

CONSTITUTIONAL CONFERENCE

PROCEEDINGS

SECOND MEETING

Ottawa— February 10-12, 1969

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Catalogue No. Z2-1969/1-2

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The Queen's Printer
Ottawa, Canada
1969

FOREWORD

The Constitutional Conference held its second meeting in Ottawa on February 10, 11 and 12, 1969. As with the February 1968 meeting, the proceedings were made accessible to all Canadians on radio and television. The frank expressions of opinion voiced by the heads of the various governments illustrated dramatically the wide variations in the points of view within Canada concerning our constitution and the way in which our country is governed. They set forth clearly some of the important problems that must be resolved in achieving satisfactory arrangements for government in the Canada of the future.

The Conference was for observers and participants an educational exercise of great importance. I believe we all learned much of the hopes and concerns, the priorities and the interests, of the several governments of Canada. It permitted all Canadians to understand better our national and our regional problems.

The Conference reached a consensus on a number of conclusions which are recorded in these proceedings. Perhaps the most significant decision taken by the heads of government was to carry out a comprehensive review of the constitution at an accelerated pace. This resolve, together with the action by the Conference to establish various committees of ministers to undertake immediately certain important aspects of the review, represents another major step toward the solution of Canada's constitutional problems.

A handwritten signature in cursive script, appearing to read "B. Trudeau". The signature is written in dark ink and is positioned below the main body of text.

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HEADS OF DELEGATIONS

The Right Honourable Pierre Elliott Trudeau,
Prime Minister of Canada

Honourable J.P. Robarts, Prime Minister of Ontario

Honourable Jean-Jacques Bertrand, Prime Minister of Quebec

Honourable G.I. Smith, Premier of Nova Scotia

Honourable Louis J. Robichaud, Premier of New Brunswick

Honourable Walter Weir, Premier of Manitoba

Honourable W.A.C. Bennett, Premier and Minister of Finance
of British Columbia

Honourable Alexander B. Campbell, Premier of Prince
Edward Island

Honourable D.G. Steuart, Deputy Premier of Saskatchewan

Honourable Harry E. Strom, Premier of Alberta

Honourable J.R. Smallwood, Premier of Newfoundland.

AGENDA

1. Opening Statements
2. Objectives of the Constitutional Conference
 - (a) General
 - (b) Report of the Continuing Committee
 - (c) Procedure for Constitutional Review
3. The Objectives of Confederation and Basic Principles of the Constitution
4. Specific Constitutional Questions:
 - (a) Official Languages
 - (b) Fundamental Rights
 - (c) Distribution of Powers (including constitutional aspects of taxation and spending powers)
 - (d) Reform of Institutions linked with Federalism
 - (e) Regional Disparities
 - (f) Amending Procedure and Provisional Arrangements
 - (g) Mechanisms of Federal-Provincial Relations
5. Other Questions

**Opening Statement
by the
Prime Minister of Canada
THE RIGHT HONOURABLE PIERRE ELLIOTT TRUDEAU
to the
Second Meeting
of the
Constitutional Conference
Ottawa — February 10, 1969**

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Ottawa - February 10, 1969

Distinguished guests, observers, mesdames and messieurs, in opening this meeting of our Constitutional Conference, I welcome all the heads of provincial governments and their delegations who are gathered in this room, and also all those who are watching and listening on radio and television.

Although this meeting is a continuation of last February's meeting, the events of the last year have caused some changes in our membership. The members of the federal delegation, and, I am sure, all participants in this Conference, will miss the skilful and experienced leadership of my predecessor, The Right Honourable Lester B. Pearson. His many years of international diplomacy, his deep knowledge of our political institutions, his evident affection and concern for his country, and his personal store of wisdom and humour contributed greatly to the success of our first meeting.

We are honoured by his presence at this Conference and by that of another former Prime Minister of Canada, The Right Honourable John Diefenbaker. I only wish that we could amend our Constitution to guarantee that a prime minister, in assuming his office, would also acquire all the best qualities of his predecessors.

There is an absence I feel with particularly acute regret this morning - that of the Honourable Daniel Johnson. The reasons which had motivated our decision to revise the Constitution stemmed to a great extent, from the dissatisfaction of French-Canadians and their uneasiness within the Canadian federation. As Premier of the Province of Quebec, Mr. Johnson's task, at the time of our first meeting, was an important and difficult one. And even though differing opinions were expressed around this table on a few occasions, his complete devotion to the interests of the people of Quebec, and his faith in the future of Canada, were acknowledged by all those who witnessed the care and deep thought he applied to reconciling the pursuit of this twofold objective. The Honourable Jean-Jacques Bertrand, as we know, succeeds him as Premier of the Province of Quebec. We welcome Mr. Bertrand this morning at the opening of this second session. I greet you with friendship and I am most happy to see that you are again in good health. I hope that your health will continue to be satisfactory and that you will thus be able to carry out successfully your new responsibilities.

The Honourable Ernest Manning will also be missed at this Conference. He was able to bring to our discussions all the authority and conviction which he had acquired during his quarter century of service to the people of Alberta. His successor as Premier of that Province, and as head of the Alberta delegation, is The Honourable Harry Strom. I am happy to welcome you to the Conference and to wish you every success in your new office.

We were disappointed to hear that ill health will prevent the Premier of Saskatchewan, The Honourable Ross Thatcher, from attending this meeting. The Honourable D.G. Steuart will be leading the Saskatchewan delegation, and I would ask him to convey to Premier Thatcher our best wishes for his speedy recovery.

Having said this, gentlemen, by way of introduction, I thought I might anticipate a little bit on the agenda that is in our hands. We know that there will likely be some discussion of the agenda, but as it reads now you will see that Item 1, Opening Statements, is followed by Item 2, Objectives of the Constitutional Conference. And because of that I thought the best way to proceed, if we were all agreed, would be to proceed by the opening statements, each Prime Minister and Premier speaking in turn, and then after we had gone around and each stated our position, as it were, we could right away go into Item 2, which would be

likely some time this afternoon, late this afternoon. And at that point on Item 2 we could discuss the agenda as it followed from there. And we could make any adjustments or alterations or set any timetables that we wished to.

In this way we would, I repeat again, start by making our opening statements each in turn, and then we would be free to discuss any and all aspects of the agenda. If this is agreeable, I will proceed, and each of the other delegation leaders will proceed in turn. Agreed?

We are assembled today in a tradition which goes back beyond the birth of our Confederation. The turning points in the histories of many countries have been marked by wars and revolutions. This country was founded and has grown, less dramatically but no less surely, as a result of orderly meetings between representatives of the people. It took several years and a number of meetings to hammer out the details of Confederation. To the Fathers of Confederation the discussions of those years must often have seemed frustrating and interminable. Yet in the perspective of history we consider their time well invested.

In many ways the task which they performed can be compared to the task which faces us today. They had a vast and varied country to create. We have a rich and promising future to assure. The problems of their day had outgrown the attitudes and the institutions of the time. They had to forge a new and stronger unity based on their confidence in the future. In the same spirit we must not be afraid to innovate, to change and to improve. Over the years they worked with patience, tolerance and foresight. These are qualities which we will need to share.

Canada is the product of understanding; not conflict. We are the trustees of reasonableness, not violence. Canadians want their country to move forward calmly and deliberately. This is our way and it is the right way. It has worked and we must continue to make it work.

For the next three days the focal point of our discussions will be the Constitution. I know that many people think of the Constitution as a dry and technical document best left to lawyers and politicians. Certainly the British North America Act is not very inspiring to read. But it affects every Canadian - and therefore it concerns every Canadian. Every one of us has a stake in our political system. How well that system works, and

whether it can continue to work at all, depends on the Constitution.

From the Constitution depends and springs the authority for our laws, for the administration of justice, for the preservation of order in our society. And thus it affects the most common acts of our everyday lives - the price we pay for our groceries or our heating, the quality of the air we breathe and the water we drink, the programmes we watch on television, the way we run our schools and our courts. It affects the prosperity of our country, the number of jobs, the development of industry, the adequacy of our health and welfare services. It protects individuals and minorities against the abuse of power. In a time of rapidly changing needs and aspirations the Constitution becomes crucial to the very existence of our country.

It was during our Centennial Year that many Canadians, and their elected representatives, came to recognize that a revision of the Constitution was essential to the future of this country. That realization set in motion the process which has led to this meeting.

One of the first steps was Premier Robarts' Confederation of Tomorrow Conference, at which many Provincial leaders spoke of the urgency of constitutional revision. This feeling was reaffirmed at the first Federal-Provincial Constitutional Conference last February, and it led us to undertake a comprehensive review of the Constitution. We agreed to set up a Continuing Committee of Officials to carry out the preparatory work.

The Federal government and all provincial governments have participated in the work of this Committee. It has drawn on the imagination and experience of experts in all parts of the country. As a result of its activities there has probably been more serious and organized consideration of basic constitutional principles throughout Canada during the past year than at any time since Confederation. Now that we have created this new intellectual resource, it is up to us to decide how to make the best use of it. But the final responsibility for continued and orderly progress on the long, uphill road to a new Constitution remains with the members of this Conference.

I do not underestimate the difficulty of our task. Although a great deal of work has been done since last February, most of the problems which gave rise to the demand for revision remain unsolved and some may have become even more acute. Recent events clearly show that uncertainties over the proper roles for Ottawa and the Provinces, and over the rights of our two major language groups have not diminished. What was true a year ago is no less true today. We must remove these uncertainties through constitutional reform.

We know that these are not the only problems which demand our attention. Canadians in all Provinces want improved educational systems, expanded health and welfare programmes, better transportation and housing, and more rapid regional development, to mention only a few of the current priorities.

We have heard suggestions that this meeting should set aside the Constitution and concentrate on these day-to-day social and economic problems. After all, we can see they exist. We can see they are important. And we can see they must be solved. But there comes a time when the search for short-term solutions, the reliance on temporary adjustments, must not be allowed to stand in the way of an examination of the underlying problems. All of us know that when two men of goodwill disagree persistently over a common and urgent problem there must be some disagreement on basic principles. And we know that it is better, that it is more effective, to try to work out agreement on the principles than to keep on bickering about the problem itself. Canadian unity and federal-provincial co-operation have been called in question too often for us to think that another temporary expedient will do. We must discuss the fundamental problem - the Constitution which defines the framework of Canadian unity and sets the rules for federal-provincial co-operation.

I could recount, as you could, the progressive shifts in resources from the federal to the provincial governments, so that now the provincial-municipal share of total government revenues is approaching fifty per cent. I could recount the steady and progressive reduction in the federal share of income and estate taxes. I could recount the increases in federal equalization payments to the lower-income provinces, so that now they amount to well over half-a-billion dollars a year.

I could speak, too, of our concern, indeed of the urgent necessity, for preventing an erosion of the economic and fiscal powers of the Parliament of Canada if our country is to remain strong, and if the opportunities for every Canadian are to increase in every region of the country.

But this is not my point. You know these arguments as well as you know your own on this central question of federalism. My point is that these arguments have been going on for so many years that we owe it to Canadians to try to get at the fundamental problem - and that problem is the Constitution.

If the Provinces feel, for example, that successive governments of Canada have been too ready to initiate shared-cost programmes, or that shared-cost programmes are a violation of the spirit of provincial jurisdiction, then we had better look at the constitutional power under which these are created - the federal spending power. Behind all of the arguments, is it being suggested that this federal power should be reduced or circumscribed in some way? Or is it being suggested that there should be some ground rules for its use? These are fundamental questions indeed, for on this constitutional power are based, for instance, the Hospital Insurance Plan, the Canada Assistance Act, the Fund for Rural Economic Development, the Health Resources Fund, Medicare, the Trans-Canada Highway and Family Allowances, just to cite a few examples. The federal spending power has also enabled the Federal Government to contribute to many Centennial projects including Expo 67. These are some of the ways in which Canadians benefit from this power and which we must keep in mind when we discuss this issue.

The use of the federal spending power is just one example of the basic constitutional questions which we must resolve in order to find enduring solutions to the continuing financial problems of all governments.

Another pre-occupation of both federal and provincial governments has been the attempt to provide equal opportunities for Canadians in all regions. This was one of the underlying reasons for Confederation. During the century of our history, economic conditions and the resulting problems of inequality have changed beyond recognition. The question has been raised whether the Constitution imposes sufficient obligations and grants

Why are we reluctant to join together in guaranteeing to the citizen, whom we all serve and represent, his most essential rights?

There may be some who believe that this matter is rather one of provincial jurisdiction and are wary lest the Federal Government should intrude in a field not coming under its exclusive competence. There can, however, be no question here of government encroachment, since it is not a matter of transferring legislative powers from one government to another. It is only necessary that we be in agreement to restrict the power of all the governments so that they will no longer be free to prevent the exercise of individual rights which we would all agree to guarantee. We are agreeing to place the basic rights of the citizen before those of the governments. Nothing more.

Most provinces recognize the need to grant such rights to the individual. Some provinces have already adopted either a charter of human rights or legislation to protect certain freedoms, and other provinces intend to follow suit shortly.

But the citizen's protection remains incomplete as these are isolated efforts. Why not unify and consolidate them? The Federal Government has drawn up a draft charter of Human Rights which will be found in our document entitled The Constitution and the People of Canada. Needless to say, the draft is not final and is subject to improvement. But why not compare our different approaches to the problem and attempt to reconcile them? Why should we not agree to pool what we both may have developed in order that the most valid elements of our reflections and various studies may be used to draft the best charter possible?

A constitutional charter of human rights, in addition to meeting a specific need in respect of the citizen, would offer the advantage of having all Canadians participate in the same spirit and the same ideal. We believe in the cultural diversity of the country, a diversity we want to cultivate and encourage. But at the same time we must find the deep-lying reasons which bring us together, we must become aware of the ties which unite us. If we want this country to be a country, and not an agglomeration of territories for administrative purposes, we must, to give this country a soul, recognize once and for all the principles and ideals we share in common and which inspire us.

It being necessary to go beyond certain cultural compartments in order for the country to rediscover its foundations and its "raison d'être", we have come to consider linguistic rights to be fundamental.

We want to respect the languages of our two main linguistic communities. But are we talking of a restrictive attitude, of a limited respect? Are the rights of the French language to be recognized only in one part of the country? And the rights of English only in the other part? It is easy to see how absurd this would be as it leads directly to intolerance on both sides and to a sort of "double segregation".

We believe that language rights are essential not only for the individual, but for the strength and unity of this country. Both French-speaking and English-speaking Canadians must enjoy the fullest rights of citizenship. Wherever they live, they must feel at home.

Our policy on bilingualism has been widely misunderstood. It does not mean that every English-speaking Canadian must learn to speak French any more than it means that every French-speaking Canadian must learn to speak English. It means that every Canadian will have access to public education in either official language, and will be free to use either language in dealing with the Federal Government and other public bodies in all areas of the country where the size of the minority justifies it. Only when this has been achieved will all Canadians of both languages feel that the whole of Canada is their country.

The choice is only too clear. Either we recognize these language rights in all parts of Canada -- and I repeat, this has been misunderstood in many parts. It is a very limited region where this bilingual concept or this bilingual bill or the B and B Report applies. There is no region in British Columbia where it applies. There is one region in Alberta; one in Saskatchewan. Four, I believe, in Manitoba. This is far different from supposing that everywhere, everyone to be a federal servant will have to speak both languages. We are talking of regions where the number of citizens of the official language (whether it be in Quebec or the rest of Canada) is sufficient to justify such bilingualism and such bilingual institutions. But either we recognize these languages in all parts of Canada, or we create a climate of mutual suspicion and mistrust which could lead

to the disintegration of this country. That is Canada's challenge and together we must answer it.

Since our Conference last year several provinces have adopted measures to extend language rights. The Federal Government has introduced an Official Languages Bill which was intended to deal with matters within the federal jurisdiction. We realize that the extension of language rights right across the country may cause technical and financial problems, and we are ready to discuss these problems with the Provinces and to consider any proposals for assistance in solving them. We have said so last year, and we hope that during this Conference we will examine ways in which it may be done.

