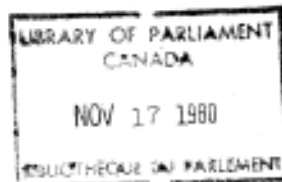


FEDERAL-PROVINCIAL CONFERENCE
OF
FIRST MINISTERS ON THE CONSTITUTION

CONFERENCE FEDERALE-PROVINCIALE
DES
PREMIERS MINISTRES SUR LA CONSTITUTION

Transcript of the Prime Minister's
Statement at the First Ministers
Conference on September 8, 1980

Transcription de la déclaration du
Premier Ministre à la conférence
des Premiers Ministres le
8 septembre 1980



Ottawa
September 8-12, 1980

Ottawa
du 8 au 12 septembre 1980

THE CHAIRMAN: Thank you. Well, at this point, having listened attentively as we all have to the remarks of the ten Premiers, I would like to make a few remarks, first as spokesman for the federal government, for the Government of Canada, and second perhaps as your Chairman relating to the agenda since there are a lot of people out there who are going to try and follow our discussions over the next few days and who don't have the benefit of a program.

My first comments are to point out that in listening to several of the Premiers, one might have the impression that Canada is a unitary state and that we are faced with several regions fighting for some sort of devolution, Scotland trying to get powers for itself so it can have some form of local government away from Westminster; Brittany trying to get some powers. We all know that that is not the case. In spite of the number of times we have heard the plea to respect diversity in Canada, the plea to permit the governments closer to the people to have the right to respond to people's desires, we know that in Canada we are living in the most decentralized federation in the world.

We also know that a much higher proportion of public funds are spent in Canada by the provinces and the municipalities that come under their jurisdiction than by the federal government and, in this we are far and away the most decentralized in these spending terms of any country in the world.

So, I think it is important that we keep this in perspective in the days to come. What we are fighting for here is a renewed federalism, an improved division of powers and a few other things, but we are not basically trying to create a federal form of government where the provinces have power, the provinces

have enormous power now. They have, I repeat, more power under our constitution than any of the component parts of any other federal government in the world. Now, that is simply my first point as spokesman for the Canadian Government.

Now, looking at the agenda, I understand that several of you did not like the division or distinction we tried to make in terms of the people's package and division of powers. There may be some more appropriate way of stating that and, if so I am happy to accept a change in vocabulary. But, if we look at the agenda, in whatever order we take it, there are 8 items of 12 where the provinces are either attempting to increase their powers or to reduce the federal powers, and this, I repeat, in the most decentralized federal form of government in the world.

Now, as against these eight items, and how they arrive on the agenda I don't think I have to remind you but perhaps I will in French a little bit later because Premier Lévesque said twice that this list was imposed on the provinces. So, I will return to that, but against these eight items where the provinces are asking for more power for themselves there is one item, the one called Powers Over the Economy, where respectfully we are not asking for more powers for ourselves, the federal Canadian Government, we are just asking that the constitution reflect what all of us wish and many of you said you wished, to have in Canada a common economic market.

As we will see when we discuss this item later, it is worth noting that in Canada we don't even have the protections against economic discrimination between provinces or economic mobility between provinces that exist not only in the European Common Market, but exist in the rules set up by the general agreement on tariffs and trade between sovereign nations so in this sense we are not asking for more powers. It is not a power grab for the Canadian government. It is an attempt to have us all recognize that it is to the benefit of us all that people in Canada can move, that capital can move, that services can move and of course that goods can move without hinderance between one province and another so that we can indeed be an economic union.

So these are eight items where the provinces want more powers. One where you can say the federal government wants more power but I think in fairness we can say this is just a matter of putting it in the Constitution that there is a common market. What are the three other items? One is a charter of rights which doesn't give more power to the Canadian government or the provincial governments. The Charter of Rights which doesn't give more power to the Canadian government or the provincial governments. The Charter of Rights is something I believe all of us have in our provincial and federal constitutions and which is a way in which we governments say to the people "We will respect your basic freedoms of speech, of religion, of thought and that other freedom, to speak one of the official languages and to send your children to school in one

of the official languages wherever freedom of movement permits you to go or compels you to go within Canada."

So once again we are not asking for more power for ourselves and I realize that by adopting Charters of Rights in your own provinces you haven't asked for more powers for yourselves. You have just said: There are some powers that shouldn't be touched by government, that should belong to the people and that is why we call it the people's package because it isn't a quarrel or a quibbling of who can exercise what jurisdiction. It is a question of what basic fundamental rights of the people are so sacred that none of us should have jurisdiction in order to infringe those rights.

