the thing has become important in Alberta. Minority language education should not really be a great debate here in the province of Alberta.

As well, I might note that while we opposed the language of instruction being imposed upon us under Mr. Trudeau's constitutional process of the last year, we agreed to this particular process. So it is not one which takes away our rights without our agreement; it is not imposed upon us. Mr. Speaker, I guess the bottom line with respect to minority language is that this simply constitutionalizes in the BNA Act what in fact is happening in our province.

Mr. Speaker, there is no doubt that in the province of Quebec this could be the focus of contention. This will be the one item which generates a great deal of difficulty to the Quebec government. They have to consider that in their relationship and role with the federal government. I can state to you that our decision was made in the context of Alberta. When we agreed to that section, we were speaking to the people of Alberta and to the process here in Alberta. So if there is going to be any imposition by the federal government on the province of Quebec, it is done on a bilateral basis between those two parties and not with any urging or, for that matter, any reluctance on behalf of the province of Alberta.

Mr. Speaker, let me also note very briefly — I won't elaborate much more than what the Premier outlined with respect to aboriginal rights and freedoms. I think the Premier gave a very comprehensive view as to what has happened, both before Mr. Trudeau's constitutional package was proposed in October 1980 and how he sees it emerging post-current constitutional process. I think I and our government have always expressed the willingness to debate and consider the position of native groups in the province of Alberta. I know that by way of policy, we have said that all the land entitlements in the province are now covered by treaty. Therefore, it's a matter of question as to whether or not aboriginal rights exist. Further, we have gone on record as indicating that we are

willing to go to any conference and bring the views and, together with the native groups, proceed to the first ministers' conference to try to find a resolution of this particular problem.

I was personally involved in the Continuing Committee of Ministers on the Constitution, and we are working towards that direction. However, that process was interrupted, as I noted, by Mr. Trudeau's move in 1980. In fact, he set aside the process which we are now agreeing to once more. The Premier outlined that process very clearly. I think our position was well known to the groups here in Alberta. To some extent, we thought we were reflecting their views, their criticisms of Mr. Trudeau's proposition, when we said we'd like to have an opportunity to have the input from our native groups before we agreed to any final position on the reflection of aboriginal rights and freedoms in the constitution.

Let me look at the amending formula. Again, Mr. Speaker, in the context of the history of the debate on constitutional form in Canada, it was clear in 1976 that the amending formula was not agreed to on a consensus basis. I believe seven provinces agreed to what is known as the Victoria formula. The British Columbia government agreed to some other modification of a regional basis. In line with the principles we have debated in this Assembly and in recognition of those principles, the province of Alberta suggested something called the Alberta amending formula, and that was first presented to the people of Canada and the leaders of Canada at the first ministers' conference on the constitution in February 1979. So we have gone from a position of not wide support for our proposition to finally having our amending formula entrenched within the constitution. To some extent, that gives a great deal of personality and attachment to the fundamental law. In modesty, I think it is also safe to say that it reflects the determination of our government to stand on principles and to argue vigorously and strongly for what we think and believe to be the solutions to some of the problems in Canada.

The opting-out formula — the fact that if a province wants to disagree with the constitutional amendment and finds itself essentially alone, it can opt out of that constitutional change and therefore retain its current jurisdiction — has been criticized. That satisfies our priority of not allowing our rights to be taken away without our agreement and, at the same time, adds a great deal of flexibility to a constitutional amending formula. In the past, much of the difficulty has been the debate between flexibility on one hand and inflexibility on the other. The more you talk about and discuss the question of amendment, the more you realize there has to be some mid-ground. It cannot be as inflexible as perhaps the Fulton-Favreau formula was, and it cannot be as flexible as some of the other formulas suggested. So in that sense, I think all provinces agreed that this was the best alternative.

Clearly, over the past few years it has had the widest support, and I think it's safe to say that this will be one of the landmarks and key issues which will suggest to historians and political scientists that it was this that unlocked the patriation of our Canadian constitution and allowed the constitution to come home to Canada with some form or fashion to amend it, and finally ended 114 years of the tradition of going to London, the tradition of Westminster, finally suggesting ways we could change our constitution. So on behalf of the Alberta Legislature, I'm very proud to have debated it here and to have carried the arguments, and now to report to you that we have had success in having that in our constitutional package.

Mr. Speaker, let me just conclude, because I know others want to add to this debate. I'm sure other feelings and sentiments will be expressed but, as I've said, I know this has been a very historic process. As the Premier said, the constitution is a book of rules under which Canadians, provinces and governments, can operate. We have really concluded that. Others have argued that there should be some strong, ringing declaration of national identity or national purpose. Our BNA Act does not have that. It is simply a very clear statement of responsibilities, jurisdictions and, now, a charter of rights and an amending formula.

In my view, Mr. Speaker, we can now get on with making Canada a strong federation. We can now get on with the process of dealing with other problems in Canada. I for one strongly recommend that we move forward with this resolution and give it the unanimous endorsement of this House. I think we all have a great deal of pride in what we have accomplished in Alberta.

Thank you very much for your attention today.

MR. KOZIAK: Mr. Speaker, on this historic occasion may I begin by expressing what I think would be the feelings of all my colleagues in both government and opposition, in expressing our gratitude for the efforts of the Premier of the province of Alberta and our Minister of Federal and Intergovernmental Affairs. Their efforts have been sterling and, I might also add, developed on a foundation to which much was contributed by the former Minister of Federal and Intergovernmental Affairs, the present Provincial Treasurer.

Since the events of Thursday, November 5, and the culmination of our joy in the celebration of this resolution, there has been one sad note. I would like to begin my remarks by referring to that sad note; that is, the fact that we did not reach unanimity in the accord signed by nine premiers and the Prime Minister on Thursday, November 5. One aspect of that accord that presumably affected the result so as not to reach that unanimity was in the area of minority languages. I want to spend some time on that aspect, Mr. Speaker. My colleague made reference to the August 18 and 19, 1977, 18th annual premiers' conference, at St. Andrews, New Brunswick, at which the following statement was made: "The Premiers agree that they will make their best efforts to provide instruction in education in English and French wherever numbers warrant." We were signatory to that agreement, Mr. Speaker, and our efforts in pursuit of our responsibilities under that undertaking did not begin on that day. The move towards the provision of minority language instruction in the province of Alberta preceded by some time the events of the 18th annual conference.

I would like to remind hon. members that during my term as Minister of Education, existing regulations which permitted instruction in the French language in our school system were amended in 1976. We amended regulations basically to provide for instruction in the French language in all subjects, with the exception of English, from grades 1 to 12 and in the early childhood system. So for all intents and purposes, we had then moved toward providing that opportunity.