But now that we have taken the first steps in this direction, we cannot afford to hesitate or fall back. Language rights are too important to too many Canadians to be left without adequate protection in our law. We must place them beyond question and beyond attack by guaranteeing them to all Canadians in our revised Constitution.

I have mentioned only a few of the questions which we would be considering during this Conference, but they should indicate the magnitude of the task which we have set ourselves. Of course many of these questions will remain unresolved at the end of three days. Anyone who expects a new Constitution by Wednesday evening is likely to be disappointed.

But nevertheless, we expect to make substantial progress during this meeting and to move to a new stage of our proceedings.

In some areas of the Constitution much preparatory work remains to be done. We may decide to refer this work to the Continuing Committee of Officials. We will have a chance to examine this Committee's report which asks for guidance on its future methods and objectives.

In other areas in which the preparatory work has been completed, the time has come to decide on the form and content of a revised Constitution. These are political decisions which must be made by elected representatives of the people.

For instance, the Federal Government has submitted specific proposals for a Charter of Human Rights.

We have also submitted proposals on the contents of a preamble, and on the structure of federal and provincial governments and the courts.

We will be dealing with all these subjects later in the meeting. If we do not have time to complete our discussion of them, we could refer specific topics to meetings of appropriate ministers or heads of governments. For our part, we believe that any such meetings deserve the highest priority, and we will make ourselves available as soon as and as often as necessary.

Behind all these questions of detail, and behind every item on our agenda, is a larger and more fundamental question.

Certainly taxing and spending powers are important to our governments, and we will have a chance to discuss them during this Conference. Certainly human rights and language rights are essential to Canadians, and we will be talking about them also.

But more important, more essential to our future is the preservation and strengthening of the unity of this country. I am not talking about a vague, abstract idea. I am speaking of the feeling of individual Canadians towards their country. What kind of a country do we want?

Do we want a renewed and improved federalism? A strong Federal Government empowered to act on behalf of the whole country? Strong provincial governments capable of fulfilling their constitutional responsibilities? A division of powers adapted to present-day needs? A Constitution which defines and guarantees the fundamental rights of all citizens? Equality in law for the French and English languages?

We believe that most Canadians in all provinces support these principles. At this Conference all governments will have an opportunity to state clearly where they stand.

It would be unrealistic to expect agreement on every issue. But whatever the course of our discussions over the next three days, we are united by our common confidence in the future of this remarkable country, and by our desire to serve the best interests of all Canadians. This is the spirit which has brought us to this table and which, I am confident, will inform and inspire all our deliberations.

**Opening Statement by
THE HONOURABLE JOHN ROBARTS
Prime Minister
of the
Province of Ontario
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Prime Minister Trudeau, my colleagues, ladies and gentlemen:

It is just a little more than a year ago that the Province of Ontario was privileged to play host to the first, public inter-governmental Conference dealing with the contemporary issues of Canadian federalism. That was the Confederation of Tomorrow Conference. It was followed last February by the Conference in this room which was also open to the public. We were thus able to involve our people from coast to coast in the present problems of our Country's federalism. We are here today to continue that work which, I have a feeling, Prime Minister, will go on for a good many years. I agree with you that we will not have a new Constitution by Wednesday afternoon.

It is a pleasure to be here and to represent the people of Ontario at this meeting. I hope that we will be able to make some real progress in finding where the future of our Country lies. The agenda is filled with many complex matters. We have discussed a good many of these matters before and, on behalf of Ontario, I am happy to continue to discuss at this time and will be prepared to discuss in the future every single item that is on the agenda.

Canada has always been a Country whose people have held widely divergent points of view, but who somehow have managed and must forever manage, to live together. The discussion on the agenda that has occurred in the last week is, I think, as good an example as one can find of the different points of view that exist. On the other hand, there are solutions to all these problems.

Our position in Ontario is that we must discuss all these matters together. We do not think that they can be separated. We do not think that you can separate the constitutional problems from the linguistic problems and these two from the fiscal problems if we are to achieve what is our common objective. I would think that nothing could be more disruptive to the future of Canada than if we omit or fail to discuss some of the problems that face us today. Our great national priorities, it seems to me, are constitutional change, linguistic rights and the responsible management of the economic and financial affairs of this Country. Our position in Ontario is that these cannot be discussed in isolation. They must be discussed together.

With regard to constitutional change, Prime Minister, and with regard to the comments you have made and the suggestions that your government has put forward, I was struck by the fact that these will require great deliberation, thought and examination. On the other hand, we cannot take forever to do some of the things that have to be done in our Country. We must move on. Psychologically, I think it is very important that we demonstrate to our people that we are prepared to enter the second century of our Confederation with an open mind and with an approach that will permit us to make the changes that are necessary to meet the needs of our second hundred years.

The process of constitutional change is bound to be a delicate business which requires a high degree of political skill and political consent. I think that it might best be undertaken by our people and by the governments they elect if it is done in an atmosphere of political and fiscal stability. I think that if we are going to consider these great questions of constitutional change, we will be more successful in our discussions if our people are confident as to what their day-to-day future is going to be. That is why I consider it to be of fundamental importance that our governments meet the various pressing needs of our people as they exist today, at the same time as we take the

time (and it will take a lot of time) to discuss the much more far-reaching and deeper matters of constitutional change. What we need is to make our present Constitution function better than it is while we undertake to change its framework.

It is not necessary for me to spell out to this Conference and to the men around this table the type of problems that we have. We have some long-term problems and we have some short-term problems that concern our people directly: such things as housing, schools, hospitals and roads.

The basic, fundamental constitutional problem revolves around the questions: "What kind of Canada do we want? What kind of Canada are we going to have? What kind of Canada do our citizens want us to build for them?" These are fundamental questions that go to the root of our federal system. We from Ontario will have a good deal to say about the various items on the agenda dealing with the future of Canada.

Last February, Ontario undertook certain courses of action and announced them at this table. I do not propose to discuss them in detail now because they will emerge later in the Conference when we reach other items on the agenda. However, I would like to say that since that time Ontario has taken many steps to implement the commitments which we undertook. We think that we have come some considerable distance over the past year in the recognition of linguistic rights within the Province, particularly in the field of education.

The courses of action which we have started will continue. They have been undertaken in good faith and will be continued because we think that they are right. They are particularly right for the over half a million people who live in Ontario and who conduct many or most of their affairs in the French language. I will go into this matter more fully as time goes on, but I wanted to make this point now.

As we look at the broader question of federalism, it seems to me that when the Fathers of Confederation drew up the Constitution in 1867 they dealt with matters as they saw them at that time. They allotted to the provinces certain responsibilities not really realizing what would happen over one hundred years to those responsibilities.

Consider, for example, the question of highways in our Country. The Fathers of Confederation could not have anticipated the automobile and what it would mean to provincial jurisdiction in the construction of roads when that particular responsibility was given to the provinces. I use that only as an example, but it illustrates how circumstances have changed, whereas the Constitution has not changed. The financial responsibilities of the provinces and the powers the provinces bear in a whole series of areas have developed beyond the wildest dreams and imaginings of the Fathers of Confederation. We think these responsibilities include many immediate and pressing needs, and we must arrange some way of meeting them. I realize that they are fundamental; I agree with you, Prime Minister, when you say we can no longer accept patched-up solutions. We cannot seek solutions for the next two years or the next three years. We must seek solutions that are going to be lasting. We believe that we are going to have to recognize provincial responsibilities more than we have in the past, and in a much more explicit manner; and we are going to have to make provision for the provinces to meet them.

We in Ontario believe that if we cannot get some more equitable or reasonable apportionment of revenues, and if we are not to over-tax our people and our industries, we will have to reduce our present programs in the fields of education, health, transportation, power development, natural resources development, housing, urban renewal, and the whole area of pollution, just to name a few of the programmes that will suffer.

I suggest that if this happens, it will change the face of this Country a great deal more than we ever will by making changes to the written Constitution. There is a very practical aspect to this and that is why we say that it is impossible to discuss in piecemeal fashion what is going to happen to this Country. We have to consider all matters together, and fiscal matters are of great importance. I do not say they are any more important, but I would say they are equally important. We wish to maintain a healthy, prosperous growth in Ontario, secure in the knowledge that the Federal Government garners 45 per cent of its revenue from that very healthy organization, the Province of Ontario. These are just some facts I put before you to reinforce the position taken by Ontario. These various matters cannot be separated.

We believe that the taxpayer of Canada does not particularly care which government, federal or provincial, taxes him. I think what does concern him is how much he is taxed. What he does care about is not constitutional niceties, but that his governments do their jobs efficiently and economically and provide him with an environment and atmosphere in which he can live and be happy and raise his family. If that is the case, and if my premise is correct, then I think it is up to us, as the men who have these responsibilities, to make sure that each jurisdiction has the wherewithal to discharge the responsibilities it has to the individual citizen.

The day has gone forever in this Country when one government can think it is able to decide and dictate the needs of all Canadian people. We need to have a new federalism in our Country. This should be one of the objectives of this Conference, to develop a new federalism reflecting the fact that we are really equal partners engaged in a joint and exciting endeavour.

To refer, if I may, to the potential of this Country: I think we must begin to co-operate in a way we have never done before. I would like to see developed and maintained a functional federalism. This is what Ontario seeks. This is the central issue as we see it. We must adopt the best kind of federalism for Canada, for its people, for the present and for the future. I think that we must reject political oneupmanship. There has been a certain amount of that in our Country in recent years. I think that we must concentrate on developing and forming a partnership among our governments. We must recognize the strength of our two linguistic communities, and we must recognize in addition to that the wealth of the many cultures that contribute to the total of what is Canada.

We must strike a delicate but nonetheless vital balance between national needs and regional interests. We must adopt the basic principle that revenues and spending responsibilities be closely matched. Then we must find some means of assessing the differing problems and the needs of the component parts of Canada.

It must be a federalism which will be functional and flexible. We must recognize and preserve the fundamental distinction between federalism and centralism. We are not impressed with the idea of centralism, but we are impressed with the principle of federalism. We support

a strong Federal Government. We have always done so. We believe it is absolutely necessary for the interests of all Canada. The diversity of our Country requires that we have a strong central government to hold the diverse parts together. But that does not mean that all powers need to be concentrated in the central government. We must look at this part of the total problem very carefully.

I think we must adopt the principles of the new federalism that I am trying, in my halting way, to outline to you this morning. I think we must adopt these principles and make sure that they are put into practice.

With regard to the discussions that we have had, as far as I personally am concerned and as far as my government is concerned, we have welcomed these opportunities. We have shifted position occasionally. No doubt we will again. That is the purpose of any discussion: to ensure that we get all the points of view on the table and examine them and then as a group pick those that we think will be best for us.

Inevitably, we are going to fall back on the great Canadian characteristic of compromise, because some of the points of view might be termed to be irreconcilable; and yet they have to be reconciled. This will only be done through the exercise of great judgement, goodwill and an eventual compromise of positions. And this we can do.

I do not see this task as being at all impossible. I do not minimize the difficulties. But if one reads a little history and sees what we have been able to do in that past, I think one can approach the future with optimism. As in the past, we will find the solutions.

We have made a very hopeful beginning. I look forward to these Conferences. I do not worry about the term "confrontation". Because it is not a confrontation. It is only an exchange of varying points of view. And we are all quite used to this. So I do not think we need allow ourselves to be stampeded into thinking that we are in any great period of unending crisis. We will find our way through this as we have found our way through many situations in the past.

I am delighted that these Conferences are open to the public, by means of press, radio and television. I know in going around Ontario in the last eighteen months

since we opened these Conferences that there is a much greater awareness among our people of what is in fact going on. They are becoming aware of what the issues are. They are becoming aware of the importance of what the results will mean to them as individuals.

That is why we need, Prime Minister, lots of discussion. I believe you are an advocate of more public, participatory debate. I think this is sound, and I congratulate you for your attitude and for what you have done in this regard. Therefore, let us look forward to some participatory federalism in the discussions that will follow here.

I would say in closing that our Federation and its Constitution will only be as good as we make them, because regardless of what you write down on a piece of paper, it is men that make Constitutions work. If we approach these problems with the proper attitude, we have the ingenuity to get the marks on the paper indicating what we want. But it will be finally, inevitably, the attitude of all of us that will make our Constitution work and make our Country what we know it is and can be.

There is a little quote which I think is taken from an old prayer. It advises us to have:

"The serenity to accept what cannot be changed,
the courage to change what can be changed;
and the wisdom to know one from the other".

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you very much, Prime Minister Robarts.

I will now recognize the Honourable Jean-Jacques Bertrand, Prime Minister of the Province of Quebec.

**Opening Statement by
THE HONOURABLE JEAN-JACQUES BERTRAND
Prime Minister
of the
Province of Quebec
to the
Second Meeting
of the
Constitutional Conference
Ottawa — February 10, 1969**

Opening Statement by
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Mr. Prime Minister, dear colleagues, ladies and gentlemen:

I would like to express my gratitude to the Prime Minister of Canada and to the Prime Ministers and Premiers of the other Provinces for having accepted, at our request, the postponement for a few weeks of this Conference, at first scheduled for last December. Being the one responsible for that delay, I want to apologize personally to the other delegations. We join you, Mr. Prime Minister, in offering to the Premier of Saskatchewan the best wishes of the Quebec delegation for a speedy recovery. Quebec has been much obliged by the forbearance with which the inconveniences of this change from December to February were accepted by all delegations.

I would like also to pay a brief tribute to the man who headed Quebec's delegation when this Conference began its work in February 1968. You all know without my telling you what vital importance my predecessor and good friend, the late Daniel Johnson, attached to constitutional problems. His most cherished ambition was always to see our Country adopt its own entirely new, all-Canadian Constitution, one capable of ending the misunderstandings which divide us and of putting the harmony between our two cultural communities on solid foundations.

There were those who wondered how the sudden disappearance of Mr. Johnson might affect Quebec's constitutional policy or Canada's for that matter. While the style may change, it should be obvious that the substance of that policy cannot vary that much. Men may come and go, but the reality of Quebec endures.

Thus I have not come to water down, much less to contradict, the many statements, briefs and other official documents which expressed Quebec's attitude to this vital problem before or after the June 1966 general elections. I have come to support and throw more light on the proposals we have already made and also to show how urgently these solutions are needed.

In May 1963, when I, as a member of the opposition, introduced a motion in the Quebec Parliament to institute a Parliamentary Committee on the Constitution, I did so out of a sense of urgency, a feeling obviously shared by my colleagues on both sides of the House, since the motion was adopted without a dissenting voice. We were all alive to the seriousness of the crisis which, in its Preliminary Report published two years later - in February 1965 - the Commission on Bilingualism and Biculturalism (Laurendeau-Dunton) was to describe as "the greatest crisis in our history" one "which threatens the very fact of Canada".

Much more is involved in this crisis than human rights or the linguistic rights of minorities. The trouble lies far deeper and is more fundamental. To quote the Commissioners, in their first report, "the vital centre is in danger: we mean the will to live together". And in the same serious vein, they added that "Canada has come to a time when decisions must be taken and developments must occur leading either to its break-up, or to a new set of conditions for its future existence".

I know that the findings of the Laurendeau-Dunton Commission were discussed at length as soon as they were published. I also know that many Canadian politicians looked upon those findings with disbelief. But we Quebecers believed it. Mr. Laurendeau, who had a profound knowledge of Quebec, must have really believed in those findings for he signed the report.

Fortunately, the Confederation of Tomorrow Conference which Ontario convened in November 1967 afforded us our first opportunity to embark on a thorough study of

the question. We have with us again today the architect of that first meeting, Premier Robarts. Then, meeting here in February 1968, we agreed on the need to review together the various aspects of the constitutional problem, including the one Quebec delegates consider most basic, that of the division of powers. I am pleased to see among us the person who chaired that meeting, The Right Honourable Lester Pearson, former Prime Minister of Canada. I also want to greet another former Prime Minister of Canada who is with us today, The Right Honourable John Diefenbaker.