Now I don't cringe at using the word "people." We may have a discussion in French later on that but people's package is meant merely to reflect that reality and I think that we all in this room know that the people are the basic authority which we all obey. I don't mean in an electoral sense, I mean in the constitutional sense and this in some way must come out of our deliberations, that we are elected to govern under the Constitution, but why must the Constitution be obeyed? Because it expresses the will of the people, not the parliament in Westminster, not even the Queen, certainly not the Canadian government or the ten provincial governments acting in unison

on a declaration or a press release. The people are the basic authority in this country and in some way the Constitution must say that and in some way our actions must reflect that.

So what then is the final item?
It is patriation, including the amending formula.

Well, patriation as we know has been on the agenda of First Ministers conferences since 1927, under six different Prime Ministers in some 10 or 12 different attempts, some of them involving a whole series, almost dozens of meetings as the meetings between 1968 and 1971, but over this long period of 53 years we have miserably failed, we, the politicians, to patriate the Constitution and this again has nothing to do with powers. I can guarantee you that the Constitution should not and would not be re-patriated in a way that would increase the powers of the federal or of the provincial governments. It is something in a sense which is neutral. It is merely saying that this vestige of colonialism which might have been a quaint reminder in the early years has become something of a national disgrace because we have proved that we couldn't exercise the most basic, the most elementary act of national will of saying "Okay, let's bring the Constitution back and have the same Constitution here and then continue our

haggling if we have to in Canada."

Now we will come to this item later and perhaps we will have time to argue it in more detail, but it is interesting to note why we have failed. Well, for the first forty-four years between 1927 and 1971 all these attempts failed because there couldn't be agreement on amending formula and heaven knows that many and every variation was looked at.

I submit that if we don't want to continue to fail again for another forty-four or a hundred years we must either agree in the next three or four days or we must agree to change the rules of the game and what were the rules of the game was that we couldn't patriate without unanimity. Well, I submit once again that unless we are prepared to change that rule there will always be some province and probably many which will say "I will be the one that doesn't join the unanimous agreement because I will use this legitimate desire of Canadians to get rid of this last vestige of colonialism, I will use this as leverage for me to increase my powers as a provincial government" and that is what has happened in the last nine years.

It began in Victoria where we had after three years of hard work, we had agreed on an amending formula at last, unanimously, we had agreed on an amending formula and one province said "Aha! Now that we have all agreed and now that I have a veto and now that we can at last bring the Constitution home I am going to sell my consent

for a bit more power for me." Now was that shocking or not? I don't suppose it was because in the nine years that followed just about every other province, not every one, but the majority of provinces began doing the same thing. They thought it was a great game. "We need unanimity to bring the Constitution back, we have an amending formula but we need unanimity, therefore I will only give my consent to this thing which is good for the people, which doesn't give more power to the federal government, I will only give my consent if I can get whatever it is, cultural sovereignty or fisheries or the offshore or the power over trade and commerce or what have you, the items on the agenda."

I say that somehow if we are not going to continue to fail for another forty -four years we have to break this rule and I believe we can do it. As many of you have said, there has been progress. There has been a lot of study over the summer. There has been enormous goodwill on all the items and when we come to the powers package you will see the Government of Canada is prepared to give some of its powers on every one of the items, not as much I am sure as the provinces would like but I repeat we are the most decentralized federal government in the world and at some point the Canadian government has to say "Well, we must remain a government able and with the powers to speak for all

the Canadian people." We will be giving on each one of these items and I know that many of you and perhaps all of you would be prepared to recognize the basic rules of the Canadian common market, so in that sense there will be some give and take, some exchange. You get some powers and we will get some and it will be a better balance and after all the Constitution can be re-adjusted after some hundred and whatever -- thirteen years of existence, but the point I want to make and it is a very basic one is that this haggling, this bargaining between politicians of more power for me or more power for you should not be brought over into the people's package, the package which doesn't give power to either of us, but which gives power and hopefully satisfaction to the people.

In other words, within the powers that we exercise -- well, I imagine it may be sad but we all think as governments and politicians we are elected to think that we can do a better job than the next guy and therefore we should have the power to do it but the Canadian people are really only asking themselves, you know, who spends the dollar best? Not really how is it best spent? Is what they want to know, not who spends it? And how is the power best exercised and not who exercises it?

So I repeat I think the question of patriation, the question of fundamental rights

must be judged on its own merits and it is in that sense, though we were disappointed that the conference didn't accept the order of agenda proposed by the co-chairmen, we have faith that after we have gone through all the packages, all the powers, even if we don't get what we want on the economy and you don't get what you want on resources and fisheries, we will still approach the question of fundamental rights of Canadians and the question of patriation with a fresh, clean mind and a clean slate and if people won't say "Aha! Patriation is important for you and you only get it if we can have cultural sovereignty or jurisdiction over our fish." I hope we will ask ourselves is patriation in itself a good thing and can we manage it, we, the eleven First Ministers, can we manage where everyone has failed since 1927 and the same thing on rights.