Mr. Speaker, we provided that opportunity not only on the basis of the limits and requirements of the amendments found in the constitutional accord, but to anybody who wanted to take advantage of that opportunity. I'm proud of the way in which the province of Alberta has responded to minority language rights. That response has not been limited to the French language. That response

has expanded to include other languages: Ukrainian, German, Hebrew, Cree. All of these are now part of our educational system and, in addition to learning these languages, students can learn in these languages.

Mr. Speaker, my own personal history in this country goes back to 1898 and 1900 when my maternal and paternal grandparents came to this country and settled in a part of Canada known then as the Northwest Territories. They came to this country and brought with them the history, traditions, language, and customs of their ancestors. They were an accumulation of all that preceded them, just as I, standing before you today, am an accumulation of all the events that have preceded me in the long history of my family, in the same sense as the nation of Canada is a culmination of each day and every event that has preceded today from its origins in 1867. I know how much my grandparents treasured their language and how important it was to them, that what they had of themselves they could pass on to their children and grandchildren.

Bilingual instruction in our school systems is not something new. It did not begin in the '70s with respect to other languages. For example, we had bilingual instruction in English and Ukrainian in this province prior to the First World War. The events of the First World War and the feelings of nationalism that developed at that time eliminated that concept within the province of Alberta. Since that time there has been a loss of the ability to communicate, generation to generation, in the Ukrainian language amongst the people who consider themselves Ukrainian-Canadians. And I've seen the pain in the eyes of a grandparent, a grandmother or grandfather, who is not able to share his or her knowledge, customs, emotions, feelings for the country, their contributions to this country and the way in which they settled it and worked the land. I've seen the pain in the eyes of *Dido* and *Baba* as they could not communicate that feeling to their grandchildren because of a language barrier.

Mr. Speaker, I empathize with people in the province of Quebec. I know that in the milieu of English-speaking North America, they feel threatened with respect to their language and customs. I also realize that in responding to the wishes of those in the province of Alberta who would like to see their children learn languages other than English, our response is not merely to the emotional needs of *Dido* and *Baba*, as I have mentioned, but we recognize that in Canada we are a trading nation and the ability to speak the other languages of the world is not a detriment, it's an asset. I count among the many treasures, amongst the wealth of Canada, those many worldly languages that the people of Canada can speak in addition to the official languages.

The fact that we can do so in Alberta, that we have been able to provide the ability for Albertans to learn other languages, to learn in other languages, is to a large extent a reflection of the leadership that was shown in the province of Quebec. The province of Quebec has a long, long history of recognizing minority language rights. The English in Quebec have long held the right to be educated in English. That beacon, that torch that the province of Quebec showed to the rest of Canada is something for which we should all be grateful.

In light of this long history, Mr. Speaker, it is my fervent hope that the people of the province of Quebec will not now feel any threat to the continued growth and propagation of their language and customs, that at the same time any such threat will not be abated by not continuing with the long tradition that Quebec has shown

to the rest of Canada in providing for minority language rights.

Mr. Speaker, the other aspect of the celebration — and I call it that — I'd like to touch upon today is the question of the amending formula. My colleague has gone through the history of the various formulae considered in the course of constitutional discussions, as he put it, over the past six years and one month. Even before that, the Victoria formula, was almost agreed to by this province. Fortunately, events immediately after that conference changed that. That formula would have created three classes of provinces. The first-class provinces of Ontario and Quebec, and then there were two other classes. British Columbia would fall into the second class, and some, like Alberta, would fall into the third class — three different classes of provinces. The Victoria formula provided a continuing veto to Ontario and Quebec, but that veto in the east was only attainable with the support of a certain number of provinces having a certain proportion of the population.

Then came the modified Victoria formula, which eliminated the second-class provinces. So we only had two classes of provinces: the first-class provinces of Ontario and Quebec, and all the others were third-class provinces. We were all equal at the bottom levels at that time, still striving to be equal with the first-class provinces.

Mr. Speaker, then came the Ottawa formula, a very interesting one. It was the one that was debated in the House of Commons and the Senate, received approval, and was on its way to London before the challenge before the Supreme Court of Canada. That Ottawa formula required the consent of the House of Commons and the Senate in Ottawa, and of Ontario and one Atlantic province. That was the Ottawa formula, a very neat little formula: Ontario, one Atlantic province, and the federal government.

We then had the April accord, which recognized the equality of provinces and saw future amendments taking place with the consent of two-thirds of the provinces having more than 50 per cent of the population, with the important proviso that no province would lose a proprietary or legislative right without that province's consent as exemplified by legislative resolution. That accord met with no acceptance at certain levels. Fortunately, the whole matter was considered by three wise men from the east, joined by three other wise men — one from Alberta. Those six wise men in the Supreme Court of Canada concluded that the Ottawa formula was definitely not constitutional, and something more was required.

At the last moment during the course of the conference that preceded the November 5 accord came a new formula, the referendum formula. Basically, it was the modified Victoria plan which provided for a veto for Ontario, Quebec, the majority of the west, and the majority of the Atlantic provinces. But as we saw the picture of Canada, we saw Ontario, Quebec, and the two regions. That was the Victoria formula again.

Some would suggest that a decision made by referendum would be the most democratic decision that could be made. Mr. Speaker, I take issue with that suggestion, because what we are dealing with is the rights of provinces. Those rights of provinces are not the rights of us. Those are the rights of Albertans which we as trustees must guard and deal with. Were those rights taken away from us by a referendum in which the majority of Canadians decided to take those rights away from us, or were they taken away by a decision of the governments of those people makes no difference. There is nothing more

sacred about losing our rights because that decision was made by the people of Ontario rather than by its government.

If my neighbor, who now has a wife and himself living in their home, and I, who have a wife and five children living in my home, enter upon discussions to build a fence, I think that all of us here would agree that my neighbor shouldn't be bound by a decision that the seven of us in our household make. If he's going to be paying for his share of the fence, he should have an equal opportunity to make a decision based not on the numbers in the household but on that household, so that the households would be treated equally and one household would not be overborne by the numbers occupying the other household. So it is with provinces and the rights of provinces.

I'm reminded of a comment made by an opponent to the federalist moves back in 1788 at the Virginia convention. The then Governor of Virginia, Patrick Henry, in opposition to the ratification of the United States constitution, spoke these words:

... but, sir, give me leave to demand what right had they to say, "We, the People"? My political curiosity, exclusive of my anxious solicitude for the public welfare, leads me to ask who authorized them to speak the language of "We, the People," instead of "We, the States"? States are the characteristics and the soul of a confederation. If the States be not the agents of this compact, it must be one great consolidated national government of the people of all the States The people gave them no power to use their name. That they exceed their power is perfectly clear.

States are the characteristics and soul of a confederation. In Canada, the provinces are the characteristics and soul of Confederation. The provinces are the characteristics and soul of this country. Were we to move past the provinces to the concept of a referendum, we'd have denied that concept, the characteristics and the very soul of this nation. As I said before, Mr. Speaker, nothing is sacred in the fact that our rights would have been taken away from us by referendum rather than by a decision of governments.