I attended both conferences and I worked closely with Mr. Johnson and my colleagues who are here with me today and all those involved in preparing the various documents tabled there on Quebec's behalf.

As you have mentioned already, since last year's meeting, a good deal of important work has been done by the Secretariat and the Continuing Committee of Officials. Meanwhile, Quebec has taken considerable pains to make her views clear. Some sixty proposals have been drafted, bearing on all principal aspects of the constitutional review, as a working document likely to get the constitutional talks off to a good start. As was agreed for documents of that nature, and I believe your document "The Constitution and the People of Canada" mentions this, those proposals do not represent the final stance of the Quebec Government; however, they do form a whole that we do submit for consideration and analysis by other governments, the people of Quebec and Canadian citizens everywhere.

As you know, this working document was made public last October. The former Premier, my colleague Daniel Johnson, had said during his "Canadian" press conference, a few days before his death, that we would publish this working document which grouped the sixty proposals being studied by the officials of the Quebec Parliamentary Committee on the Constitution.

This working document was made public, so that the whole population might read and discuss its contents. People asked us: "What does Quebec want?" These sixty proposals give the substance of most briefs presented to the Quebec Parliamentary Committee on the Constitution.

As the Prime Minister of Canada and the Premier of Ontario have just mentioned, the time when constitutions

could be thrown together in a few days behind closed doors is far behind us. Ours is the age of participation, and we believe it essential that every citizen be involved as closely as possible in the process of drafting our new Constitution. For the same reason, I am pleased that today's proceedings are again taking place through television in front of the whole Country.

I ask therefore all those who care about their Country's future to obtain a copy of Quebec's working paper and read it carefully, to comment on it and to discuss it publicly. As for us, we have read with a good deal of interest the proposals made by the other governments.

Because of the huge amount of work that has already been done, because of the renewed awareness that is stirring Quebec, because of the trend of thinking in the rest of Canada, I feel that we can no longer afford to dally with superficialities. We must go to the root of the problem and do so without further delay. We must squarely set ourselves in a dynamic frame of mind, work in the context of a growing society, of a new Canada that needs to be created, of young people who may not show the same patience as former generations.

Ours is not the only Province which would like to see the Constitution amended and I think that I am not far from the truth when I say that all Provinces unanimously agree on the following objectives: (a) repatriating the Constitution; (b) establishing amendment procedures; (c) revising the distribution of tax fields and tax revenues; (d) reducing regional economic disparities; and (e) setting up the machinery for co-operation and adjustment through delegation of powers or otherwise.

Nor is Quebec the only Province suffering from a great disproportion between her responsibilities and her sources of revenue. This is central to all our problems, Mr. Chairman, as you have heard already from the Premier of Ontario and as no doubt you will hear from all the other Premiers. In a nutshell, Quebec is not alone in insisting on provincial autonomy. However, I might add that, besides the reasons common to all Provinces, Quebec has special grounds for valuing her autonomy. And these go far beyond the development of a linguistic heritage.

Indeed, language is not only a mode of expression: first and foremost, it is a way of thinking or - better

still - a way of life. It is the most important manifestation of a culture. The Canadian duality therefore does not come merely from a difference in language; above all, it is due to different ways of approaching, feeling and reacting when confronted by events. A French-Canadian is not the same as an English-Canadian, differing only as to the tongue he speaks; he speaks differently because he is different. I remember something that Murray Ballantyne said at a conference on Canadian affairs, held at Laval University in 1961. Mr. Ballantyne, who is perfectly bilingual, said that when he spoke French he felt like a different man. Differences in language are differences in ways of thinking.

Now, whenever an important issue is discussed between two groups that feel and react in such different ways, we witness the Quebec Government instinctively identifying itself with the French-speaking majority in Quebec, and the government in Ottawa instinctively identifying itself with the English-speaking majority in Canada, whatever the language or the cultural background of those who, in a given circumstance, constitute authority. Such is the iron rule of democracy which we cannot escape.

Mr. Chairman, we would be merely scratching the surface if we were to equate Canada's constitutional problem with a question of personal or linguistic rights. I am not saying that these rights are unimportant; what I am saying is that they do not reach the root of the problem which brings us here today.

If there is a crisis in Canada, it is not because our Country is made up of individuals who speak different languages; it is because Canada is the home of two communities, two peoples, two nations between which relations need to be harmonized.

The important thing for French-Canadians from Quebec is not to be allowed, as individuals, to speak their mother tongue even in regions of the Country where it has little chance of being understood; what they want is the opportunity to live together in French, to work in French, to build a society in their image and to be able to organize their community life so that it will reflect their culture. And this cannot be achieved unless the Government of Quebec has powers proportionate to the responsibilities it is expected by its population to shoulder. Without Quebec, there might still be French minorities, but French Canada would no longer exist.

What we are seeking together, therefore, is the constitutional system most likely to reconcile the free growth of Canada's two cultural communities with the requirements of economic solidarity. And since it is mostly in Quebec that one of these two communities can ensure control over its destiny, the problem may be summed up by asking, and it has been thus for many years: what must be done to have a strong Quebec within Canada?

I believe that the best answer to this question still lies in a federal system of government, provided however it is an authentic federal system, not a deceptive front.

In order to achieve this authentic federalism, we must see to it that the distribution of powers between the two orders of government is not left to the goodwill of a central authority, but is based on a written Constitution, recognized and respected by all as the Country's fundamental law. In other words, there has to be priority of the Constitution over the two orders of government, not priority of the central power over the federated states. Otherwise, even if we were to decentralize at the administrative level, we would still live within a unitary state, not a federal system.

At the present time, as a result of the evolution of society and the major part played by governments in activities which would have defied imagination one hundred years ago, it is absolutely essential and it is becoming increasingly urgent to re-examine the entire question as to how powers should be distributed between the central and the provincial governments.

Our present Constitution - I almost said our old Constitution - is silent on so many matters that it often gives us no inkling as to which sector of government is responsible for which field of endeavour. Premier Robarts has just said that in the circumstances this could not be avoided. How could the Fathers of Confederation have known what would happen in our first century. And above that, the Constitution is not always abided by. Thus in the long run, thanks to its financial resources, the Federal Government ends up with actual jurisdiction over matters where Quebec's interest is vitally important.

This question is equally pressing for the other Provinces. We all bear witness that our present Constitution has not stood in the way of systematic and authori-

tarian federal encroachment upon provincial jurisdiction, encroachment which, during the last few months, has assumed unprecedented proportions, abetted as it is by federal pre-emption of revenue sources at a moment when all the governments closer to the people suffer an increasingly paralysing want of financial means.

The present Federal Government, strengthened by its lion's share of tax funds - a situation against which we can never protest too strongly as being unjust and contrary to the legitimate aims of the Provinces, thinks it can meddle everywhere: in educational radio and television, in cultural matters, in urban affairs, in off-shore mineral rights, in securities, in higher education, in university research, in water, air and soil pollution, in highway transportation, in foreign affairs even when they relate to education and other matters under provincial jurisdiction, in community development and even in civil law through succession duties. In its eyes, one would imagine that provincial governments are, at best, administrative units expected always to play second fiddle to a rich, all-powerful and overbearing federal power.

Nothing proves this better than what seems about to take place in the field of health. We have talked about this at two Federal-Provincial Conferences of the Ministers of Finance held last November and December. This field is clearly a provincial matter, and for which the Federal Government would extract money from taxpayers in all Provinces so as to set up a system of which the vast majority are now in no position to take advantage. It is not that the Provinces cannot establish such systems but they would do it according to their means and in their own time. Contrary to the spirit and the letter of the present Constitution, direct taxes are levied for Provincial purposes. Provincial government priorities are thwarted. And again as always, the tax-payer is the victim of this taxation chaos. This is in line with the preoccupations expressed here about the problems which provincial governments, especially Quebec's, must face in writing their budgets. Our Minister of Finance, who is on my left, has talked about this to his colleague in the Federal Cabinet last December in much the same fashion as I had talked to him last November. And I want to say again that the victim of this chaos is, as always, the taxpayer.

What is more, this taxation chaos has both economic and constitutional repercussions which we cannot overlook.

The Quebec Government is acutely aware that it must help give its people the economic tools they still lack, just as it is painfully aware of the wide disparities to be found between its different regions. And it knows it must make sustained efforts to spur development in more than one field.

But how can it possibly do this when the present division of tax revenue in Canada prevents it not only from taking sorely needed economic actions but frequently from discharging as fully as it would like all its constitutional obligations in the fields of health, education and social welfare? The taxation problem is therefore inextricably bound up with constitutional review, since availability or lack of adequate financial resources is the one factor which determines whether each sphere of government can carry out its constitutional responsibilities in the manner expected of it. It is vitally important that the Federal Government understand what is at stake here - the Country's very ability to function properly.

My dear colleagues, for all these reasons, we need a completely new Constitution, tailored to the ideas and needs of today. This is certainly the most important task we have ever decided to undertake together, because on it, the very future of our Country and the welfare of all our citizens directly depend. We may need a bill of human rights, but I say that we need also a bill of provincial rights.

Indeed, constitutional reform offers the only permanent solution for the deep crisis afflicting Canada. We need fresh agreement on basic issues; we must state very clearly the ground rules for relations between governments; we must reconsider the constitutional structure of our Country, the form it is to take, the ends it is to pursue, so that our political institutions may not only meet the needs of the hour but those that will arise in days to come. Above all, it has become essential to give French Canada - of which Quebec is the mainstay - a deep conviction that it can find in the Canadian federation all the elements requisite for its own development. Because we must recognize that for some time this feeling of confidence has been more and more subject to question and that doubts have crept into the minds of many Quebecers.

The questioning and uncertainty cannot last forever. Choices are inevitable. Movements have already come into

being whose avowed purpose is to end the federal experiment. Hence it is more and more pressing to submit for our people's consent a new instrument of liberty and solidarity.

Obviously, Quebec has very definite ideas about the main lines that must govern our new Constitution. They will be found, as I have said before, in the various briefs we have presented to past conferences and in the working document prepared by our officials.

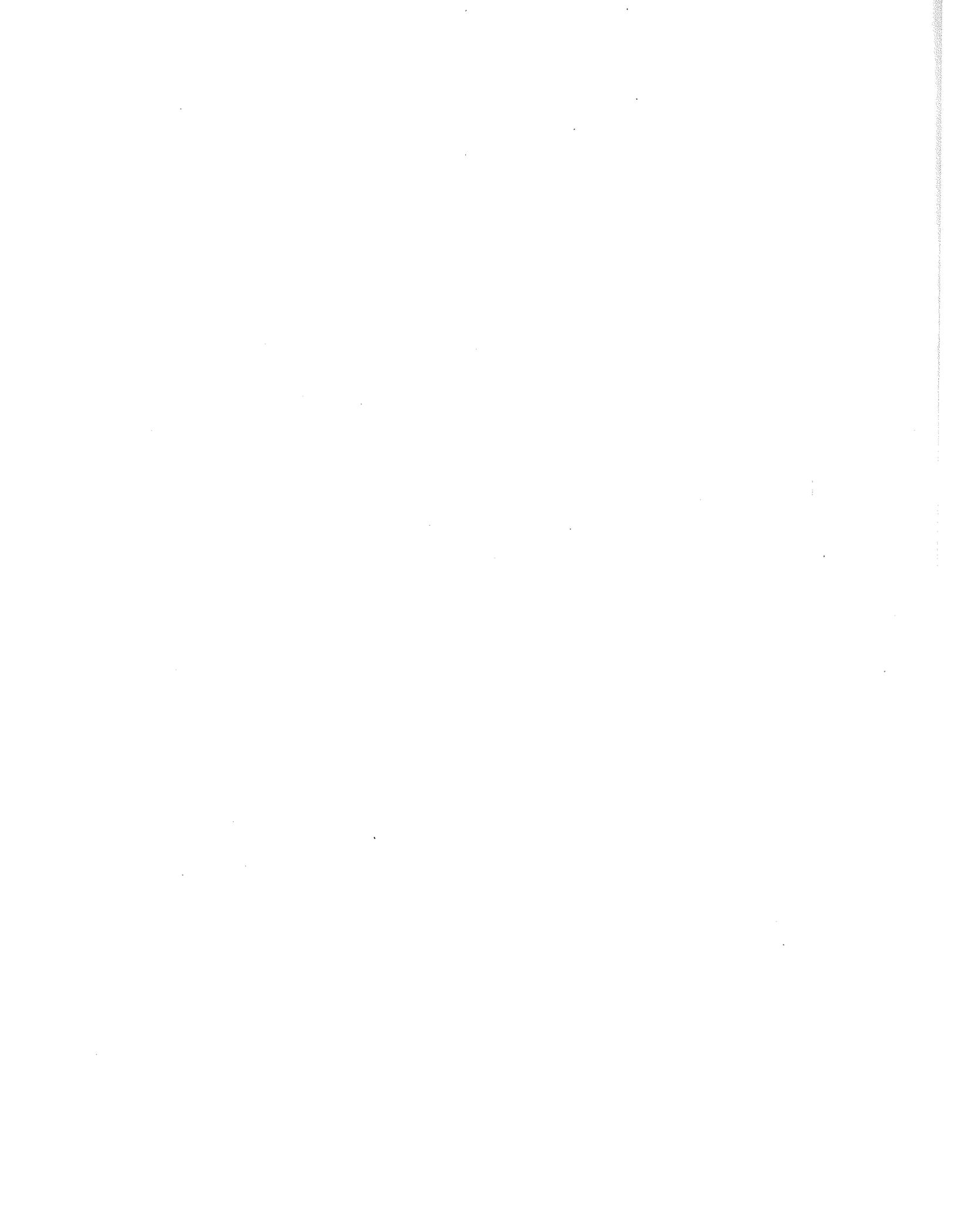
We believe, Mr. Chairman, that in a Country as ours, it would be neither wise, nor human, nor even efficient to wish every thing uniform. We think that, in certain fields, a right of option will always be necessary, not only to give Quebec the degree of autonomy it needs but also to allow the other Provinces to delegate to, or use jointly with, the central government those functions which they do not care to use alone. It would be, in our opinion, an unfortunate mistake, of which we would all suffer, to insist that in all spheres the same measures apply in the same manner to all the Provinces.

To those frightened by the drafting of a new Constitution, I merely recall that on it depends the very future of Canada. The task is not beyond the intellectual scope, the inventive ability, the strength of friendship inherent in Canadians of either culture.

Thank you.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you
Prime Minister Bertrand.

We have the pleasure of hearing from the Premier of Nova Scotia, The Honourable Mr. Smith.



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Mr. Prime Minister, I find it interesting indeed to wonder whether or not Mr. Smallwood's fear about the atmosphere was due to what had happened or to the fact that I had to make a speech. In any event, he has given me a good send-off one way or another.

Since last we met, Sir, there have been events which are reflected by new faces at this Conference, among them a new one at the head of the table. I offer the warm congratulations of all Nova Scotians to you, Sir, on having attained the highest elective office in our Country. I can assure you that we come to this Conference with goodwill and a sincere desire to make a contribution to its success. And we shall try to make your task as Chairman no more difficult than it has to be. And we indeed venture to hope you will find it a pleasant one.

The former Prime Minister, The Right Honourable Lester Pearson, brought to our first Constitutional Conference a year ago all his great talents. And it is a pleasure to note that we are honoured today not only by his presence as an observer, but also by the presence in the same capacity of another former Prime Minister, The Right Honourable John Diefenbaker.

The late Prime Minister of Quebec, the Honourable Daniel Johnson, will be sorely missed, for he brought to our Conference warmth, sincerity, and a great ability to express the hopes and aspirations of his Province and his people in a quiet, well-reasoned, forceful manner. I offer to his family and to the people of Quebec my deepest sympathy on their tragic loss, which indeed was a loss to all Canada.

The former Premier of Alberta, the Honourable Ernest Manning, who has served his Province and his Country so long and so well, no longer sits with us. We hope that he will enjoy many years of peace and happiness.

To the new Prime Minister of Quebec and the new Premier of Alberta we extend a most hearty welcome.