I hope we will ask ourselves is it a good thing that Canadians can move across Canada and seek a job and earn a living and establish a house in any province of Canada being full Canadians or should we only give this permission to put this in the Constitution providing we get some authority over international trade?

I can't believe that after hearing speeches made this morning, I can't believe that we wouldn't all agree with that approach, that there will be no bargaining between packages, that we won't trade powers for us governments or politicians against something that the people really want, the right to have a Canadian Constitution made in Canada and which protects all their fundamental rights.

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Ceci dit, il faut que je revienne à quelque chose que le premier ministre Lévesque a dit à deux reprises dans ses remarques d'introduction.

Il a dit que l'agenda avait, l'ordre du jour avait été quelque peu dicté par le gouvernement canadien. La chose pourrait peut-être passer sans commentaires, si le premier ministre Lévesque n'en avait pas profité pour indiquer que justement là c'était une autre preuve de l'unilatéralisme du gouvernement canadien à l'endroit des provinces.

Je veux simplement vous répéter et vous rappeler à tous que les sujets qui apparaissent à l'ordre du jour sont exactement les sujets qui apparaissaient à la conférence de février mil neuf cent soixante-dix-neuf (1979). Il y en avait quelques-uns en plus, nous avons réduit la liste et nous avons enlevé par exemple le sujet de la monarchie, mais nous avons repris exactement les mêmes sujets à une exception: les pouvoirs sur l'économie.

Or, ces pouvoirs sur l'économie étaient sur la deuxième liste, celle qui a été approuvée par le Comité des ministres et nous l'avons simplement ajoutée à la première liste, et je ne pense pas que ni le gouvernement de la province de Québec, ni les québécois trouvent objection à cela, parce qu'en somme ce que nous demandons sous l'item: pouvoirs sur l'économie, c'est d'établir une sorte de, de rétablir, si je peux dire, le marché commun canadien, la sorte d'association dont le parti québécois nous a beaucoup parlé où justement les biens, les personnes,

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les marchandises, les services pourraient voyager librement à travers tout le pays. Donc, ce n'est pas une liste que le gouvernement canadien a imposée, c'est la liste même qui a été faite en février mil neuf cent soixante-dix-neuf (1979) à la suite de toutes les réclamations des provinces pour des pouvoirs accrus, et c'est pour ça qu'on trouve dans cette liste que huit sur douze des items sont sur des pouvoirs accrus pour les provinces. Même la preuve c'est qu'à la réunion que nous avons tenue au mois de juin, le neuf (9) juin, il y avait cette liste que j'ai produite et une province a demandé qu'on ajoute les pêcheries. Nous avons ajouté les pêcheries.

Il s'agissait donc pas d'imposer une liste à nous, il s'agissait de trouver la liste qui était issue des discussions des provinces depuis plusieurs années et d'ajouter encore une fois quelque chose -- pas d'ajouter -- parce qu'il s'y trouvait déjà, mais le sujet qui est discuté au Canada depuis mil neuf cent vingt-sept (1927), c'est-à-dire le rapatriement, la canadianisation de la constitution canadienne.

Gentlemen, those are some of the remarks I wanted to make at the outset. We have all had our round and I think if we could break and adjourn for lunch we will come back with the new order, and I would put it to you that you might just bear with me a couple of minutes and I will distribute this if it is of any help, but if we want to cover all of the subjects over the next four half days, Monday afternoon, all day and Wednesday morning, we should attempt to deal with three subjects at least per half day. This afternoon we would begin with Resource Ownership and Inter-Provincial Trade, we would go on to Communications, then we would take the Senate. After that the list follows in the order which was the ordered discussed followed by the Continuing Committee through the summer but beginning this afternoon on Resources we will have a choice of procedures, and one would be that the federal government briefly indicate, since these are powers asked by the provinces, briefly indicate what powers we are prepared to give to the provinces and then we could have the provinces indicate their feelings about this or we could have, if you so prefer, a statement by one of the Premiers indicating why the Resources section in the Constitution should be changed and why the federal government should be limiting its inter-provincial trade power, but that might be a bit longer. I will let you think of that and we will try and find the quickest way to proceed.

Since we took this forenoon to make our opening statements I suggest we just take as tabled The Continuing Committee of Ministers on the Constitution Report to First Ministers, we have all had it in our hands for some week or two I guess and it might save time if we didn't begin each item with having either Mr. Romanow or Mr. Cretien read the report to us. So, let's just take it as tabled and then begin the discussion as soon as the gavel pounds away.

A quelle heure, à quelle heure on était convenu de revenir, à quelle heure? Deux heures (2h00), two fifteen (2:15) maybe, deux heures quinze (2h15); quatorze heures quinze (14h15). Ajourné.

--- Luncheon Adjournment (12:45)