I've spoken at some length on the concept of equality, Mr. Speaker. I want to suggest that that concept is not something developed here in Alberta with a formula that was ultimately baptized with the Vancouver consensus. The concept of equality wasn't something we pulled out of the air here in Alberta in the last six-month period. The concept was one our forefathers in this province fought for.

Last year we celebrated the 75th anniversary of this province, but we also celebrated an equally important event. That was the 50th anniversary of the transfer of responsibility, ownership, and control of our natural resources. Why was that event so important, Mr. Speaker? I quote from the preamble of the British North America Act of 1930, which contained the agreement providing for the transfer of those resources:

And whereas it is desirable that the Province should be placed in a position of equality with the other Provinces of Confederation . . .

It didn't say that Alberta, together with two other western provinces, should be equal to Ontario. It said that Alberta should be in a position of equality with other provinces. When I say Alberta together with two other provinces being equal to Ontario, the suggestion was made in the selling of the modified Victoria plan by the pro-

ponents of that formula that you needed Ontario, Quebec, and two of the western provinces and two of the eastern provinces in order to reach a conclusion on the amendment of our constitution.

What we must look at is not the way the formula was presented, but the way the formula would actually have worked. We must look at it from the point of view of veto power. What do we have? We have a veto power exclusively for Ontario; we have a veto power exclusively for Quebec. But when we came to the western provinces, Alberta wouldn't have a veto power. Alberta and British Columbia together would not have had a veto power. It would have taken three provinces in the west to equal Ontario or Quebec. That's what I meant by a third-class province.

I again refer my colleagues to the preamble in the British North America Act of 1930:

... it is desirable that the Province should be placed in a position of equality with the other Provinces of Confederation . . .

Mr. Speaker, if the provinces be the soul and the characteristics of the nation, and if there was a threat to the concept of equality that had existed in our Confederation to this time, then if those who formed this country in 1867 are known as the Fathers of Confederation, those who steadfastly refused to change the characteristics and soul of this nation on November 5 should hereafter be called those who saved Confederation.

Thank you, Mr. Speaker.

MR. R. SPEAKER: Mr. Speaker, last week I stood to express my belief to this Legislature that the signing of the constitutional accord was certainly a great day for Canada. I can only again make that statement, and I feel that is my belief.

Compromise and negotiation have indeed enjoyed a victory in our Canadian Confederation. With such a victory, I believe most Canadians breathed a sigh of relief. They did so for several reasons, Mr. Speaker. First of all, at last we were all thinking of ourselves as Canadians. Our feelings of commitment and patriotism burst over our provincial borders and swept across our Canada. This accord put into perspective and focused all the emotions we as Canadians have toward our land. I think the question raised with the Premier the other day by the hon. Member for Lac La Biche-McMurray set the direction for this accord. I'd like to quote the Premier's reply, if I may:

I just hope that Canadians within Alberta will, over time, understand what happened yesterday and its significance.

Mr. Speaker, I think many Albertans really didn't know what happened at that point in time. But they did know that we as Canadians were able to work together to reach an agreement, and that we have a Canada that's really our Canada at this point in time. I think the Premier's reference to Canadians within Alberta is very significant as well. It epitomizes what I think the constitution is all about: it's about Canada and being Canadian in any part of this great land. Canadians can breathe more easily because now they can do so with confidence. They know a Canadian in Saskatchewan and a Canadian in Ontario can feel exactly the same way.

It has already been mentioned in this Assembly that bundled in this emotion, this feeling of Canadianism if you like, are some pangs of pain. The government of Quebec has refused to sign the consensus agreement. Mr. Speaker, that is a rather sad thing. It's sad because we all

recognize that just as there are Canadians within Alberta, there are Canadians within Quebec. Our will to act with them is just as strong as it is to act with any other province. I believe there are fundamental principles on which almost all Canadians can agree, fundamentals which cut through provincial boundaries. As Canadians within Alberta we must assure the Canadians within Quebec that we will never stop trying to include them in the constitutional consensus. The Premier stated last week that this is a dilemma the Prime Minister will have to struggle with. I think we all should feel — and I'm sure we do — that the struggle is not the Prime Minister's struggle alone. This is a Canadian dilemma, and all Canadians in Alberta and Quebec must struggle to resolve the situation that faces us at the present time.

Canadians breathed a sigh of relief last week because with the accord came certainty and confidence in Canada as a nation. Investors, business men, home-owners, tenants, farmers, and housewives are all relieved that their government's attention can now be directed toward the economy, over which there is much concern. In doing so, I think the political leaders of this country should remember the lessons taught in their constitutional negotiations. When there is determination to do something — a determination shared by all, not only one province but all provinces and the federal government — objectives can be met. The federal government and all provincial governments must have the determination to meet these economic problems head-on and deal with them forcefully. They must act in concert. They must act immediately, Mr. Speaker. Most importantly, the governments must not shirk their responsibilities and leave to others the job that must be done.

The federal government is bringing down its budget on November 12. At that time, its intentions will be well known. At that point, I urge in the strongest terms that the Alberta government make known solutions to some of the economic problems that face us here in Alberta. The problems of housing, mortgages, and rent increases are as much a problem for the provincial government as they are for the federal government. What is going to happen to the 7,000 Albertan families facing a shelter crisis of one sort or another? What about the feedlot operators and the cow/calf operators that certainly are within the jurisdiction of the provincial government? What is going to be done to ensure that this farm industry remains strong and healthy here in Alberta? What about the small business men, particularly those in the oil patch where they are shrinking. The high interest rates are not shrinking, and they need help.

Mr. Speaker, those are some of the immediate problems that must be dealt with as we turn from this constitution, the debate, and the actions of our Premier, the minister, and the other governments of Canada — actions we approve of, that I and my colleagues support. Certainly we want to give all commendation and recognition to the Premier, the minister, and others who participated in this successful event.

I'd like to make two comments with regard to the accord that was reached. One is with regard to the notwithstanding clause. I'm sure it is the hope of all of us as members of this Legislature that this clause will not be overused. As the Premier mentioned the other day, in terms of the Alberta Bill of Rights that clause has not been used in 10 years. I hope that is the situation here in Alberta, in our Canadian democratic system, in our Canadian Confederation: that we will not have to resort to that clause, that we can agree on rights and freedoms

all across Canada, and that all Canadians have the same rights and freedoms. When we must use that notwithstanding clause here in this Legislature, I hope one of the considerations that should be given is that we leave it to a free vote so that every member of the Legislature could vote according to his conscience, and that party ties do not direct that vote.