It is a matter of regret that the Premier of Saskatchewan is prevented by illness from being with us today. I am sure all will join with me in wishing him an early and a complete recovery.

Now, Sir, we do not believe that the purpose of this Conference is to review in any detail what has taken place in the two previous Conferences on the Constitution. It is, we think, rather to move ahead on the basis of what has been done so that now we may make further progress. However, I should like to review in just five sentences the position taken by Nova Scotia at the Constitutional Conference last February:

We share the view that there is an acute constitutional situation in Canada.

We believe that the two Canadian problems which are most important and most diverse are those relating to language and culture and those relating to regional economic disparity.

And after hearing what we have been hearing recently, it may be necessary to add another to this group - the fiscal problem generally.

We recognize the need for some guarantee of human rights but we suggest that the method used to give this guarantee has to be worked out and examined very carefully.

We know that Canada has a great potential but whether that potential will be realized depends upon Canadians and their attitudes and upon the willingness of all of us to pay a price for national unity.

We assert that the Constitution of any country should be such as to give all citizens the best chance to live satisfactory lives and that our Constitution should be fitted to the needs of the Country and its people.

That was our position last February. It is our position now. And, as we begin our discussions, let me say that Nova Scotia is prepared to consider most seriously any proposal that holds promise of contributing to national unity and to a better and more satisfying life for every Canadian no matter where he may live.

We believe that creating a new Constitution which is more in keeping with the present-day facts of Canadian life is not an easy task. We think it cannot be done quickly. We think we have to be prepared to examine the whole Constitution, to exchange ideas, to reconcile, if possible, many conflicting points of view. And in some instances, Sir, perhaps all of us will have to accept proposals which we do not particularly like if by so doing we can eliminate areas of complete disagreement but come to a solution which at least we can accept.

As I say, we approach this Conference with open minds and with a willingness to examine and consider proposals which at first glance may appear to us to be quite unacceptable. We believe that all others will do the same.

While we suggest that creating a new Constitution will require time, patience and wisdom, we also suggest that there are things to be done that do not have to wait for agreement on a new Constitution. And here I refer specifically to language rights and to regional disparities.

In the field of language and culture in Nova Scotia we have already taken some significant steps:

The House of Assembly at its last session, for instance, passed a resolution unanimously affirming the

right of every Member to address the House in either the English or the French language.

The Minister of Education announced the policy of the government regarding teaching in French as the language of instruction and the teaching of French as a second language in the schools of Nova Scotia based, Sir, I might say, on the assumption that the Federal Government is prepared to give substantial financial assistance. The policy is that:

in areas where the number of French-speaking people make it appropriate and in accordance with the wishes of the French-speaking minority, provision will be made for the use of French as the language of instruction:

in any other areas of the Province where interest is expressed, school boards are authorized to decide whether selected courses or courses of selective grades will be taught in the French language as part of the school programme supported by the Province:

we are going about providing improved facilities generally for the teaching of French as a second language:

we will establish a central translation facility so that we may correspond with our citizens in either of the official languages:

and we intend to provide instruction in the French language for the members of the public service if a sufficient number indicate interest in acquiring competence in this language. And we think they will.

As to teaching in French as the language of instruction, our position is that there should be provided in Nova Scotia for its French-speaking people the same rights and opportunities as are afforded to the English-speaking minority in the Province of Quebec.

And it is our position that the extra costs arising from the effort to make Canada bilingual ought to be borne by the people of Canada through the Federal Government, for it is a national problem.

We have noted the suggestions in the second volume of the report of the Royal Commission on Bilingualism and

Biculturalism. And it seems quite clear to us that implementation of the suggestions is bound to result in very heavy additional costs. It also seems pretty clear to us that for the Provinces, finding present costs of education almost exceeding their capacity to bear and growing at a tremendous rate, they will not be in a position to accept very much in the way of extra costs.

But whatever the language problem may be, we are ready and willing to continue with others to seek solutions which are in the best interests of our people.

Sir, I cannot express too strongly the necessity of the most meaningful consultation between the Government of Canada and each Province before bilingual districts are established in a Province. For the Government of Canada to establish a bilingual district in a Province in terms of personnel may involve only half-a-dozen people - half-a-dozen public servants. But it is very different in the case of the Provinces who provide so many more services at that level. For our Province to act in a similar manner would necessarily involve a large number of provincial public servants. One of the facts of life is that at the present time in most Provinces I am sure (certainly in our Province) public servants with real competency in both languages are just not available. It should be clearly understood that with the best will in the world - and I hope that is the kind of goodwill we will have - we could not find for some time an adequate number of such public servants. And there is thus the danger, unless the situation is made very clear, that the mere establishment of bilingual districts will be considered by those whom they are intended to benefit as a promise of immediate fulfilment which cannot be met for a very considerable time. If our educational programme proves successful, this situation over the years will, of course, improve.

Regional disparity is another matter which we believe should receive as urgent attention. We do not believe that it will ever be possible to achieve absolute equality of development as between the regions of Canada, or that we should try to do this. And we do not advocate any action which will slow down the development of those regions which are growing more rapidly, and continuing, as they do, to contribute to the nation as a whole.

Let me say, too, that we do not seek subsidization for unproductive economic development. What we are

seeking is assistance in developing a viable economy of greater growth.

We believe that it is possible, desirable and necessary to reduce very greatly the disparities of development so clearly apparent as between regions. We also believe this can be done without slowing down the rate of economic growth in other regions.

Further, we believe it is clearly in the national interest to do this. We believe Canada can best develop her full potential if all regions are making their maximum contribution to the general growth. And this growth as a nation is bound to be impeded if large portions of the Country fall and stay substantially behind the rest of the Country.

The unity of Canada is threatened by regional disparity just as it is threatened by linguistic or cultural differences. But this threat to national unity is not new. I should like to refer you to a statement in the report of the Royal Commission on Dominion-Provincial Relations, as it was then called, constituted by the Government of Canada in 1937 which examined the allocation of responsibilities and powers of the federal and provincial governments and the results of such allocations, and this is the quotation I wish to mention:

" More important than all these considerations taken together is the danger to national unity if the citizens of distressed provinces come to feel that their interests are completely disregarded."

Mr. Prime Minister, I should like to say a few words generally about distribution of powers. I suggest that too often we talk about powers when in fact we are talking about responsibilities of governments to the Canadian people. After all, these things we call powers are only the means whereby governments discharge these responsibilities.

I join with others in saying in our view a great deal of the trouble we are experiencing in Canada arises from the fact that the distribution of responsibilities and powers that were relatively well in balance in 1867 are no longer in balance, and indeed are far from it. Changes have altered the whole concept of the place of

government in our society. Welfare, Health, Education and Highways, for example, which in 1867 imposed little responsibility on government at any level -- and certainly not at a provincial level -- are today regarded as being directly the responsibility of the provincial governments, and very heavy and costly and important responsibilities they are. These responsibilities of the provincial governments have grown, and continue to grow, but as far as the Constitution is concerned, the fiscal powers of the Provinces remain unchanged. Let me quote again from the same Royal Commission I mentioned before which recognized this problem when it stated:

" It is clear that the present situation in Canadian public finance represents a wide departure from the conception of the Fathers of Confederation and from the spirit of the financial settlement which they devised."

This Conference is faced with fiscal difficulties and differences which are immediate and pressing. I do not minimize these differences nor the need for resolving them, but we feel we cannot emphasize too strongly that we should not and must not permit one major problem to prevent us from giving most careful consideration to all aspects of constitutional reform.

I ask you to bear with me, Sir, while I quote again another point from the report of the same Royal Commission, which although it was written some 29 years ago, expresses in very clear language the situation in which we find ourselves today:

" Canada's present and prospective economic condition makes it clear that we can neither continue to afford the friction and waste of conflicting policies, nor the greater loss due to paralysis of policy arising from a possibly obsolete division of governmental responsibilities and powers."

We believe that today that is just as true. We cannot today afford the friction and waste of conflicting policies, and I suggest, Sir, that one of the remedies for this situation is greater consultation. Furthermore, Prime Minister Pearson said not long ago:

" We question whether it is any longer realistic to expect that some neat compartmentalization of powers can be found -- Instead we suspect

that the answer is to be found in the processes by which governments consult one another and by which they seek to influence each other before decisions are finally taken."

There is no point in dwelling on old grievances or refighting old battles, but, Mr. Prime Minister, I do wish to bring to your attention that at times in the past there has been a lack of this meaningful consultation, and it should not carry on into the future if we hope to develop the degree of co-operation which is necessary to the harmonious workings of a federal union.

No doubt as we go along each government will have its views, and indeed no doubt now has its views as to matters it considers fundamental and on which it will feel it necessary to take a strong stand. We suggest we would be making progress if each government would now identify these areas so we may all begin to work effectively, and to reconcile views which at first glance are bound to present many differences.

Nova Scotia considers the following matters to be of this class, and I do not mean that we consider our stand on them as to be inflexible, but rather that we consider them sufficiently fundamental that we have to take a strong stand on them.

First, the central government should be strong enough in authority and in resources to govern well internally, and to represent us well in the community of nations, and to provide effective national defence:

regional disparity, including equalization, should be dealt with:

language rights should be protected:

the head of the state should be a Constitutional Monarch as is now the case:

the central government should be based on the parliamentary system:

the division of responsibilities between the central government and the Provinces should be on the basis that each responsibility should be where it can best be

exercised in the interest of Canadians, remembering, however, the necessity of keeping the central government strong:

taxation powers should be related in a realistic manner to the responsibilities of each level of government:

finally, it should be possible to amend the Constitution in Canada.

As we debate the great issues we face -- and they are great issues -- I should like to suggest that we do so keeping some other very important things always in mind.

The first, this Country was not founded primarily because of economic or geographic considerations. It was founded because people of diverse interests and diverse origins and culture wanted to be free to follow their own destinies as a united entity of their own rather than as part of some other Country. It was founded on sentiment. It can live only for the same reason, the desire we have to maintain our own Country with its diversity of people and of interests and of resources.

The second is that whether we succeed depends upon our individual and collective wills and attitudes. If we do not much care about finding sensible answers, it is not likely we will find them. But if we are determined to find them and to keep at work until we do, then I am confident that find them we will.

The third is that none of the eleven governments taking part in this Conference can reasonably expect to have everything decided in accordance with its views. But this is nothing new. This we find in every aspect of life.

We are here seeking the means whereby we can create and preserve in this Country a lasting environment in which our people, whatever their origins or wherever they reside, may have the best chance to live happy, contented and productive lives. And as we go about this, surely it is well worth our while to keep in mind what a Country it is.

Perhaps it is the richest in the world in natural resources. And even in the less developed regions we

have or are approaching a standard of living among the highest in the world. Where could we live in greater personal safety? Although many of us are limited by economic, cultural, linguistic or racial circumstances, where is there a greater chance to live as we like? To say it all in a few words, where is there a better place to live?

Surely to keep this Country as one Country, as our Country, is worth many conferences, many compromises, and a long and arduous search for ways to accommodate ourselves each to the other. Let us have the conferences. Let us make the compromises. Let us make the search, long and troublesome though it is, but in the name of all Canadians, let us do so to keep Canada.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you,
Premier Smith.

We will now have the pleasure of hearing from the Premier of New Brunswick The Honourable Louis Robichaud.

**Opening Statement by
THE HONOURABLE LOUIS ROBICHAUD
Premier
of the
Province of New Brunswick
to the
Second Meeting
of the
Constitutional Conference
Ottawa — February 10, 1969**

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Mr. Prime Minister, my colleagues, ladies and gentlemen; may I extend to you personally the warm wishes and greetings and also the personal warm greetings and wishes of the government and of the people of New Brunswick. We know that yours is a formidable task, especially at this time of history, that of responsibility for developing new initiatives for Canada, during a vital, during an exciting time, and also at times a trying, a very trying period in our history. We in New Brunswick are confident that you will succeed in your efforts on behalf of all the people of Canada.

Since last we met, Canadians suffered a great loss in the death of the Honourable Daniel Johnson. A vital force in our country, his record of public service was matched by few Canadians in this century. We are all glad in New Brunswick to see Premier Bertrand here in such good health today. Premier Bertrand is a close neighbour of ours and we look forward to continued cooperation in matters of mutual interest.

Another new face we see here today, Mr. Strom, and we look forward to working with him. We will, of course, miss Premier Manning, his predecessor, who attended more Federal-Provincial Conferences than any other Premier, and

that includes the Prime Minister. The outstanding service of Mr. Manning -- and I may add, perhaps, his longevity in office gives us all something for which to aim.

I am happy to learn that Premier Thatcher is doing very well in hospital. We in New Brunswick wish him a very rapid recovery.

We are all here today to attempt to chart new courses for our constitutional journey as a federal state and a modern developing nation in a modern, changing world.

May I say at the outset that the Government and people of New Brunswick are dedicated to the preservation of the federal concept of nationhood in our Country.

While we seek to chart new courses, many existing channels which have served us well for one hundred years will continue to remain of great importance to us.

Our task is to up-date the Constitution, and to make its application meaningful and acceptable to all the Provinces and the Federal Government. Where necessary we must not hesitate to rearrange or even restructure divisions of power currently existing in order to achieve maximum advantage for all the people of Canada, one Canada, strong and united.

A Constitution must provide a country with a meaningful framework within which to operate for the benefit of all its citizens.

The Constitution will have to be flexible enough to meet all the exigencies which can occur in a Federal State made up of different regions, cultures and languages. At the same time, the Constitution must be a fortress, with entrenched basic fundamental human rights for all Canadians. Somehow, we must bridge the two concepts.

We in New Brunswick believe that the need of Canada is very simple to express, but not so simple to achieve. We believe that there is a national need for linguistic, economic and cultural equality of opportunity.

I would hope that we would keep this concept before us in our deliberations.

We should not minimize the achievements of last February and after. And I should also mention the Confederation of Tomorrow Conference called by Premier Robarts. They should be seen not merely in terms of the specifics of the decisions reached, but also in the context of the alternatives, had some consensus in the midst of tension not been arrived at. Let me recall, therefore, what it was we achieved. Perhaps most important of all was the recognition of the need to come to grips immediately with school and language rights so that French and English speaking might find educational opportunities in both languages wherever the population densities so justified, as described generally by Volume 1 of the B and B Report; and also, a new understanding emerging to the effect that in principle Canadians should be able to deal at all levels of government, and with agencies and the Courts in one of the two official languages, assuming some practical population minimum justifies the administration costs and arrangements.

The resolution of the Conference last February setting out this consensus may have had the blandness and obscurity that communiqués sometimes must possess if they are to be born at all; but there can be no doubt as to what was the intention of most of us there -- it was to lay the foundations for the new age of equity that was to fashion a new Canada of emerging language rights.

The second of our achievements in February was the decision to establish a continuing Constitutional Conference comprising the Prime Minister and Premiers representing all the eleven governments as we are assembled today. Here was the formal fashioning of a new political and "constitutional" instrument able to assist in national decision-making even though the formal and final mechanisms for constitutional change have yet to be determined.

Moreover, in aid of the Constitutional Conference, we established, last February, the Continuing Committee of Officials who since May have met in five sessions and whose intensive, if preliminary, examination of the problems of constitutional review, and possible reform, has provided the very basis for our meeting today and has given us the tools with which to determine, as heads of government, the direction that the constitutional dialogue henceforth should take. Indeed, the Report of the Continuing Committee of Officials to this Conference is now

before us together with the very useful Briefing Paper produced by the Secretariat and describing the ebb and flow of the discussion in that committee.

Together these documents will enable all governments and the public to have insight into and help provide guidelines for the effective direction that the debate over the Constitution should take. Moreover, last February we not only established the Constitutional Conference of Prime Ministers and Premiers and the Continuing Committee of Officials with the Secretariat to serve both, but we also decided on the outlines of a study agenda, and I am glad to see from the report and the briefing paper that the Continuing Committee had these several subjects fully in mind when working out their own structure for analysis and discussion.

Our collective views here should contribute to general public understanding and should provide some specific directions for the work of the Continuing Committee of Officials. I cannot refrain, however, from making one general comment about the discussions we are to have.

