

FEDERAL-PROVINCIAL CONFERENCE
OF
FIRST MINISTERS ON THE CONSTITUTION

Text of Opening Remarks
by Premier R. Hatfield

New Brunswick

Ottawa
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HON. RICHARD HATFIELD:

First of all, I want to make it clear that the unconditional support which I gave as Premier of New Brunswick to the resolution now before Parliament back in October, 1980, still stands. It still stands because there are elements in that resolution which are of urgent importance to Canadians living in New Brunswick. First there is the element of equalization. I want to emphasize that what this Canadian concept of equalization does is legitimize and strengthen and give substance to the provinces having power, especially those provinces which do not have large populations from which they can raise large amounts of tax revenue.

Furthermore, it is a commitment of Canada to equality of life, regardless of where Canadians live in Canada. It gives the government of the province dignity because it allows the province to decide how the monies that come from the resources of this country, how those monies are to be spent.

So, I think this is an extremely important matter and one which cannot be delayed.

Mr. Prime Minister, I have listened to the comments made by the Premier of Ontario, and I tell you that I support exactly what he said as far as a proposed amending formula. I think that in the context of how he put it, it is significant that he has made the pronouncement here that Ontario is prepared to give up its veto. I, like Premier Davis, having been involved in the design of the formula at our Constitutional Conference in Victoria in 1971, having supported it then, have the knowledge that 10 governments did in fact endorse that formula before we left Victoria, and after we left Victoria.

I put this in the context of the proposition or the request that has been made by the Premier of Quebec in that once again the legislature of Quebec is asking all of

Canada to put aside its priority, its design of the constitution, as the government of Quebec asked us to do in 1971 and, which we respected then. We respected it and we said, or I said, we will continue to try and find something that is acceptable.

Mr. Prime Minister, we worked a long time, and here we are again being asked now by the National Assembly of Québec to start again. I said there are other matters in this resolution which I think are urgent, and one of the most important is the Charter of Rights.

It has been said that we must design the Charter of Rights in Canada. I find that comment almost historically offensive. When I consider the time and effort that I personally as Premier and as minister put into discussing and debating and worrying and fretting and reacting and responding to the many, many proposals that came to us from our ministers, from our officials, from people from outside, when I consider -- when I remember, as I remember so well, and I remember being so impressed by the hundreds of people who appeared on television asking the Special Committee of Parliament and the Senate to make changes in the Charter of Rights and when I consider the number of compromises that were made by the promoter of the original resolution, the Government of Canada, when I consider the number of changes that were made, one was equalization, one was the entrenchment of the language rights of the people of New Brunswick, and when I consider all of that, I have to say all of it was done to the best of my knowledge by Canadians. I did not check anyone's passport, I did not ask for proof of citizenship, I believed that they were Canadians and they were making their Charter of Rights because it is their Charter of Rights.

I want to say too, Mr. Prime Minister, that as I consider the evolution of this country, Canada, that

it seems to me that our citizenship as Canadians came from the Parliament of Westminster, and I want Canadians in the future to know that the rights which are theirs, rights that can be given to them, the rights that are theirs, I want them to know that those rights came from the same source that their independence came from, the same sources that their citizenship came from. I want them to come from the Parliament of Westminster. That is not important as a legal fact, that is not important as a political fact. I think it is important as a symbolic reality and when I hear the view expressed that the provinces' rights are being interfered with by the Charter of Rights, again it gives me the impression that somehow or other the legislatures or heads of government believe that they have something which they can give.

I don't believe they do have it. I agree and recognise that every legislature has taken steps within the legislature to protect the rights of Canadians living in their province. But what is my duty as Premier of New Brunswick? Is it just to protect the rights of Canadians living in New Brunswick as long as they live in New Brunswick and have no sense of obligation or responsibility to them should they decide to move to some other part of Canada? We have a long history in New Brunswick of people growing up there, being educated there, getting used to certain things there and moving to other parts of Canada, even other parts of the world. We have a long history of remembering what happens when we left. We have people

who left and went to the Boston states. What happened to them? They lost the ability to speak their language. That is what happened to them. I don't want to see that happen in Canada. I don't want to see that and I cannot, I do not, have the right to say to Canadians living in New Brunswick, "You have rights in New Brunswick. I will protect those rights. Don't you worry, but if you leave New Brunswick, you are on your own." Yes, every provincial government has extended rights to people, but the only way we are going to protect the rights of Canadians is by having them written into a Canadian constitution. I clearly understand and fully appreciate the significance of the Premier of Québec saying he will protect the rights of Québécois. My question to him is: who will protect the rights of Canadiens au Québec. The constitution of Canada has to protect those rights, the constitution of Canada is the only document that I know that will do that.

I have, as I said, a proposal to make with regard to the Charter of Rights. I will refer to it now. As per Conference Document #800-15/004, New Brunswick proposes that the resolution be altered in the following respects: only certain provisions of the charter would come into force immediately. These include: Guarantee of Rights and Freedoms, Fundamental Freedoms, Democratic Rights, Mobility Rights, Official Languages of Canada and New Brunswick, Minority Language Educational Rights and General Rights that are included in Sections 25, 26, 29, 30 and 31 of the proposed resolution. The remaining provisions of the Charter of Rights would be enacted, but would not come into force

for three years. These include: rights which a fair number of Premiers and ministers and people in Canada have suggested more time is needed to consider them and to improve on them. These include: Legal Rights, Equality Rights, Enforcement and General matters that are included in Sections 27 and 28 of the proposed resolution.

This concept of deferred application for three years presently exists in the Charter, but applies only to Section 15.

During this three-year period these deferred provisions would be placed on the agenda of the proposed Constitutional Conferences as to be provided for in the resolution. At the end of the three-year period, six provinces acting together could prevent the coming into force in Canada as a whole, any provision by depositing resolutions of their legislative assemblies with the Clerk of the Privy Council, opposing the coming into force of the provision. Such a resolution could be adopted at any time after two years had elapsed from the coming into force of the other provisions of the Act. The two-year restriction is designed to ensure at least two years of open discussion prior to a commitment being made by a legislative assembly, during which a consensus on the scope of the Charter might be reached and an amendment secured, if necessary (end of quote from /004).

As I said, I support the amending formula outlined by the Premier of Ontario and am prepared to work with my colleagues and you, Mr. Prime Minister, to build on this to reach a consensus so that we can have, finally in our own country, our Constitution with something in that Constitution for the people, something important for the people of Canada that is a protection of their rights.