The other area I'd like to comment on is with regard to aboriginal rights that are not totally in the charter. I'd like to refer specifically to Section 34, that we discussed in question period today. The matter of concern to me is that from the information provided to me, there is a consensus at the present time among the Metis, Indian, and Inuit as to the fact that they would like to have Section 34 in the charter of rights. The Prime Minister has said that if an agreement is reached by tomorrow by the premiers across Canada to support reinstatement of Section 34, it would be done. Mr. Speaker, I can only say to the Premier that the matter should be considered on that basis.

Mr. Speaker, I think our responsibility here today is to approve what has been done, to say that after 114 years a great job is finally accomplished, that we do have some basic guidelines, some rules — not all of them. I don't think we could expect all of them at this time in our history. I think that is unfair in terms of criticism by any politician in or outside this Assembly when they attempt to say, why were property rights not looked after in the agreement that was established; why were other areas not added to the agreement? I think the Premier of Saskatchewan said this very well. It was a deal we worked out at this point in time. That's what it's about: negotiation, agreement, compromise, and reaching a point of consensus at this time in our history that will carry us on and be guidelines for a good number of years ahead, until we as Canadians, here in Canada — whether it is me or other persons elected to this Legislature, other legislatures in Canada, or to the House of Commons — decide we would like to change those guidelines. Then hopefully at that point in time, in terms of property rights, personal rights, and other rights, the elected representatives will be able to respond to the needs of Canadians and make the necessary changes.

That's what our democratic system is all about, Mr. Speaker. When that system breaks down, when we lose trust in that system that it cannot adjust and that at times we haul out bogeymen about dictatorship and other things — if that does happen, all these rights, freedoms, and things we talk about don't mean anything anyway. But I have confidence in that democratic process. I have confidence that my children and their children for years ahead will live with the luxury of a democratic process and will be able to work with this nucleus, this beginning, of a Canadian constitution that we have at the present time.

Mr. Speaker, I feel good about being part of that history. Maybe I have not had a direct opportunity or sat in on negotiations, but I have had an opportunity to attend a number of the conferences in the last few years. I recall the hope I had when I first entered those conferences in the old train station in Ottawa. I remember the frustration I had at the end of each one of those conferences, saying, the premiers and the prime ministers can't get along; there is so much politics being played, so much independence, so much unwillingness to compromise and negotiate. I went home very frustrated and feeling, what's the use of doing this; I'd better look after my constituency and my responsibilities in the opposition in the Alberta

Legislature. But today we can approve something that has happened. Mr. Speaker, that's a good feeling, and hopefully I can incite that excitement into the lives of other Albertans outside this Legislature so that they can work and carry on with a good Canada.

Thank you, Mr. Speaker.

MR. HORSMAN: Mr. Speaker, participating very briefly in this debate today, I would like to say that my colleague the Minister of Federal and Intergovernmental Affairs has covered the history very well, indeed has brought us back in time a few years to the debates which took place in this Assembly in 1976, 1978, and again just under a year ago, at which time I think it is fair to say we had a great deal of concern about the future of this country. We passed a resolution on November 24. On the basis of that resolution, our government took certain actions which led to a decision, along with other governments, to go to the Supreme Court of Canada and to take certain action in the United Kingdom. I know those matters have led to what took place a few days ago.

Mr. Speaker, I am well aware that we should adjourn now for a moment, so I will conclude after the ceremony.

MR. SPEAKER: There will be the laying of two wreaths, followed by the last post, and then reveille. Will hon. members please join me in standing during that period.

[Members of the Legislative Assembly observed a moment's silence in tribute to those who gave their lives in three wars.]

MR. SPEAKER: Would you please be seated.

MR. HORSMAN: Mr. Speaker, there have been other times in the history of our country when we feared for its future. In the moment of silence we just observed, this Assembly related to when many of our fellow Canadians fought and died for Canada. At this particular time, I want to say how much I'm sure those who fought for our country would have applauded the decision made in a free and democratic way between governments on November 5, 1981. So it is a rather poignant moment that I should be on my feet as we observe on behalf of the people of Alberta the moment's silence for those who fought and died for this great nation of Canada and for the principles of the founding fathers of 1867, which we as a Legislature have inherited and carried forward in the efforts that went towards the results achieved last Thursday in Ottawa.

Mr. Speaker, I won't go into all the history, but I do want to say that listening to the debate in this Assembly in 1976, it is remarkable to me to think of the foresight there was on part of our Premier and our then Minister of Federal and Intergovernmental Affairs to have brought forward the resolution they did, and the foresight which followed in the production of *Harmony in Diversity*, which was approved by this government and this Assembly, to protect in the amending formula the jurisdictions, and proprietary interests, and rights of the province as one of the fundamental features of our constitutional discussions in the ensuing five years — an absolutely essential and fundamental part of our position.

Mr. Speaker, I had the privilege of attending the conference last week in Ottawa in a very supportive role to our Premier and our Minister of Federal and Intergovernmental Affairs, and had the opportunity to sit in meetings in which some very interesting events took place

and which, no doubt, will be the subject of much speculation and indeed much analysis. The historians will have a field day analysing the flow of events that took place in those exciting moments behind those doors in the conference centre in Ottawa. Having attended that, I can assure members of this Assembly that we would all have been extremely proud of the leadership role played by our Premier in that exciting time. As events came quickly and as the dynamic circumstances unfolded, there was never at any time doubt in my mind that our Premier would waver in his responsibilities to this Legislative Assembly, as we debated and instructed our government to act on behalf of Albertans. Indeed he did not waver, and he led us to a successful conclusion with our amending formula. I think that was a proud moment for me to have observed what took place on that occasion.

I was there, Mr. Speaker, because I have an interest in the very fundamental issue of education. I note that others have commented upon the fact that under the new constitution education will remain a provincial responsibility. I just want to underline one particular fact. It was the nine provinces that voluntarily agreed to adopt in the constitution the protection of minority language instruction rights within those provinces. It would be fundamentally wrong for our province and other provinces to try to force the province of Quebec to alter its position, with respect to its educational rights in the constitution. That is why it is a responsibility of the federal government, working with the province of Quebec in that area, hopefully to negotiate an agreement. Our province should not under any circumstances be a party to an effort to force another provincial government to change its fundamental responsibilities with respect to education within the boundaries of the province. Education is a provincial responsibility, a very fundamental part of our previous constitution and the new constitution which was agreed to by the 10 governments.

In concluding my brief remarks on this occasion, Mr. Speaker, I want to say to those concerned about the subject of property rights that it is important to recognize that property rights remain, as they have since 1867, the responsibility of the governments of the provinces. I say to anyone in Alberta that that is properly where they should lie and should be the subject of control by the elected representatives who sit in this Chamber now and in the years ahead. That will give the best protection of property rights for the people of Alberta they could possibly hope for in our Confederation.