It is my view that we would be unwise not to recognize how much study is required by governments, by officials, by experts and even by the general public before many of these questions begin to suggest appropriate political and constitutional solutions, both of language and of principle.

Finally, last February, we were given by the Federal Government two valuable instruments for our on-going efforts: an outline of a proposed Charter of Human Rights and an essay on Federalism for the Future. Both of these documents have been influential in their general impact upon the Canadian awareness of the issues involved in any possible constitutional reform, and perhaps even more on the interesting and probably vital link between the idea of a Charter or Bill of Rights, and the emerging consensus on language rights. Indeed, we authorized the creation of a Special Committee to study language rights in depth. Its report now before us has disclosed that there continue to be substantial differences of opinion among governments as to the proper mechanism for expressing or guaranteeing language and school rights.

New Brunswick accepts fully the language consensus reached at an earlier Federal-Provincial Conference. We accept it in fact and we accept it in spirit.

New Brunswick believes that the Official Languages Bill in its entirety now before Parliament deserves support of all Canadians.

It would be a tragic development for our Country if the spirit of consensus reached a year ago should through this misunderstanding become so diluted as to become meaningless in practical terms.

Over the years New Brunswick has made important strides forward in the field of bilingualism and bi-culturalism.

May I make clear therefore that New Brunswick looks upon the "Language Rights" concept emerging from the Conference of last February as perhaps its primary achievement of substance and continues to hope that all governments are moving towards programmes of implementation consistent with their resources, population needs and distribution. Indeed, to New Brunswick it is important that the language programme be given the highest priority paralleled by every effort to "entrench" such rights whether alone or in relation to the proposed Charter of Human Rights; but whether entrenched or not, every effort should be made, in our view, to proceed legislatively and administratively, however difficult or delayed may be the constitutional issue itself.

The New Brunswick view was placed in perspective in a White Paper on language equality and opportunity presented to the New Brunswick Legislature in the fall.

A key paragraph read:

"The composition of the population of New Brunswick more closely resembles that of the proportions to be found in Canada as a whole than the composition of any other province. It is therefore fitting that we should, in our relations with each other, achieve in practice the goal of our nation: cultural and linguistic equality of opportunity".

The position of minorities was clearly put forward:

"A principal objective of the achievement of linguistic and cultural equality of opportunity is the protection of the rights of minority groups wherever they may exist".

"The test of the effectiveness of policies must be viewed in the light of the position of minorities, within a country, a province, a county or a community".

The White Paper makes very clear the position of the New Brunswick Government:

"The Government believes that New Brunswickers, in their Province, should, as a matter of right be entitled to use either the English or French language in all official dealings with provincial institutions".

"The Government believes that New Brunswickers, in their Province, are entitled to have provincial acts, regulations and proceedings available in both the English and French languages".

"The Government believes that New Brunswickers, in their Province, where they live in sufficient numbers, are entitled to receive their education in either the French or English language".

"It is the intention of the Government to enact legislation, to make existing rights operative, and where necessary, to create the required machinery, to achieve the objectives of linguistic and cultural equality of opportunity in New Brunswick".

New Brunswick wants to work closely with the Federal Government to ensure that complimentary federal legislation is passed so that New Brunswickers may enjoy meaningful linguistic and cultural equality of opportunity at both the federal and provincial levels.

New Brunswick supports the Prime Minister in his efforts to achieve equitable treatment for all.

If bilingualization does not fare easily or well in New Brunswick it will not be for the want of effort, or decision; only for want of resources. All Canada, therefore, has a stake in the New Brunswick programme and future.

Accordingly, we hope that the Federal Government will be prepared to assist the provinces in the implementation of bilingual and bicultural programmes. In implementing a programme of such important national significance, the level of federal financial participation must of necessity be substantial.

The plain truth is that considering the high proportion of English to French-speaking Canadians in the Province, and their physical distribution, the per capita costs of having mother tongue French-speaking, mother tongue English-speaking, and bilingual schools as well as provincial-municipal government, administrative and Court facilities in both official languages, are likely to be the highest in Canada - high both in the initial capital outlays for buildings and personnel training and high in the continuing per capita operational expenses.

It seems, at times, that there is an undue emphasis on purely materialistic values at the expense of the real values by which we live or ought to live. Linguistic rights, as we have stressed, are vastly important; so are the inequalities engendered by regional disparities.

However, language as well as the material well being of a population is an integral part of what is called CULTURE. Perhaps it could be defined as "a way of life". Those human values which constitute our national make-up must be taken into account in the revision of the Constitution. A Constitution is for people, not for governments. May I urge all my colleagues to keep this distinction in mind.

I believe that so much of what we have achieved, and will achieve in our nation is based on trust. I am an optimist. I believe that in dealing with such fundamental human rights as in the field of linguistic equality of opportunity that we will succeed, because of trust among the people of Canada, and because the people of Canada want us to succeed in this area.

Let us reflect for a moment on the special problem of regional disparities which played so important a part in the debate last February and which remain of vital interest to the Country as well as to all of the other Atlantic Provinces.

I am very much aware of how difficult it is to convert this concept of regional disparity into a constitutional terminology as such. I do not argue now, nor did I suggest earlier, that the constitutional régime of the future must somehow stipulate specifically that all regions shall be equal in their revenues or economic strength, governmental and individual, as Mr. Smith has just said. But somehow this belief must pervade any reconstruction of the framework of Canadian society. Somewhere words must be found that reconcile all Canadians to a sense of common responsibility for all with minimum standards for all, wherever they may live.

Nature and accident have given advantages of resources and market location, of technology and opportunity, to some parts of our Country over others. Perhaps it is impossible to envisage the total balancing of these geographic, resource and technological inequalities. But not to recognize them, not to have a fundamental national policy about them, is to perpetuate inequality as an implied national pattern, yielding to nature and accident what should be overcome by effort and inventiveness. Without pre-judging therefore what the Constitution will say, it is clear that New Brunswick must envisage national policies that deal vigorously with regional resource, capital or technical deprivation. We must do something about it.

New Brunswick asserts, however, that policies and programmes to achieve regional equity are only effective if there is a strong Federal Government to help such objectives and their realization. New Brunswick will therefore continue to insist on this issue as a legitimate subject for the anxieties of the Atlantic Provinces and their officials as they struggle with the Canadian framework of the future.

The nation, I believe, is prepared to accept an imaginative programmes to promote the full development of all regions of Canada.

Neither the conception nor the pursuit of such a conscious programme of regional economic development for the Atlantic Provinces will be easy tasks. Both will require effective joint action by the Federal and Provincial Governments concerned. It is essential that the commitment to such a programme be a national commitment. It is this feature which makes regional economic development a matter for consideration at this Constitutional

Conference. Regional economic development is, in New Brunswick's view, a fundamental objective of Confederation.

The Prime Minister of Canada has made the point clear in a rather emphatic way; and I quote the Prime Minister of Canada:

"The second threat (to Canadian unity) is if the under-development of the Atlantic Provinces is not corrected - not by charity or by subsidies but by helping them become areas of economic growth - then the unity of the Country is almost as surely destroyed as it would be by the French-English confrontation".

We are aware that the Federal Government is in the process of creating both a structure and a programme for regional development. A new Department of Regional Development is being established, and new policies are being generated. We are very pleased with this progress. It is a major step in the right direction.

As I have pointed out before, however, there is a need to consult more effectively with the Provinces on these matters. Regional economic development involves careful - but joint - planning, cooperative federal and provincial efforts. There is at times a tendency for provinces to develop their plans in isolation; the same tendency also exists at the federal level. All of us, Provincial and Federal Governments, must work more effectively together.

On regional development, New Brunswick is willing and anxious to consult with the Federal Government. We are willing to consult on both the structure and the programme for a major assault on regional disparities. We must not end up fighting shadows. All of us must participate more effectively in finding development solutions.

New Brunswick stands prepared to co-operate fully with the Federal Government in devising and implementing an effective programme of regional development.

It is my hope that this Conference, along with its successors, and supported by the efforts of the Continuing Committee of Officials, will find answers to the Canadian dilemma, uniting our language communities and

geographic divisions in this age of change, and providing, at the end, a Canadian answer satisfying some new national sense of equity and future history.

To achieve this objective we believe that we must adapt our constitutional relationships in our Country to make them more inter-dependent in nature.

Much of what we want to achieve for our Country comes back, of necessity, to trust and faith: trust in the good sense and goodwill of Canadians; faith in the destiny of our nation - a faith shown by more than a century by all Canadians.

There is more to unite us than to divide us.

Thank you very much Mr. Prime Minister.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Premier Robichaud.

Five of us have made opening statements and six remain. I think it is important that everyone have a chance to state the position of his government very clearly and at whatever length is needed. It is a year since we have foregathered. Times have changed. Some of the heads of delegations have changed. And I think we should plan to foregather at two-thirty this afternoon and hear the other six remaining heads of government, after which there may be a little bit of time to begin discussing the agenda. If not, I am sure we will be able to finish discussing it over dinner tonight.

If that is agreeable, the Conference is adjourned until two-thirty this afternoon.

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Thank you very much Mr. Prime Minister and provincial representatives, ladies and gentlemen.

Mr. Prime Minister, I notice that you have just put your flower back up. I am pleased that you did that because I was a little surprised when I saw that carnation drooping and was wondering if it was like a flag being at half mast or something of that nature. So I am pleased to see the red carnation is back where it was.

At the outset of my remarks I want to thank you, Mr. Prime Minister, for your opening statement in which you recognized, as has every speaker so far, the fundamental need of a firm economic base in advancing the cause of Confederation in our second generation of nationhood.

The assurance that you gave us that the agenda can be fully discussed after the opening statements of the First Ministers will provide us with an opportunity of coming to grips with this central issue, and I am counting on the opportunity to get from you, Sir, a declaration that you are fully as prepared to make the present constitution work while we work toward constitutional reform.

I speak as the political head of one Province of Canada. I speak as one who loves his Nation dearly. I speak as one who will do everything in his power to build our Nation, to strengthen and sustain its linguistic

heritage; to work toward equality of economic opportunity and cultural development of all Canadians.

The creation of a new or amended Constitution by your own statement, Mr. Chairman, may take many years. Eight or ten years. Under the Constitution as it exists, language and cultural rights are amply protected, and in recent years have been extended to a considerable extent. In fact, we in Manitoba have introduced French as a language of instruction. So there is no fear of their being eroded.

But what is being eroded, and which must be protected now, while we wait a new Constitution, is the ability of the Provinces to meet their constitutional requirements with the present tax base. The economic foundation of our Nation is threatened. The Federal Government has been aborting the present Constitution. The one matter, more than any other, which affects the unity of the Nation is the lack of fiscal equity, which is a basis of equality of opportunity.

So when I asked that urgent fiscal matters be considered first, I did so because I believe this must be done at once just to keep the Nation together.

The impression has been created that the Western Provinces were coming to this Conference in a narrow, selfish and greedy way. We are not money hungry or power hungry. We want the means -- we need the means to carry out our responsibility. We of the West have heard ourselves described as trying to raid the federal treasury heedless of certain current urgent threats to Canadian unity. Mr. Chairman, I know as you know that those suggestions regarding Western Canada are unfair and untrue. Let us make it quite clear that Western Canadians are just as concerned with the preservation of Canadian unity as Canadians in any other part of our Country, and I would like that to be noted by everyone concerned.

Outside of the hothouse atmosphere of Ottawa -- out where the people are living and working -- our main problems are known to be fiscal and economic in nature.

Canadians in all parts of the Country want us to preserve or create the atmosphere of prosperity and equality in which they and their children may find new jobs, better income and life without excessive taxation.

In less than twelve months in successive tax announcements the Federal Government put on the biggest new tax bill in the Country's history -- over a billion dollars. Manitobans will be paying something like \$50 million of this total increase.

Your timing of tax announcements on occasion seems to have been for the purpose of beating the Provinces to any possible revenue from the joint tax field, with no consideration for their responsibility to provide services or raise supporting revenue. This is made still worse by the imposition of the so-called social development tax. You managed to lock us out of a tax field to which we are as entitled as you, and for a purpose which is an intrusion in our responsibilities.

We have now forced on the taxpayer a major new shared cost programme -- medicare -- although the terms were strenuously objected to by a majority of Provinces. Manitoba is convinced that if the Federal Government feels so strongly about medicare, and refuses to allow the Provinces to have the flexibility required to develop a programme best suited to their needs, if the Federal Government insists that its terms and conditions be met, and if the Federal Government considers medicare a national priority, then it should really take over completely. It has done so with family allowance, with unemployment insurance. Why not in medicare, under the same terms and conditions?

The Government of Canada has arbitrarily cancelled or reduced shared cost programmes with no consultation as to whether the programmes can be cancelled or phased out by the Provinces or whether they will require the programmes and increased provincial taxation to carry them on.

The Federal Government received the Provinces' cooperation in the Tax Structure Committee. It has chosen, however, to ignore completely the findings of that committee.

The Minister of Finance last November convened a Conference to discuss financial matters of mutual concern to all governments. He started some weeks beforehand to tell all the world that the meetings would do no good -- that he had his mind made up.

There must surely be a limit to the total tax load which is reasonable to be borne by the Canadian

taxpayer.

The Province of Manitoba is simply asking that we show our concern and have reasonable consideration in the direct tax field to carry out our responsibilities while we are considering constitutional change.

In the next fiscal year Manitoba intends again to balance its budget and not increase taxes.

Mr. Chairman, if your government should be attempting to prove the need for constitutional change by refusing to try to make the present Constitution work, you will surely fail because any Constitution requires the goodwill and understanding of those that are subject to its terms and conditions. If one partner under this Constitution refuses to allow it to work, will we likely to be more successful with an amended or a new one?

Against this backdrop the most important national issue that Canada has faced since Confederation is before us now. The consideration of the Constitution under which we shall continue to exist as a nation.

The Constitution is not a dry document of interest only to law-makers, historians and the courts. It is a living document that affects the way in which we shall continue to be governed and through which Canadians are served.

The Constitution is of great importance to any country, particularly those of the democratic tradition because it enshrines the principles and the pattern of government.

Some states attempt to capture this fundamental law in a written document. The most extensive constitutional documents, however, cannot contain all the principles or the entire framework of government.

Our Fathers of Confederation who assembled at Charlottetown in 1864, and again at Quebec, recognized the need for a principle document which would contain the fundamental of government for the new country being created. In their wisdom they did not attempt to include everything. In fact, they wanted the Canadian governmental system both in its principles and its institutional pattern to rest on several foundation stones. As a result, we have a primary constitutional source in the British North America

Act. Those who seek the nature of the Canadian system must look far beyond this Act, however.

Part of our constitutional heritage is based on the simple practice of customs and tradition, developed in Canada over the last 100 years. Some of our constitutional arrangements will be found in Acts of Parliament and decisions of courts.

Provincial Constitutions without exception consist of a variety of documents, customary practice and legal decisions.

Success in building a united and meaningful Canada depends precisely upon recognition of the underlying diversity of regional circumstances -- of resources and aptitudes, for the inherent differences between our regions impose the need for variations in the techniques to bring about development.

In a Country as vast and diverse as ours there can be no universal panacea for social and economic progress. Every region will have to find its own route and, accordingly, formulate its own priorities. Only the people on the spot can be intimate enough with local conditions to be in a position to spell out what the appropriate route is. This is why the considerations that led Canadians 100 years ago to superimpose the flexibility of federalism upon the British Parliamentary System are even more relevant today -- despite the revolutionary changes that have occurred in transportation and communications since those times.

Federalism is an appropriate system for Canada, not from some abstract philosophical standpoint, but because it has provided us with a government structured to reflect the differing conditions of geography and culture; because it is a system that provides the combination of institutional possibilities necessary to permit the appreciation and solution of regional problems by those most intimate with them within a national framework of appropriate fiscal, monetary and commercial policies.

In Manitoba's "Propositions" we emphasize there is much to be preserved and revered in the existing Constitution. The B.N.A. Act has served us well. It established a strong, proud Nation. It protected and preserved the cultural and linguistic identity of our Confederation. These have flourished under the present Constitution.

We stress that a strong Federal Government must be maintained. It must represent all the people of Canada, and act on their behalf to define national purposes at home and abroad. We must continue to have a united nation governed on a national basis by a central government. There can be no question of a Canada made up of associated states delegating limited powers to a federal government.

To help strengthen and unify the Country, to help our Nation draw together, Canada must remain a sovereign democracy in which the executive government and authority is continued in the Queen of Canada. Constitutional monarchy has worked well under Canadian conditions.

The Monarch is above political considerations, and can best symbolize the unity of the diverse regions and peoples of Canada who have added such breadth to our heritage. Through the office of the Monarch we have a rich association, unequalled in history, with people of many lands, many creeds, many colours.

Canada, through the flexibility of a parliamentary system, has the constitutional ability to ensure that people in each part of our Country -- people intimate with local conditions -- can determine the appropriate route each region can take within Confederation. Parliamentary democracy, rather than a rigid congressional system, must be maintained. Our system has evolved out of 700 years of political experience, enabling a more flexible and pragmatic approach to be applied to government.

Our government must reflect the differing conditions of geography and culture in Canada. Regional disparities do not result from a flaw in our system of government, but rather from our unwillingness to make that system work.

Within our Constitution, not only must the jurisdiction of the provincial governments be reconfirmed but they must also be assured an appropriate financial base. Only then can the Provinces carry out effectively their local and assigned responsibilities. The Constitution should confirm the constitutional equality of all the Provinces, while enabling each to make its own particular contribution to the political, economic, social and cultural development of Canada.

These are some of the broad outlines contained in our "Propositions". They are intended to meet the

underlying urgency to bring more closely together the diverse regional and cultural nature of our Nation.

There are some specific suggestions I would like to place before you.

First, priority be given to securing a formula for amendment of our existing Constitution. The Fulton-Favreau formula would appear to be a good place to commence discussion. The Parliament of the United Kingdom should be requested to enact legislation prescribing the method of amending the Canadian Constitution and to abrogate its power to enact further legislation affecting Canada.

In this fashion, any new or revised Constitution would be enacted by Canadian legislative bodies. Surely that would be the only right and proper way.

Second, each Province should be capable of amending its internal Constitution provided it is not contrary to the spirit or provisions of the Constitution of Canada. Each Province should have the maximum autonomy possible within the framework of the concept of a single nation.

Third, in regard to the distribution of residual powers, Manitoba's general approach is that the balance between jurisdictional responsibilities and revenue must be restored. As part of this we should seek a formula in the distribution of powers to allow and co-ordinate the exercise of powers which are both national and local in effect. This is certainly a difficult requirement but one which it should not be impossible to meet if the proper spirit of co-operation is restored between the two levels of government.

Fourth, the consideration of the Constitution provides an admirable opportunity to reconstitute the Senate to reflect more accurately the opinions and interests of the Provinces, as well as of the people of Canada as a whole. We have discussed the pragmatic and flexible approach of our parliamentary democracy. As part of this flexibility, the Senate can provide a constitutional forum whereby regional and cultural interests are strengthened. In our sister country of Australia the Senate is made up of equal membership from each of its states. The same approach could be suitably undertaken in Canada where the Nation's diversity is even more pronounced.

Fifth, with respect to Federal Bill C-120, some Provinces and some legal advisors have questioned the legal competence of the Government of Canada to deal with this language bill. Because of the implication of this type of legislation, they suggest it would seem prudent to refer this matter to the Supreme Court to ascertain whether the power to enact all or part of the Bill lies in the existing powers of the Federal Government under the Constitution. Manitoba would support such a move to have the matter referred.

In this respect I emphasize that we are not discussing the principles of the contents of the Bill; only the legal competence of the Federal Government to legislate certain of its sections.

We in Manitoba recognize that one of the unique features of the heritage of Canada of which we are all so proud is based on the cultural plurality which we enjoy and the contributions made by many groups to the growth and development of our Nation.

The present constitutional provision regarding the language rights should continue to be accepted by a process of "gradualism" as the people are ready to accept and support it. All of us here have a responsibility to provide reasonable and progressive leadership to the people in helping to form this opinion. Any attempt to expand language privileges beyond what the public will accept belies the fundamental rule of parliamentary democracy. The B.N.A. Act provides for French and English to be used officially in the Parliament of Canada, the Legislature of Quebec, the Supreme and Exchequer Courts of Canada, and the Courts of Quebec. Further legislation of language privileges will not ensure their extension. A process of "gradualism" will. Such a process is exemplified by the amendment to the Manitoba Public Schools Act, which provides the use of French as a language of instruction.

And finally, let us proudly give the name "Constitution of Canada" to the final product of our work. It is our hope that many of the features of the N.B.A. Act will be retained in any new Constitution, and that they will become the structure on which our new Constitution is built. But the end result, both in name and in fact, must be the "Constitution of Canada".

Manitoba has chosen to present her propositions to the First Ministers rather than to the Continuing

Committee of Officials: The matter for us - that of considering the Constitution under which we shall continue to exist as a Nation - is so vital that the principles that will go into any new or amended Constitution should be dealt with directly at the decision-making level by senior elected representatives of the Canadian people.

The Manitoba Government therefore proposes, and indeed urges, that a new Continuing Committee of Cabinet Ministers from each of the jurisdictions be created to direct the course of constitutional investigation on which we are engaged. This committee, representative as it should be of the elected governments in the Provinces and in Ottawa, will be in a better position to undertake the continuing process of examination and assessment.

Obviously a staff of highly-qualified civil servants must continue to undertake research and generally to service the work of the constitutional review. But it is improper for them to make decisions in this area or indeed to direct the research which must be the concern of the political leaders of the Country.

This new Committee should report to the First Ministers and would be served by the present Continuing Committee of civil servants.

This brief outline of our proposals, Mr. Prime Minister, emphasizes that the existing Constitution must be the starting point of any constitutional change. The present Constitution has served us well. It has protected the cultural plurality of our Nation and enhanced its general development.

As we study constitutional reform to meet the needs of our Nation in the second century of our Canadian Confederation, let us do so in the same spirit that prompted our Fathers of Confederation to create a Nation that has flourished from sea to sea.

As we attack the problems of our day, let us remember how much of positive value has already been built up in Canada. And let us build further on that firm foundation.

Thank you.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you very much, Premier Weir.

Now we will hear the opening statement of the Honourable Mr. Bennett, Premier and Minister of Finance of British Columbia.

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Constitutional Conference
Ottawa - February 10, 1969

Mr. Prime Minister, Ladies and Gentlemen, first of all, I am glad to have the opportunity to congratulate you, Sir, on being elected to the highest elected office in our Nation. It is not a too difficult job, Mr. Prime Minister, because in the short time that I have been Premier of the Province of British Columbia I have been working with four Prime Ministers of Canada. I see two of them here today, and I understand the other former Prime Minister, Mr. St. Laurent, is also in good health. So I certainly wish you good health. And I wish you a good political health as well.

I am glad to see the Prime Minister of the Province of Quebec not only here today but looking in the very best of health. In fact, with that beautiful tan I think he would be the most healthful-looking man around the Conference table.

I am very sorry, too, that Mr. Thatcher of Saskatchewan is not here. I understand he has been quite ill. We do not only hope, but pray for a speedy recovery, because Canada needs this outspoken man, the leader of Saskatchewan.

A year ago prior to the first Conference on the Constitution we were favoured in our Province by a visit

from you, Mr. Prime Minister, as Minister of Justice, which we found very beneficial to us.

THE RIGHT HONOURABLE P.E. TRUDEAU: I wanted to come into your Cabinet.

HONOURABLE W.A.C. BENNETT: I made you the offer, but you got bigger promotion!

And then I am glad, too, that a former British Columbian, the present Minister of Justice, visited us the other day just before this Conference. He not only wanted to come in my Cabinet ... I don't say he wanted to come into my Cabinet, but his party wanted to lead another political party in my Province. But I am glad you kept him here, Mr. Prime Minister.

THE RIGHT HONOURABLE P.E. TRUDEAU: Well, I hope he is not promoted too soon!

HONOURABLE W.A.C. BENNETT: As Premier of the Province of British Columbia I am very pleased at the opening part of this great Conference. It is so different from what it was a year ago. A year ago you will recall that I was very unpopular when I pointed out the word "crisis" was used by previous speakers before it was my turn 142 times. Today I have not heard it at all, because I said then there was no crisis in our Nation.

I as well as you make a rule of travelling around the nations of the world, and I would not trade the positions of Canadians with the people of any other country. And, while we have opportunities and we may have some problems, there is no crisis in this Nation. And no one government, no one political party and no three or four governments can destroy this Canada, because Canadians intend to remain in Canada from coast to coast.

Coming originally from my native Province of New Brunswick my American friends have said sometimes when some propaganda gets abroad, "Mr. Premier, are you going to join the United States?" My answer has always been quick. I say, "No; my people left at a tea party and will never go back to a coffee party."

I had the pleasure, too, of living ten fruitful years in the Province of Alberta and there had a partner, my only partner I ever had in business in my life, a very

brilliant and wonderful French-Canadian. And I got to know the real values of the French-Canadian people, the real values. So I am one of those, as I am sure we all are, who is pleased that this Canada is going to stay united. And I hope it will be the end of people talking about "crisis", and it will be the end of people talking about "Canada is going to be divided", and so forth. Because if any part of Canada wanted to leave Canada, I ask you in all seriousness where would they go? Where would they go? There is no place to go a quarter as good as this Nation.

I was glad to hear the remarks of my good friend the Prime Minister of Quebec. If I quote him correctly (I hope I do), that the linguistic rights are not the basis of the problem of Quebec; that it would not be an issue to make everything uniform; that it would be a regrettable error to have the same measures apply in the same way to all Provinces. And there he is talking about the linguistic rights. And I want to say that is a very statesmanlike statement this day.

HONOURABLE J.J. BERTRAND: There was something else.

HONOURABLE W.A.C. BENNETT: I know there was something else. And all Canadians had the opportunity of seeing you, Mr. Prime Minister, make it. But nevertheless you said this, and that out of all the rest you said stands out, as far as we people of British Columbia are concerned, and we will always remember you for it. Because if everybody thinks the same, the old saying goes, nobody thinks very much. And we must have great unity in our Country. But you can't have half a continent spread right across a whole continent of virile people from five different regions all with different backgrounds. You can't have uniformity. But you can have unity, and you can have appreciation of the other person's point of view.

And that is what we have in Canada. That is what the people of British Columbia have, especially for the people of Quebec. And you know it, Mr. Prime Minister - regarding the people of Quebec. And I want to ask you to take to your people of Quebec not only the Premier's good wishes but all the good wishes of the people of British Columbia to the people of Quebec, knowing full well that you are the bulwark within Canada, and you will always remain the bulwark within Canada.

British Columbia welcomes this further opportunity to meet with representatives of the other governments of Canada to continue discussions on the review of the Constitution of Canada.

British Columbia takes the view that our Constitution has, by and large, served us well and has shown itself to be a viable and flexible document capable of adjusting and coping with the growing pains of nationhood. We in British Columbia, however, do not hold sacred or sacrosanct the British North America Act, but as one of the senior surviving constitutions among the western democracies we say it has proved its worth. With alterations - perhaps major ones, particularly in the area of fiscal capacity - together with the patriation to Canada of the power of amendment, to which I will make further reference shortly, it can continue to be the Constitution for Canada's great future.

For let no one be mistaken, Canada - from Newfoundland to the Yukon Territory - and we have a new interest now in the Yukon, Mr. Prime Minister, has a bright future indeed, and British Columbia anticipates sharing in it and contributing towards it.

We believe the future can best be realized under a federal system of government with the Queen as head of state and predicated upon the equal and fair treatment of all Canadian citizens, irrespective of their racial origin, culture, religion or economic status.

I spent ten years in the Prairies. I saw people from Central Europe pioneer that country, build mud huts. And out of those mud huts today come the leaders in the Prairies - doctors, lawyers, university professors, and so on. These people, too, want to be part of the Canadian way of life. And they don't want any separated Canada into just the English and French.

In fact, I believe in Canadians; that whether you pronounce it "Canadian" or "Canadien" there should be no hyphenated Canadian. No matter whether you are German-Canadian, French-Canadian, English-Canadian, Scotch-Canadian, Welsh-Canadian or Acadian-Canadian, "Canadian" is what we should be known as. And we should get away from those hyphenated words and tell the people of the world - because when we go abroad, Mr. Prime Minister, we say we proudly wear the maple leaf; we proudly say that we are Canadians. We don't say we are English-

Canadians or some other kind of Canadians. And I think that out of this great Conference, I would hope there will be some declaration that we are Canadians and nothing else, nothing more. Because you could not have a higher status in the world that I know of than a Canadian.

No country fears us because we are not powerful enough so far as arms are concerned. They know we don't want the lands of any other country because we have lands of our own (although I may want the Yukon and Northwest Territories) so that any Canadians going abroad are more well-received than the people of any other nation. We should be proud of that as Canadians, and while we do not carry our feelings on our sleeves and we do not talk and boast too much about our Country, we believe the people of Canada should tell them we are proud to be Canadians and only Canadians and not hyphenated Canadians, and we will co-operate with any other nation in the world that has goodwill and wants to build a better life in this continent of ours.

With the diversity of the culture and ethnic origins of all its people, Canada can look forward to a nation's future truly rich in its great heritage.

British Columbia recognizes that the English and French cultures and languages are the predominant ones in Canadian society today and every effort should be made to encourage, cultivate and foster them - not from the point of view that Confederation consisted of a union of two founding races and cultures, because British Columbia does not believe history supports that view, but rather because of their intrinsic worth and the benefits to nationhood to be gained by doing so. Having said that, we also recognize that there are six million Canadians whose ethnic origin is neither English nor French. As Canadians we do not intend to see these people made second-class citizens by constitutional means.

The question then is: what are the best means to foster and develop those ethnic and cultural diversities with which Canada is blessed? The cold legal language of a Constitution would not, in British Columbia's opinion, be the means at all. In point of fact, the Constitution has little effect on how people live insofar as language and culture are concerned. Our linguistic and cultural attitudes are tempered not by legal considerations embodied in a Constitution but in the final analysis reflect the personal habits, attitudes and practical

necessities of the population of the Nation. It is when individuals, encouraged by their governments, come to realize the worth of another language and culture on their own merits - it is in that climate that culture and language will flourish and Canada's heritage will be enriched.

Canada is a large country with major centres of one language and culture or another. The sparsity of French-speaking Canadians in many parts of Canada makes it inappropriate for a constitution to require equality of language and culture rights in every corner of the Nation. The Commission on Bilingualism and Biculturalism appreciated this fact and the action the Commission recommended in the first report was not, for the most part, to take the form of constitutional amendment, but rather was to take the form of legislative action in those particular jurisdictions in which the number of French-speaking Canadians made action appropriate.

I wish there were more. We would welcome more to British Columbia. There are fewer per capita whose mother tongue is French now than there were when British Columbia entered Confederation in 1871 and they are welcome in our Province. In one area where we have a group of them, in Maillardville, our school board, because we have a one-board school system, has started last year to teach first in kindergarten and then in Grade I as well the instruction in French and we will do so in our school board throughout the Province wherever there are a group who wish to be taught in the French language, so we will welcome more French-speaking Canadians to our Province.

There are other Provinces in similar circumstances. To provide as a constitutional guarantee the right to speak English and French is as inappropriate in those parts of Canada as to have a requirement that all Canadians speak the language of the native Indians, the original founders of the Country. And that is a problem in all Canada: our native Indians. And if the budget that I brought down last Friday, the Province of British Columbia over and above the federal expenditures and over and above the ordinary expenditure we give to regular Canadians, because we think the native Indians have a special charge and a special place because it was their Country originally, we have set up in British Columbia a special perpetual fund of twenty-five million dollars, which will be invested at 7 per cent, say, which will give one and three-quarter millions a year to help their own culture; not to tell them what to do. We will ask

them how we can help them to help themselves to expand their culture, their educational services and their expansion as an economic expansion.