Mr. Speaker, it was a momentous week. But it has been a momentous five years since we originally debated this matter in the resolution in which this Legislature instructed the government, and again in 1980, not to move from the fundamental position of protecting our rights. Under the leadership of our Premier and our Minister of Federal and Intergovernmental Affairs, I'm proud to stand here and say that our government has carried out its responsibility to the people of Alberta in the most recent decision to join with the other provinces on that historic day in Ottawa, November 5, 1981.

MR. NOTLEY: Mr. Speaker, I certainly welcome the opportunity to participate in this important debate. When the accord was signed last week, I'm sure the vast majority of Canadians heaved a sigh of satisfaction; no question about that. As we take consolation in the fact that an agreement has been reached, certainly no small amount of credit goes to those who worked very hard, especially over that period of a week.

There are two shadows that fall across the path of the agreement, Mr. Speaker. One of course has been alluded to by the hon. Minister of Consumer and Corporate Affairs; that is, the failure of the government of Quebec to sign the accord. The other is the question of aboriginal rights. I want to deal with that in a somewhat more detailed way in a moment.

Mr. Speaker, I don't intend to go over the history which has already been examined in some detail by other speakers in this debate, except to say that it was clear that the process the Parliament of Canada undertook was divisive, and I think that was rather capably brought out by the Supreme Court decision. In its ruling, the Supreme Court essentially said to Mr. Trudeau that in the narrowest sense, yes you can, but no you shouldn't; there are conventions of the constitution, and conventions must be followed. Those conventions clearly point out that there must be provincial consensus, not provincial unanimity but consensus. That is important, Mr. Speaker, because at the present time we are not looking at an agreement with unanimity, but we are looking at an agreement with widespread consensus.

Mr. Speaker, certainly the agreement we have, the constitution or the resolution that will be sent to Westminster, is not the elegant kind of phraseology that one sees, for example, in the U.S. Declaration of Independence. It's not the kind of prose that will excite people in the years ahead. But it is an agreement that has been arrived at as a result of the give and take of the federal/provincial process. It mirrors in many ways the reality of Canadian federalism. While not particularly dramatic, nevertheless it is an important accomplishment.

Mr. Speaker, I want to deal with a couple of areas before getting into the question of Quebec and aboriginal rights. It's certainly no secret that I have differed with other members of the Assembly on the amending formula. I don't particularly like the amending formula in the accord. I'd be less than honest if I didn't say in 1981 what I said in 1976. The fact of the matter is, though, that to get an agreement one has to see trade-offs take place. I think one of the trade-offs for many people in this country — who, frankly, are not as enthusiastic about the amending formula as the hon. Minister of Consumer and Corporate Affairs, the hon. Minister of Advanced Education, and perhaps some other other people who will speak in this debate — was a recognition that if there was an obstacle in the path, and the amending formula was an obstacle, then let's find a way over that obstacle.

As a consequence, Mr. Speaker, especially with the recognition that there will be no financial compensation for opting out, I for one can accept the amending formula. But I think it is important that there be no financial compensation for opting out. It would be wrong to build into your constitutional amending process a formula, if you like, for the balkanization of the country, an incentive for the balkanization. By saying yes, you can opt out but there is no financial reward for doing so, there's no financial consideration for doing so, we have eliminated to a large extent the possibility of widespread abuse in that area.

The other equally important part, perhaps even more important, is that I think you can accept the argument of opting out in programs if you have a charter of rights in place. Here I think we find the give and take on the other side. Even with a notwithstanding clause — and I'm going to come to that in a moment — a charter of rights sets out for all Canadians basic human rights that exist across the country. I can accept an opting-out amending

formula, if we have a charter of rights in place.

Mr. Speaker, let's look for a moment at this question of the charter of rights. The argument has been presented by many — having attended several of the conferences as an observer — and made quite eloquently by several premiers that a charter of rights is inconsistent with our principle of parliamentary supremacy, that if Parliament is to be supreme you cannot have a charter of rights which in fact delegates to judges the kind of authority that should be exercised by elected members, either federally or provincially. In balance, I believe there should be a charter of rights. But I think the notwithstanding clause has a good deal of merit. First of all, I'd have to say that it has not been abused in this province. Secondly, it seems to me that the sunset law — that while a notwithstanding provision is there, it automatically lapses in five years — protects in the long run. Even if you have a Legislature acting in an arbitrary or foolish way, five years down the road that notwithstanding law must be passed again. There will certainly be a different Legislature; there may even be a different government, a different majority. So I believe that five-year sunset provision of the notwithstanding clause is important.

Mr. Speaker, what we have achieved as a result of this accord is a set of fundamental human rights and freedoms that apply across the land. While some people may say that it will be easy to introduce notwithstanding legislation, frankly I doubt that. I think it will be extremely difficult for any government to introduce legislation that says: notwithstanding the charter of rights, we're going to legislate thus and so. I rather doubt that abuse is going to be a serious problem. I note that even civil liberty organizations in the country, including Mr. Borovoy, have suggested that the notwithstanding clause is not a serious problem.

Mr. Speaker, the two major issues that have to be examined in light of regret are, first of all, failure of the province of Quebec, and secondly, the issue of aboriginal rights. It's difficult to know what the failure of the province of Quebec to sign the accord will mean historically to the future of this country. Perhaps it will mean that a provincial government, which after all is a separatist government in terms of its political philosophy, will find itself isolated in the body politic. Perhaps the people of Quebec will find themselves isolated, and this is a danger we all have to examine and not allow the euphoria of the moment to sweep it away. That would be a tragedy. In the enthusiasm of this moment, none of us can underestimate the potential of how sad that would be for this country.

Mr. Speaker, we've heard comments about the process, but there is no doubt that the latest round of constitutional talks had as their roots the commitment not only by the Prime Minister but other premiers as well during the referendum in Quebec that there would be a renewed federalism in this country. That renewed federalism played a role in the referendum. There is no doubt in my mind about that at all. If people in Quebec are convinced that the renewed federalism might have been good for Alberta, British Columbia, Saskatchewan, or Newfoundland, but was not good for Quebec, that the Quebecois have been left out and isolated, then we are dealing with a potential tragedy for our country. No member in this House can seriously address this resolution and not be mindful of the long-range potential. I hope — and I say this as sincerely as I can, Mr. Speaker — that there can be some further accommodation between the federal government and the government of Quebec. I hope there can

be a willingness on the part of all parties to this accord to make the kinds of adjustments needed so the Quebecois feel they are part of a process, that they are not being isolated.

It should be noted that while the government of Quebec is extremely upset with the minority language provision that is part of this charter and cannot be changed with a notwithstanding clause — that has to be underlined as well, so there should be no mistake about it — nevertheless, Quebec has an exemplary record in providing quality instruction for minority language groups in that province, one the other provinces in this country might well examine historically before we start patting ourselves too much on the back about what we're doing for our French-speaking minority.

Mr. Speaker, I now want to turn to what in my judgment is an area that is absolutely fundamental to this accord; that is, the question of aboriginal rights. We've heard a lot about convention by members of the government and by the Premier, and properly so. We have to abide by conventions. If we have to abide by conventions, we might well look at conventions in the sense of the role and rights of our aboriginal people in the process of constitutional renewal. I would say frankly and bluntly to members of this Assembly that it was not only useful but was fundamental that the House of Commons and the Senate included aboriginal rights — Section 34, to be more explicit — in the charter of rights. I want to say a little more about that in a moment, except to note that as I understand the discussions that took place in the Senate and the House of Commons, there was all-party agreement in doing it.

Mr. Speaker, I regret today — and I wasn't in the question period when the Premier answered questions — that the government of Alberta found it could not support the inclusion of Section 34 in the charter of rights. I regret that very much. I believe when we're dealing with our original peoples, they should in fact be party to this process of constitutional renewal. It's been suggested that we can solve this problem with a conference down the road. Let us lay out clearly what we're saying when we argue that point. A conference within a year — yes, that's true; but a conference subject to the rules of the new amending formula, which means that any province can opt out if a decision on aboriginal rights affects or derogates any of its powers. So we now have a promise to the native people and the treaty Indian and Inuit people of this country that we're going to have a conference, but under the rules of the amending formula which will allow any province to opt out of whatever provision of that they choose. In an effort to be overly polite in discussion of this issue, let us not fail to recognize what we are saying to the aboriginal people of our country: the conference a year down the road may hold hope but there are no guarantees at all.

Aboriginal rights have always been included in the constitution. Under the royal proclamation of 1763, Section 34 would merely affirm that Metis, Indian, and Inuit are covered by that proclamation. I'm advised that the Premier indicated today — I wasn't in the question period, but perhaps he can correct me if I'm wrong — that the government objected to Section 34 because it included rights in the constitution which were not defined. Well, Mr. Speaker, Section 34 would guarantee that Indian, Metis, and Inuit have the opportunity to negotiate the details of such right with constitutional authority. That's very important. You talk about negotiations. As we all know, the negotiations which finally led

to an accord in this case came because there was constitutional authority, at least in terms of conventions if not in the letter of the law.

Without Section 34, the aboriginal people of our country will simply have to depend on the good faith of the governments, with one difference. In the past, it has been the federal government, but now they're going to have to satisfy the provincial governments who, according to constitutional convention and Supreme Court rulings, have not had jurisdiction in these matters. Mr. Speaker, under the terms of the royal proclamation, aboriginal claims predate the formation of the provinces. We had a speech by the hon. Minister of Consumer and Corporate Affairs, as I recall — I don't have the exact quote here, so I won't attempt to quote it — talking about the role of the provinces. Well, the aboriginal claims predate the formation of the provinces and, in my view, simply cannot be overridden by provincial legislative jurisdiction. The Minister of Federal and Intergovernmental Affairs has quite properly said that the rights of the provinces should not be taken away without their concurrence. Surely the same principle applies to aboriginal rights.

In my view, Mr. Speaker, the present resolution should be amended or, at least, Alberta should say categorically that this government and this Legislature are prepared to see Section 34 reinstated in the charter of rights. As I understand the debate that has taken place since the accord of last week, the Minister of Federal and Intergovernmental Affairs suggested to us last Friday that Section 34 was removed because there was some degree of difference among the native and aboriginal organizations in this country. Perhaps that's true, but I think it must be said in this House today — and we would be wrong in not underlining it — that as I understand it, the Indian Association of Alberta, the Metis Association of Alberta, and the Federation of Metis Settlements are solidly in favor of the reinstatement of this provision in the charter of rights.

It's been suggested that negotiation can take place down the road. But surely what has to be underlined is that the negotiation must be based on something. The conference within a year is not going to be able to even begin to settle all the land claims. What is necessary is to have in place some basis on which native Canadians and the Indian people of this country can argue their case. What the old Section 34 would have done is guarantee continued negotiations and, hopefully, eventual settlement of the claims. It would be a guarantee of political leverage to those who are otherwise politically left out of the picture and must depend upon the ethical commitment of governments to treat them fairly.

Mr. Speaker, for those reasons, I ask hon. members to seriously consider what we're doing here at this time. We have the statement by the Premier of Saskatchewan yesterday, as I understand it, which indicated that the province of Saskatchewan would not oppose the reinstatement of Section 34 in the charter of rights. I'm not suggesting to members of this committee that the government of Alberta should go out and take the initiative. We now know that talks are taking place over the next few hours, and that the Prime Minister has indicated to some of the organizations that perhaps the federal government would reinstate this clause, at least as it affects federal jurisdiction.

I'm saying to members of this House that Alberta should offer to say exactly as Saskatchewan has said: that we will not oppose the reinstatement of Section 34. In my view, that would go a long way to reassure those descen-

dants of our original peoples that this process is one that not only has the commitment of politicians to protect the powers of their respective provinces and the traditional powers of the federal government, but adds the moral purpose of recognizing the legitimate role of our original peoples in this process.

As a consequence, Mr. Speaker, I move at this time that the resolution we have before the House be amended by adding — and I have a copy of this amendment for each hon. member of the Legislature:

and that the Legislative Assembly urges the government of the province of Alberta to convey to the government of Canada its support for the reinstatement, free of any "notwithstanding clause", of those provisions of the charter of rights contained in the federal constitutional resolution as amended by the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada, which provisions (including section 34) guarantee and protect the treaty and aboriginal rights of Alberta's aboriginal peoples.

MR. LOUGHEED: Mr. Speaker, if I could rise and respond to the amendment made by the hon. Member for Spirit River-Fairview. First of all, perhaps the hon. member is unaware of or, for his own reasons, chooses to ignore sections 25 and 26 that will stay in the Canada Act and which do in fact guarantee and protect the treaty and aboriginal rights of Alberta's aboriginal peoples. That is provided for and clearly covered by sections 25 and 26.

Section 34 purports to add additional aboriginal and treaty rights, undefined and undetermined. It's the view of the government of Alberta that we cannot find ourselves in a position to agree to include in a constitution of Canada rights which are undefined and undetermined insofar as the government of Alberta is concerned. I therefore suggest that the amendment be defeated.

[Motion on amendment lost]

DR. REID: Mr. Speaker, in speaking to this motion put forward to the House by the Minister of Federal and Intergovernmental Affairs, I'll try to be brief. It's rather difficult not to be emotional when one is endorsing and supporting the patriation agreement.

In our history, there is a legacy of parliamentary democracy inherited really from the Mother of Parliaments. In that supremacy of parliament, we were recognizing the supremacy of those people who were elected by the people to serve and to represent them. Our founding fathers, the Fathers of Confederation, decided for very good reason to split that supremacy between the federal and provincial governments. Their reasons were many, but significantly were to do with the history, the original two founding nations, the size of the country and its diversity even at that time. I'm not going to go into all the history and diversity; that's been done by other people.