If in its wisdom the northern country should join us as well, we would have some Eskimoes, wonderful citizens, and we would put up a similar fund to help them to expand their own culture as well, because these are the people that I think - the original citizens in our Country that I think Canadians should be thinking more about.

I say again, we in British Columbia are prepared to encourage to the full the development of the culture and language of both the predominant cultural and language communities in Canada commensurate with the practicalities of population but with regard also to the Canadians whose mother tongue is neither English nor French.

October 17th, 1968, I say very kindly, Mr. Prime Minister, without consultation with the Provinces the Federal Government introduced into the House of Commons Bill No. C-120, the Official Languages Act. Section 2 of the Bill declares that the "English and French languages are the official languages of Canada for all purposes of the Parliament and Government of Canada." At first blush these words would seem to indicate the matters covered by the Bill have little to do with the Provinces but are purely matters of exclusive concern to the Federal Government. At that point we would have no disagreement with that, Mr. Prime Minister, and I wanted to make that point very clear. A closer examination indicates, however, otherwise. The Bill would permit a person charged with a crime, or his counsel, to be heard in a provincial court in either French or English and, at the option of the court, to have the entire proceedings conducted in either language. And these are provincial courts. Judges are appointed by the Federal Government, however, and one judge might decide in the affirmative and another judge might not, and we would have an awkward situation, and we have no problem there now because in our courts we have interpreters for all the witnesses and people in any court in their language, so we have no problem there now.

So that, Mr. Prime Minister, British Columbia asks the question: why create the problem where there is none now? And many people in the Bar and throughout their Provinces have made the position very clear on this point, and I don't think we should create problems in our Nation where there is not any problems now.

Though we do sympathize with the situation that might be in certain other Provinces, especially I would say my native Province of New Brunswick and the Province of Quebec, and perhaps the Province of Ontario, where the Province has spoken out very clearly on this question and where there is a very large percentage of French-speaking people.

Has the Federal Government considered the practical implications of this on some of the Provinces? For example, out of approximately forty Superior and County Court Judges in our Province, I doubt whether any could conduct a trial in French and out of a practising legal profession of fifteen hundred, no more than a handful could plead their case in French. Moreover, the lack of sufficient interpreters is also a very real problem but to that extent it is not a problem today, and yet without prior consultation with the Provinces, the Federal Government has introduced this Bill.

British Columbia is concerned about other implications of the Bill. We fear that its provisions will "close the door" to unilingual English-speaking Canadians from entry into the Federal Civil Service and its agencies and considerably curtail the promotion possibilities of present-day unilingual English-speaking Civil Servants. It is perhaps too early to support those fears with firm statistics, but it is reported from the statistics that are available that there has been a sharp increase in the number of bilingual appointments at the upper levels of the Civil Service. For example, among a sample of 401 Civil Service appointments in the \$10,000 to \$15,000 range last year, the percentage of bilingual appointments was 24 per cent. So far this year the percentage is 31 per cent. Above \$15,000 the percentage has jumped from 25 per cent last year to 33 per cent this year. A much more significant trend is visible among "administrative trainees," usually university graduates, in training for senior positions in the government service. In 1965, out of 108 such trainees hired, only 17 per cent were bilingual, whereas so far this year, 171, or 46 per cent, are bilingual. Since the majority of the residents of Western Canada do not speak French, nor do they have the opportunity to do so, it is obvious that they are placed at a decided disadvantage from entry into the Federal Civil Service.

Moreover, there are very strong doubts as to the Bill's constitutional validity. It certainly represents an extension of section 133 of the British North America

Act, and, if it is not unconstitutional on that account, it may well be unconstitutional in its attempt to make Provincial Courts bilingual, bearing in mind that the "constitution, maintenance, and organization of Provincial Courts, both of civil and of criminal jurisdiction" is vested exclusively in the Provinces by head 14 of section 92 of the British North America Act.

It seems inappropriate for the Federal Government to introduce legislation of this kind on a matter which is viewed by British Columbia as being akin to, if not in fact, constitutional amendment at a time when the whole exercise of a thorough constitutional review is in progress.

A few days prior to the Constitutional Conference in February of last year the Federal Government circulated a background paper and accompanying proposal that a Bill of Rights be entrenched within the Constitution of Canada. Because of the shortness of time prior to the February meeting for study by provincial officials of the implications of the proposal, British Columbia reserved its position on the principle of entrenchment.

British Columbia is now in a position to make the following observations:

The proposed Bill of Rights is divided into five parts:

- Political rights
- Legal rights
- Egalitarian rights
- Linguistic rights
- Economic rights.

For the reasons which I have already referred to, British Columbia would not support a Bill of Rights which would entrench linguistic rights. Moreover, linguistic rights are not the kind of natural rights which traditionally have been the subject of constitutional protection in those jurisdictions that have enacted Bill of Rights.

As far as fundamental rights are concerned, let me make it abundantly clear at the outset that the Government of British Columbia is firmly committed to the proposition of the fair and impartial treatment under law of all of its citizens and the citizens of Canada. In that sense we completely support the expression in law of a person's

fundamental rights. The question is: can these best be ensured by an entrenched Bill of Rights as is suggested? Before that question can be properly answered we must have the fullest discussion on the implications. It is on that point, Mr. Prime Minister, we want some enlightenment. Like so many other proposals being put forward in the course of this constitutional review, the implications are being, we think, underplayed. Let us have the implications on the table before us so that we can intelligently make changes that must be made.

The first implication of an entrenched Bill of Rights is that it amounts to a restriction on the principle of legislative supremacy, which has been the underlying philosophy of our inherited British parliamentary system. Are we now in a position in Canada to depart from the principle of parliamentary supremacy which has guided us so well in our first one hundred years? Moreover, such a restriction on legislative supremacy would to a greater extent be at the expense of the Provincial jurisdictions rather than the Federal jurisdiction, for it is the Provincial Legislatures that have legislative competence over property and civil rights within a Province.

The most far-reaching implication of the proposal is that it would have the effect of giving the Courts, rather than Parliament and the Legislatures, the final word on basic policy issues. With that we disagree very strongly. The point has been ably stated by Professor D. A. Schmeiser, of the College of Law of the University of Saskatchewan, in an address given to the Canadian Bar Association at Vancouver on September 3, 1968, when he stated as follows, and I quote now - I want to make sure everybody understands these are his words and not mine, although I widely use them:

" The most difficult aspect of entrenchment is that the Courts, through the power of judicial review, rather than Parliament, have the final word on basic policy issues. The possible solutions in any social dispute are political decisions, not typically judicial decisions, and the question must be faced whether such decisions should be made by legislators, who are accountable to the people, or by Judges, who are not so accountable. Should five men on the Supreme Court of Canada be able to overrule the wishes of the elected representatives of the people, or is this not a negation of democracy? For example, let us borrow the American

problem of criminal procedure. Which body in society determines how a criminal matter should be dealt with? Again, I would suggest that the present Canadian formula of having Parliament decide is better than the American position. The assumption underlying judicial review of legislation is that Courts will do better than government, that they will act more in the interests of the people. The difficulty with the assumption is that legal practice and old age can produce conservative"

and, Mr. Prime Minister, I use that word "conservative" in a different tone than political -

"conservative persons who are suspicious of social change. In the Great Depression, the American Supreme Court used its judicial review power to block urgently needed social reform."

- brought forward by the newly elected President of the United States, and deep in the depression.

"The Canadian judicial attitude to administrative tribunals and to statutory interpretation also reveals a lack of awareness on occasion of social needs. An entrenched Bill of Rights can enable the Courts to block political reform. When the Courts do make wrong policy decisions, judicial independence and authority are seriously undermined."

That has all been quoted, Mr. Prime Minister, and that is the end of the quote.

There are more significant ways to effectively ensure that our laws do not offend basic human rights and are kept up to date and in keeping with our ideals of justice and freedom.

As I observed in February last year, there is not at the doors of the National or Provincial Parliaments of this Country a public outcry that the matters proposed for entrenchment have been neglected either by the developing common law or legislative or parliamentary enactments thus far made, and the statements made by Provincial Premiers this day already bears this out.

This Federal proposal appears to conflict with the plea for unity in diversity, which has such importance in parts of Canada, and, moreover, to place these rights beyond the reach of the parliamentary institutions of the Country by entrenchment is to argue for more rigidity rather than less in the constitutional arrangements by which Canadians govern themselves.

An examination of those sections of the British North America Act to do with the constitution of the Senate of Canada indicates it was intended the Senate would represent the various regions of Canada and thereby bring to bear upon the Federal legislative-making process the legitimate needs of those regions.

The economic realities of today indicate there are five regions of Canada, the fifth being British Columbia. The Federal Government has recognized this fact, for the records of the Dominion Bureau of Statistics and other publications of the Federal Government show the economic regions to be as follows:

- (1) Atlantic,
- (2) Quebec,
- (3) Ontario,
- (4) The Prairies,
- (5) British Columbia,

and to further carry out that point of view, Mr. Prime Minister, what have we witnessed this last week? We have seen it carried out. The Atlantic Provinces, according to the Press Services, held a meeting of the Atlantic Provinces before they came to this Conference yesterday, before this Conference, showing that they are in one region, to speak as one voice so that we should recognize them. And I understand, too, by the Press Services, last week the three Prairie Premiers, or their representatives, met as well, showing that the Prairies is one region.

With the population of British Columbia growing at twice the rate of the rest of Canada - and we welcome Canadians from all Provinces - the presence of British Columbia as an economic region of its own is more obvious as each day passes.

Thank you very much.

HONOURABLE J.R. SMALLWOOD: I thank you for that boundary.

HONOURABLE W.A.C. BENNETT: I want to make it very clear ...

HONOURABLE J. SMALLWOOD: That boundary to the northwest to the northeast.

HONOURABLE W.A.C. BENNETT: I know what you are talking about, my friend. This idea is not one of our own. We got it from the history of Canada, and I am indebted to the Federal Department of Mines for supplying this map showing the history of Canadian boundaries, showing 12 different changes since Canada was first formed in 1867. Look how small it was then. They were not pessimistic. They were not in a crisis, and look how small they were. Then again in the 1870's they have grown a little more. Little wee Manitoba down here. You can hardly see it.

Then in 1873, after British Columbia came in - and you will notice we brought in British Columbia - our boundaries have never changed since then though we lost some of them, or temporarily lost them off-shore.

But I am sure now after the oil company pulled out of the North Sea the other day, and the Americans off the coast of California ran into such terrible trouble on their oil, you will be glad to give it back to us and we accept it gladly because our regulations - the State regulations are three times better than the American Federal Regulations, and that is the reason why they are in trouble in my opinion, and in British Columbia the Provincial regulations are way better than the Dominion's regulations, and we can handle it better.

Remote control will never work in any country. That is the reason why there are no problems in the ports of Rotterdam, but lots of trouble in remote control in the port of Vancouver with these ships and this wet grain.

In any case here you are, 12 different changes already in the boundary of Canada, so this is not something new. This is just logical advancement and progress for Canada's second century because if Canada is going to be able to compete in world markets, it must have efficient and large economic regions and be able to cut down some of the overhead of the government so that we can compete on world markets for sales, and thereby employ our people at good wages and thereby generate money not only for government on a municipal, provincial, but on a federal

government level as well. And this is logical for our Nation.

United States have got 50 states. They have ten times our population, so if we had five regions it puts us on a basis of equality, and in this competitive period which we are now entering, we need to be competitive with the United States and any other country.

However, anybody who would like a copy of this map to see what a good job the Federal Government did, we would be glad to supply them copies.

HONOURABLE J.P. ROBARTS: You say, Mr. Bennett, you would make Ontario the smallest Province, and perhaps we would get ...

HONOURABLE W.A.C. BENNETT: I am going to tell you at one time Ontario was a very small Province. You got all your northern territories. Why not British Columbia? Why not the Prairies, my friend? Fair treatment to one; fair treatment to all!

Mr. Prime Minister, if the Senate of Canada is to continue to exist, then British Columbia calls for the redistribution of its seats based on today's realities so that British Columbia as one economic area would have equal representation with each of the other four.

Moreover, in order - and I want to say here you have four vacancies now from British Columbia, and I think to show real genuine co-operative federalism you would co-operate with the Provinces and we would each select two!

Moreover, in order to increase interregional co-operation and to ensure the Senate will be more effective in the future in reflection of legitimate aspirations of the various regions, British Columbia calls for the appointment of Senators all by the provincial government, such appointments to be for a number of years certain - four or five years - or if there is a change of government they can be changed in due course as well so they would not be frozen there. So they would represent the popular, political feeling in the regions at that particular time, which they should do.

British Columbia is of the view that the Supreme Court of Canada should continue to exist as the final court of appeal for Canada. Because a separate

constitutional court would result in a court dealing in theory rather than in the day-to-day realities and practicalities of life, British Columbia is opposed to a separate constitutional court and favours the present practice of the Supreme Court of Canada having jurisdiction in constitutional matters.

Just as the Senate of Canada and the other institutions linked with Federalism were designed originally to represent the legitimate needs of the various regions of Canada in the Federal legislative-making process, likewise it is necessary that the Supreme Court of Canada recognizes the Federal nature of the Country and understands and appreciates the Country's regional diversity. Accordingly, British Columbia suggests that the appointment of the Judges to the Court should be from each of the five regions of Canada - we are not asking that the Provinces name them in this case, Mr. Prime Minister - previously referred to, so that at all times the membership of the Court is representative of all regions. Such appointments should be approved by the Senate, constituted as previously suggested, but recommended by the national government originally.

We believe that the present practice of having at least seven of the nine Judges constitute a quorum upon the hearing of constitutional matters should continue. When the constitutional validity of a statute of a particular Province is in issue, British Columbia considers it desirable that those Judges appointed from that Province or from the region of which that Province is a part sit on the hearing of the case.

British Columbia recognizes that there can only be one government in Canada to represent the interests of all Canadians, Mr. Prime Minister. To the extent it is necessary for the Federal Government to have the jurisdiction and capacity to represent the collective interests of Canada as a whole, British Columbia is agreeable to that necessity being met. We consider that the enumerated classes of subjects set out in section 91 of the British North America Act is more than sufficient for the Federal Government to effectively fulfil its role. We do not agree that the power to legislate on those residual matters not presently within the enumerated heads of section 92 should also rest with the Federal Government. The power to legislate on all residual matters should be given to the Provinces in addition to the enumerated subjects set out in section 92 and I quote "all matters of

a merely local or private nature in the province."

British Columbia suggests there are, in addition, certain matters of mutual concern for which there should be concurrent constitutional jurisdiction and shared responsibility.

Superimposed upon the distribution of powers as we envisage them, we are of the view there is a need to have within the Constitution the machinery to permit the delegation of jurisdiction between the Federal and Provincial Governments when they so desire. Such a device, which is presently lacking in the Constitution, would add an element of flexibility and accommodation so necessary in this great growing Nation.

It is almost trite to mention that the capacity of each Government to tax must be sufficient for each Government to effectively discharge its constitutional obligations. And yet the experience of the tax-sharing arrangements over the past years has shown this is a principle that seemingly is often lost sight of, much less subscribed to.

In the light of burgeoning Provincial responsibilities, particularly in the fields of education, health, and welfare, British Columbia can see no other alternative if Provincial responsibilities are to be met than for the Federal Government to withdraw from the direct tax fields of personal and corporate income taxes and succession duties or estate taxes.

When those changes have been made, it is our view the Constitution should restrict the spending power of the Federal Government to those matters under its jurisdiction.

I want to point out, Mr. Prime Minister, that British Columbia has some difficulty in understanding the views of some Provinces who say it is all right for the Federal Government to tax the Provinces for equalization payments to others but has not the right to tax for this great social advance of medicare. I cannot understand that logic at all.