Some 19 months ago in this Legislative Assembly — and at that time, as an immigrant I thought I knew my country — I said that in order to survive as an entity this country has to rely on the strengths and diversity of its provinces, their variations as societies and cultures. Like many Canadians, I was not born in this country. I came here by choice and of my own volition. Perhaps because I came from the British Isles, I was somewhat too accepting of the freedoms, rights, and responsibilities of being a Canadian because, as I said, this legacy came from the Mother of Parliaments. There are many other new Cana-

dians, forefathers of the Minister of Consumer and Corporate Affairs, who spoke so eloquently a short time ago, and others who came from countries, that did not have that legacy. It's for that reason, perhaps, that their love and allegiance to this country may indeed have been somewhat greater than mine was some 19 months ago.

At that time, I also said that perhaps it would be better if in the census of 1981 we would be able to write down Canadian-Albertan or Canadian-Quebecois, rather than Scots-Canadian. Alas, that change was not made in time. When I said that, I was not taking anything from the multicultural background and heritage of Canada and Canadians. But I think that now we can truly say we are Canadians and Albertans. I hope that over time the people of the province of Quebec will feel that they can give equal allegiance to the country of Canada and that they are also equal parts of Canada. Surely it's up to the people of the province of Quebec to decide their own future within Confederation. I think we have to give them time to make that decision. Surely we can live with the level of discomfort that may be necessary during that period of time. We've lived with much greater discomforts during the last 14 months, strains on the fabric of Confederation much greater than anything else during the previous 114 years.

I have a great deal of faith in the ability of French-speaking Canadians in Quebec, English-speaking Canadians, and the other ethnic groups to live together. They've done it for a long time, and in that period of time they have built a country that is really unique, a country that has much greater regard for its multi-ethnic background than our large neighbor to the south. We are not a melting pot, Mr. Speaker. We've developed a talent and indeed a love for ethnicity and diversity very different from the melting pot in the United States. I'm sure that if we use that talent wisely, and the people of Quebec accept it, they will reach agreement with the federal government in the course of time, and that the country will really succeed in the future, as in the past, to be at peace with itself.

Mr. Speaker, you and I were fortunate to serve on a special select committee of this Legislative Assembly. I'd like to thank the members of the Assembly for the opportunity to serve on that committee. I said some time ago that people from other countries maybe had more love and allegiance to this country than I did 19 months ago. That may well have been true, but it is no longer. You, four other members of the Assembly, and I travelled literally from Saint John's harbor mouth at Signal Hill to Whitehorse in the Yukon territories, from Windsor to Yellowknife. I know that leaves a fair bit of this country out of it, geographically, but we travelled all that distance. We spoke with students, bus drivers, presidents of universities, and premiers. I spoke with the New Brunswick Association for the Advancement of Colored People, Inuit, housewives, and bankers. I don't know a broader spectrum of Canadians that one could talk to in a short period of six months. From all those meetings and discussions I, like the Minister of Federal and Intergovernmental Affairs, have acquired a much deeper regard for the nature of my country, a love for my country, and an allegiance to it. It was indeed a privilege to serve Albertans by going around the country presenting the Alberta point of view and listening to the point of view of other Canadians. I don't know, and will never know, to what extent we may have assisted in the ultimate decision that was reached in Ottawa on November 5.

I would like to refer to a preface that we put before the

report of that select committee. It's quite brief:

Canada is a federal state with ten provinces and two territories; each different and unique. The country has to recognize and accommodate this diversity or it will not continue to exist.

The Constitution must be for all of Canada. It must be acceptable [I emphasize that word] to Canadians and reflect the equal partnership that is the very basis of the country.

When my sons refer to home, they do not refer to Scotland. Indeed, I do not any longer. They refer to Canada. But I'm truly glad that when in the future they say they are Albertans in addition to being Canadians, they will be able to say that knowing they are equal with other Canadians in their own country. Had we accepted the amending formula put forward by the federal government, and had we listened to the philosophy of people like the Member for Spirit River-Fairview, I'm not at all convinced that that would have been true. For my sons and their descendants, I hope they will give thanks for the wisdom and efforts of the people who saved Confederation, as was expressed by the Minister of Consumer and Corporate Affairs, by laboring so effectively in Ottawa the week of November 2, 1981.

Mr. Speaker, I opened my remarks by referring to the legacy of parliamentary supremacy in this country that we were left by the Mother of Parliaments when the country was formed. Those who were in Ottawa last week truly left to Canadians of the present day and the future another legacy, a legacy of fairness and equality that will enable this country to continue to exist. It will enable it to continue to exist in accord with the traditions that have attracted so many people, including me, to its shores.

Thank you.

MR. SINDLINGER: Mr. Speaker, I'd like to say that I support the constitutional agreement signed last week between the nine provinces and the federal government. Like other members of the Assembly, I am disappointed that Quebec did not sign it. But perhaps with the passage of time and changing of circumstances, Quebec can see itself in this Canadian family.

I guess all that's left to be said is for us . . . I congratulate you all on your happiness today. As we go our separate ways, I wish you all well. And I say, God bless our country.

MR. D. ANDERSON: Mr. Speaker, I am very pleased to have the opportunity to speak to this resolution, and to speak very much in favor of it this afternoon, particularly for reasons similar to the hon. Member for Edson — the committee that we served on across the country with you — and for the unique opportunity I had to spend some time with the hon. Minister of Federal and Intergovernmental Affairs in Toronto during the council of ministers discussions last summer.

Though to some extent I'll be duplicating comments made, I'd like to quickly make points in four areas: first, to indicate what we would have had in a constitution had the federally proposed resolution proceeded unchanged; second, to compare what we now have as a result of those changes; third, to speak briefly to who deserves the credit for this momentous direction; and fourth, to indicate where we're at and what we should be doing in the immediate future.

The Trudeau resolution, to deal with it quickly, would have done several things. It would have given us a charter

of rights which would have been untested in the courts of this country, and therefore the interpretation would have been up to the lawyers and judges, not the people of Canada through their elected representatives. Indeed, by taking away that right and by being unsure of interpretation it may have been more unjust than it attempted to be just. Very important is the amending formula proposed in the federal resolution that would have given Ontario and Quebec, for time and eternity, a veto relegating the rest of us not only to second-class province status but indeed to a position where we would have been unable to safeguard our jurisdictional rights in the constitution, despite the fact that we faced that difficulty as a result of electoral seats in the House of Commons now. Third, and perhaps most important, it would have been a unilateral move that would have established a precedent which, in my opinion, would have moved us toward a unitary state and, I fear, would have destroyed this nation over time because it did not deal with the practicalities of Confederation.

By comparison, if we look at the Thursday agreement we have a charter of rights dominated by a notwithstanding clause, ensuring that while we guarantee those rights for Canadians, the interpretation is in the hands of the people through their elected representatives. Most interestingly, we have the Alberta amending formula, which indeed gives us an opportunity to safeguard our jurisdictional rights. At the same time, it allows for flexibility in Confederation and very firmly declares the equality of all provinces in Confederation.

It was an agreement which was a consensus of the partners of Confederation and, therefore, allowed us a new starting point for discussions in the future on which we can continue to further the cause of federalism and the belief in a state represented by 11 partners, not by one dominant government.

Mr. Speaker, with respect to the fears expressed by the hon. Member for Spirit River-Fairview that the amending formula would cause some difficulties from time to time, in this House today I predict that the opting-out provision will be used very seldom and, when it is, very justly, simply because it's there. All negotiations will have to take account of the fact that it's there.

The other question I wish to deal with at this historic moment is who deserves the credit for this. Ultimately, all Canadians do. But the Minister of Justice said in Calgary recently that the Prime Minister, because of his great ability to compromise and push forth this move, deserves the thanks of all Canadians. I suppose in one respect we need to thank the Prime Minister for not pushing our country any further toward the point where, I believe, it would have been unable to exist over a long period of time. In terms of history, I think it's obvious that the Prime Minister of the country should not take any of the credit for the agreement reached last Thursday. I regret to say that he pushed the nation to the point where it feared for its very existence. I'm only thankful that he then, for whatever reason — and I think it's clearly because of the position taken in this province and others — backed off.

In my opinion, we do owe thanks to the Official Opposition in the House of Commons, who held up the resolution long enough to get it into the Supreme Court to have a very significant judgment made with respect to its constitutionality. Indeed, the Supreme Court itself deserves the gratitude of Canadians for standing, as they should have, on the position that the moves by the federal government were unconstitutional and that we had to go back to the table to work on the same basis Confedera-

tion had worked on before in trying to achieve the agreement reached last Thursday.

Certainly not least, our thanks has to go to the eight provinces that initially stood against the constitutional agreement. In particular, I would distinguish the hon. Premier of this province and the Minister of Federal and Intergovernmental Affairs. I feel particularly strongly about that because I had an opportunity to watch the hon. Minister of Federal and Intergovernmental Affairs work on behalf of Albertans in Toronto. I'll never forget the ministers one night over supper at the Harbour Castle Hilton in Toronto with the Minister of Justice, and the very determined way, to say the least, that the hon. minister from this government led the other ministers in firmly showing the federal government that this was a federation and that this was 11 governments. I won't go on with any further details of that evening, but I'm sure the hon. minister recalls it well. So I think the thanks of all Canadians, all Albertans and, I can say for certain, all Canadians in Calgary Currie go out to the hon. Premier and to the Minister of Federal and Intergovernmental Affairs.

I haven't had a chance to watch the internal negotiations, but in crossing the country with the hon. Member for Edson, you, Mr. Speaker, and the other members of that committee, it was evident that the leadership shown by the Premier in bringing together all of the eight and in standing steadfast behind the principles agreed to in this Assembly created the accord of last Thursday which gives us a new day in Canada.

Now that we have that new agreement, what do we do? As many individuals have stated, it's not the end of constitutional discussions but, I suggest, is the base on which future constitutional discussions can proceed. All changes to be made in the future must now, by precedent, reflect the federation that's here and the compromise reached last Thursday. In my opinion, we must push forth the advantage we now have in showing that Confederation is a partnership of 11 governments, with no one part of that country dominating.

In terms of discussions on federal boards and commissions, the Canadian Senate, on the issues of communications, and others we'll be in the middle of, I think we have to continue to declare that precedent and work toward the Canada we in this Assembly have all believed in. Indeed the clouds have parted, and we must now move to clear them away. Part of those clouds are represented by Quebec not joining Confederation. I echo the sentiments of many that that will change in the months ahead.

It is a significant agreement, the most significant in any recent history of our country. I end by congratulating in this House the hon. Premier and the Minister of Federal and Intergovernmental Affairs for steadfastly standing behind the principles agreed to by Albertans and, I believe, by the vast majority of Canadians.

MR. WOLSTENHOLME: Mr. Speaker, many remarks have been made this afternoon, so I'll attempt not to repeat them. We used to have a saying down on the farm: we won't chew our cud twice.

I'm really pleased to speak on this motion about our constitution today because tomorrow is Armistice Day. I dare say that if agreement hadn't been reached by our government, through the Premier and our Minister of Federal and Intergovernmental Affairs, we would have broken faith with all our comrades in arms who made that supreme sacrifice to keep this Canada of ours a

great, free, and united dominion.

Speaking on this resolution on the constitution, I want to make clear to everyone that when I enlisted in the RCAF during World War II, I did not enlist for the purpose of protecting only my family and my home. The protection of my family and home was uppermost in my mind, but not only family and home. My intention was to protect in my small way all of Canada, not only the institution where I was working at the time, my little rented home, or the wheat fields of Saskatchewan.

I want to have that statement understood because I have been approached to join some who would have this great country of Canada become many smaller parts. Without a good, sincere effort of communication to try to work out a compromise which our Premier and our Minister of Federal and Intergovernmental Affairs did a marvelous job of, one that we can all be proud of and one that even the opposition have commended this afternoon ... I'm proud to be here this afternoon to have heard the remarks by my colleagues, and I'm pleased that my English bulldog background refused to have my judgment reversed. Without sincere communication and compromise, that may become a reality a way, way down the road.

I have two real concerns about the agreement. One of them is still a concern, that Quebec elected to opt out. I still feel a loss for Canada. The other was the aboriginal rights, but I feel somewhat relieved by the Premier's explanation here in this Assembly today.

With those brief remarks, Mr. Speaker, I'm pleased to support this resolution.

[Mr. Speaker declared the motion carried. Several members rose calling for a division. The division bell was rung]

[Three minutes having elapsed, the House divided]

For the motion:

Anderson, D.	Hyndman	Payne
Bogle	Isley	Planche
Buck	Johnston	Purdy
Carter	King	Reid
Chambers	Koziak	Schmid
Chichak	Leitch	Schmidt
Clark, L.	LeMessurier	Shaben
Cook	Little	Sindlinger
Crawford	Lougheed	Stevens
Cripps	Magee	Stromberg
Diachuk	McCrimmon	Thompson
Embury	Miller	Topolnisky
Fjordbotten	Moore	Weiss
Fyfe	Musgreave	Wolstenholme
Gogo	Oman	Woo
Harle	Osterman	Young
Hiebert	Pahl	Zaozirny

Against the motion:

Notley

Totals: Ayes: 51 Noes: 1

MR. CRAWFORD: Mr. Speaker, it's not proposed that the Assembly sit this evening. In respect of business Thursday, we will begin with committee study of the Bills on the Order Paper at 8 o'clock.

[At 5:28 p.m., on motion, the House adjourned to Thursday at 2:30 p.m.]