I want to emphasize that the stresses within the Nation at the present time are primarily economic and financial in nature. If we are to achieve that high destiny to which I am sure all of us around this table

believe Canada is called, then we must do more to bring about economic opportunity for all citizens in all regions of Canada. I want to underscore so much of what was said on this subject at the Constitutional Conference of February last. Unless the problems of the glaring discrepancies in standards of living and economic opportunities for low-income citizens wherever they may be found in Canada are met, then the consideration of many of the matters which are being discussed during these days may prove to be little more than academic. I am not minimizing the importance of such matters as language, culture, and constitutional review generally. But I am saying, that if we are to have and develop the kind of Canada we all unquestionably desire, then the scope of our vision must embrace the economic facts of life in Canada, which call for a frank appraisal of what national policy should be adopted to improve the situation. British Columbia believes the solution lies in direct assistance to persons - to people - of low income rather than through large unconditional payments to certain Provincial Governments.

The difficulty that help to nations around the world that Canada shares - though Canada does a better job than most - is that money does not get to the people, and since within Canada we have not had any real improvement on a comparison basis since we have had equalization payments to some Provinces, shows that this does not get to the root of the matter.

We would like to see a basic income for Canadians everywhere. Every person would fill out an income tax return, and those that pay taxes, that are due to pay taxes, will pay them, and those that are below that level - it will be on the basis of how many dependants they have as well - they will be reimbursed, and they will get a cheque. So there will be a two-way flow of cheques like there should be. Those that benefit greatly from our system and all that our system means pay taxes to our government, and if because of illness and sickness and bad health and bad luck and circumstances, then the state (which is all of us) lifts them up on the basis of dignity. We think that is a solution to this great problem - at least it will be a great start towards it.

Naturally, any policies to raise the standard of living of all low-income persons will benefit most those areas with the highest incidence of inadequate income. Some areas might be 40 per cent which would get money back;

other areas might only be 5 per cent, and that is the way to get it to people. And if you set that floor under the economy in all Provinces, that is the way to lift their standard of living. But I would also point out, Mr. Prime Minister, that no matter what government policies of special help to individuals are involved, the real solution will come as well when we have uniform wage rates across Canada. Now, we in British Columbia realize that cannot be done overnight. But that is where we should be directing our course. Governments should start by introducing uniform minimum wages of comparable industry for all areas of Canada.

Furthermore, in this connection I believe the time has come to recognize that in the interests of economic realities the boundaries of some of the Provinces will have to be altered and the separate existence of some other Provinces will have to be abolished so as to provide five viable and effective political units consonant and in conformity with the five economic regions of Canada.

Mr. Prime Minister, the increased efficiency and resultant substantial savings to the Canadian taxpayer would be great. And we must be thinking more of cutting down the overhead of government than almost any other question today if we are going to be able to give more service to people.

In keeping with the principle of political units conforming with the economic regions of Canada, British Columbia calls for the Federal Government to extend by legislation, like they did before for Ontario and Quebec and Manitoba - the Federal Government to extend by legislation the boundaries of each of the applicable Provinces northward to the northern limits of continental Canada, like they did for Ontario and Quebec. Furthermore, the topographical characteristics support communications links and trade patterns running north and south rather than east and west.

Here we have a map of the north, and especially of Northern British Columbia. It shows the extending of British Columbia's boundaries to take in part of the Yukon - or the Yukon and Northwest Territories to take in British Columbia.

When you get married, you will find out, Mr. Prime Minister, that it is a partnership, and you don't know who is the senior partner until the second day. And then

you know. So I would think perhaps the Yukon and Northwest Territories would be the senior partner. But in any case everything that we own in British Columbia would be owned by the people of Yukon and the Northwest Territories.

We are now extending our own railroad, the Pacific Great Eastern Railway, north to Fort Nelson. We would then extend it right through to Whitehorse, into the Yukon.

We would build a highway in from the Alaska Highway into the Northwest Territories of Fort Simpson. We would build another railroad up the coast and right up to Whitehorse as well. And we would develop the Yukon and Northwest Territories.

Capital investment must come before you get revenue back. So it is going to cost British Columbia in the early years a lot of money, just the same as it has cost British Columbia a lot of money to develop Northern British Columbia, where in the Peace River power development alone so far we have spent over five hundred million dollars.

HONOURABLE J.R. SMALLWOOD: Mr. Bennett, would you mind?

The territory you are talking about for you to get and the Prairies to get now belongs to us, does it not?

HONOURABLE W.A.C. BENNETT: No.

HONOURABLE J.R. SMALLWOOD: No? Doesn't it belong to Canada?

HONOURABLE W.A.C. BENNETT: No. You brought your part into ...

HONOURABLE J.R. SMALLWOOD: It belongs to all Canada, does it not?

HONOURABLE W.A.C. BENNETT: No.

HONOURABLE J.R. SMALLWOOD: Do the other Provinces get any kind of compensation for that?

HONOURABLE W.A.C. BENNETT: You are getting those equalization grants now.

HONOURABLE J.R. SMALLWOOD: No.

HONOURABLE W.A.C. BENNETT: I want to tell you now, Mr. Prime Minister, that one day my good friend from Newfoundland made a great statement at one of these Conferences. He said, "You know, co-operative federalism is great; Bennett writes a cheque in British Columbia and I cash it in Newfoundland." That is the way.

HONOURABLE J.R. SMALLWOOD: But we want more than cash. We need more.

HONOURABLE W.A.C. BENNETT: When Ontario and Quebec were extending north there was no question.

In light of the tremendous development now taking place in the northern half of British Columbia, sparked by the Peace River power development, now in operation, and the lines of communication to which I have already made reference, it is not only geographically and economically logical, but it would be mutually advantageous for the northern area - and any deal with any person, any business deal, must be of advantage to both sides, and this would be of advantage to both areas - it would be mutually advantageous for the northern area to be added to the Province so that an integrated development plan could be made to realize the full and great potential of the whole area.

The great power developments in the Yukon, the great power developments on the Liard River, the watershed spreads to both areas - to get that development they need to be one - straight common sense and straight logic.

The last statement I wish to make, Mr. Prime Minister, has to do with the method of constitutional amendment.

Throughout the course of the first one hundred years the British North America Act has, as the need arose, been subject to amendment by one means or another at least a score of times. British Columbia, however, is not satisfied with the vagaries of the present method of amendment. I recall that over an extended period of years, culminating in an agreement in Charlottetown in 1964, all governments participated in a series of meetings called for the purpose of agreeing upon a formula of how to amend the Constitution in Canada. British Columbia, along with others, was one of the contributors to the solution then reached. And yet, in spite of unanimous agreement at that time, subsequent events prevented

the formula being implemented.

We are now embarked upon what has been described as a total review of the Constitution. And we are all for that. It will take vision, take courage and persistence and all the qualities that Canadians have to bring it about. But we must not grow weary in well doing as we tackle this great opportunity. The substance of constitutional review is infinitely more complicated and much less likely to be the subject of agreement, at least soon, than the relatively simple question of determining a method to amend the Constitution in Canada. And yet if we are unable to bring to fruition extensive efforts that were expended in that more simple exercise, then the question that comes to my mind is: are we now embarked on a task utterly incapable of fulfilment (but I don't believe it; I am sure we can do that) having regard to the differences of opinion that do exist between us on matters of substance? But I am an optimist and not a pessimist. And, Mr. Prime Minister, you know the difference between an optimist and a pessimist. An optimist says, "I have been drinking this glass of water all day and it is still half full." And the pessimist looks at the glass of water and says, "Look, the wretched thing is half empty already." We need optimism. And Canadians are optimistic people, because only optimistic people can get things done.

As an indicator of our good intentions in British Columbia in respect of the total review now under way of the Constitution, I call upon all governments to re-address themselves to the fundamental proposition of how to amend the Constitution in Canada, taking on from the point of earlier agreement and making such adaptations to the formula as would make possible its unanimous acceptance in 1969, I hope.

And, Mr. Prime Minister, I would like included in our opening statement our tables in the back of our printed statement, and also our two maps.

Thank you very much.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Bennett.

Now we will hear from the head of the Prince Edward Island Government, Premier Alex Campbell.

**Opening Statement by
THE HONOURABLE ALEX B. CAMPBELL
Premier
of the
Province of Prince Edward Island
to the
Second Meeting
of the
Constitutional Conference
Ottawa — February 10, 1969**

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 THE HONOURABLE ALEX B. CAMPBELL
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Mr. Prime Minister, at the outset I want to congratulate you upon the events which have brought you to the Chair of this Conference and also, on behalf of our Province, to express our appreciation for your invitation to return to this form of conference and to further our discussion on the subject of constitutional review.

I was very much interested, naturally, in the new map of Canada unveiled today by our good friend and colleague Mr. Bennett of British Columbia. I wonder if he would explain whether or not there is any significance in the colours that he has given to the various regions - British Columbia, deep green, and the Atlantic provinces in red?

Honourable W.A.C. Bennett: Red is a good colour. Red has always been a good liberal colour.

Honourable A.B. Campbell: You will appreciate, Mr. Chairman, my great temptation to take advantage of this opportunity to raise issues of economic concern critical to the Province of Prince Edward Island. But I am satisfied, however, that the agenda makes provision for discussion of financial difficulties and regional disparities. It is my intention, at a later stage, and when the agenda provides, to place before this Conference yet

another map of Canada, a map which will outline the boundaries of regional disparity. I just want to say at this time, Mr. Chairman, that it is not my view that the problem of regional disparity will disappear with the shifting of the physical boundaries of our provinces.

Nevertheless, in this opening statement, Mr. Chairman, I feel compelled to underline the national significance of this gathering by setting aside immediate provincial considerations. I intend to direct my opening remarks to the general area of constitutional review by reflecting on our present situation and by commenting on future steps to be taken.

At the outset, I would like to reaffirm our position on the need for a strong central government. At the Confederation of Tomorrow Conference I said, "Strength in this context means financial strength to provide a sufficiently large economic field within which to exercise political and economic influence towards national ends". I would add at this time that the Federal Government must have the means to deal effectively with the problem of regional disparities. Though we regard a strong "central" government as necessary, we do not necessarily support a strongly "centralized" government. The centralization of government operations has proven totally ineffective in correcting the regional imbalances which have developed over the years. I expect to deal with these questions at greater length during this Conference. However, before leaving the subject of a strong central government, I would like to sum up Prince Edward Island's position by quoting one of the Fathers of the American Constitution, James Wilson. Wilson, in summarizing the constitutional dilemma which faced the United States in 1787, remarked that:

"Each state endeavoured to cut a slice from the common loaf to add to its own morsel until at length the Confederation became frittered down to the impotent condition in which it now stands... what danger is there that the whole will unnecessarily sacrifice a part? But reverse the case and leave the whole at the mercy of each part and will not the general interest be continually sacrificed to local interests"?

I am pleased to report to the Conference, Mr. Chairman, that Prince Edward Island has made significant progress towards the fulfilment of some of the objectives proposed in the Bilingual and Bicultural Report. The last session of our Legislative Assembly unanimously approved the recognition of French as an official language of the Assembly for purposes of debate. We have made progress in cultural and educational affairs as well. My colleague Premier Robichaud participated last year in the opening of an Acadian Cultural Centre at Abram's Village. Our Department of Education has been actively promoting the development of teaching methods and aids in the French language throughout the Province. The Department of Education has initiated French-language instruction and authorized French-language textbooks in several subjects for that area of the Province designated by the Commissioners as a bilingual district.

Our Department of Education intends to intensify its efforts to achieve a truly bilingual programme for our schools, providing there is a significant proportion of Acadian students. This will involve the teaching of French as a first language, and special courses of study for the teaching of conversational French. As well, we have appointed a consultant on French language instruction. It may be proper to observe at this point, Mr. Chairman, that this has not come as the result of any national legislation but as a result of our desires and our wishes to implement the recommendations of the B and B Report as they apply to our Province.

As I interpret your invitation, Mr. Chairman, our primary concern at this meeting is to examine the initial report of our Continuing Committee. I shall now confine myself to that area.

An examination of the summary record of the Committee's proceedings and of the many propositions submitted by participating governments emphasizes the complexity of the review in which we are now engaged. Our founding Fathers in Charlottetown and Quebec City had a relatively simple task. We are now eleven jurisdictions, each with a measure of sovereignty and each with well-established traditions. We are embroiled in a more complex and sophisticated society than existed at the time of Confederation. The historical record suggests that the original union was "floated in on a sea of champagne and in the company of attractive young dancing partners".

It appears that revision to our present Constitution will be floated in on a sea of propositions. I for one, Mr. Chairman, have not had time for a detailed examination of the various propositions put forward; nor have I had time for involved discussions of constitutional reform at the basic level undertaken by the Continuing Committee. Nor do I expect that we, as First Ministers, have time to resolve, by consensus, the hundreds of propositions which have come forward from the various governments. Our Continuing Committee of Officials should be charged with the detailed exploratory work necessary to the drafting of a new Constitution. The difficult task of framing the Constitution of the United States of America and our own Constitution was not accomplished before the bright lights of television. Representatives were not speaking directly to their constituents. These Constitutions were framed behind closed doors in Philadelphia, Charlottetown, Quebec and London after months of vigorous and determined negotiation. The complexity of the current review makes a body such as the Continuing Committee essential.

The decision as to particular courses of action will rest, of course, with this meeting of First Ministers, and our legislative bodies.

The Continuing Committee has now met five times; it is apparent that their discussions have been, in many areas, of a cursory nature. The Committee now looks for further direction from the Constitutional Conference. At this stage my general direction would be that the Committee "carry on". In their report, the Committee has specifically asked for direction in four areas. Our position on these four questions is as follows.

First, on the objects of constitutional review: the Government of Prince Edward Island supports the "total review" concept.

Second, on the method for carrying out the review: the "propositions" approach appears valid at this stage.

Third, on the review sequence: again, the outline as set out in paragraphs 12, 13, 14 and 15 of the Committee's Report is agreeable to us.

Fourth, on the use of special committees: I appreciate that the Continuing Committee may wish to examine certain areas by means of sub-committees or similar groups. My support for this arrangement is qualified only to the extent that I trust the Continuing Committee will not so dilute its approach that discussions will be limited to consideration of voluminous reports.

Specific directions would be difficult to determine at this time because the Committee has just now brought together many of the concepts relating to constitutional re-alignment. I hasten to commend the Secretariat, under the able direction of Mr. Edgar Gallant, for the work it has done in "documenting" the proceedings.

Mr. Chairman, at a later stage we will be giving detailed attention to the Committee's report. By way of introduction, I suggest two main areas for consideration: that we attempt to determine priorities for the Committee's work so that matters of more pressing concern will receive first attention; and, secondly, that serious study be given to the implications of any substantive constitutional changes. For example, if it is proposed that the Provinces assume responsibility for programmes now provided by the Federal Government, what would be the implications, for both levels of government, in terms of fiscal need, administrative facilities and personnel?

This exercise of constitutional review will be long and demanding. As I indicated earlier, I am convinced that First Ministers do not have the time required for detailed examination of the many issues involved in such a review. I also question whether the Continuing Committee now devotes sufficient time to this end, considering that it meets approximately once a month for three days at a time. Our search for a meaningful and useful partnership agreement will require many months, if not years, of participation. We believe that the Committee should meet more regularly. Its membership should be given more permanent status. This Conference must direct our Committee to speed up the work which has been assigned to it.

Mr. Chairman, once the Continuing Committee makes recommendations I shall devote the time required to consider specific constitutional reforms. Until that stage has been reached, until the Committee has had ample opportunity to receive and consider the propositions of governments, until our Committee brings forward specific

recommendations for our consideration, future sessions such as this are little more than a means to re-affirm our belief in the need to preserve and foster Canadian unity.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you very much, Mr. Campbell.

Now we will hear from the leader of the Saskatchewan delegation, the Honourable Mr. Steurart, Deputy Premier of that Province.

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THE HONOURABLE D.G. STEUART
Deputy Premier
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Thank you, Mr. Prime Minister. My first words must be of the regrets of Premier Thatcher for being unable through illness to attend this very important meeting, and passes on to you his sincere best wishes for the tremendous task you have undertaken on behalf of all Canadians and also to thank all of those around this table, the heads of governments, who have through me and through our delegation, wished him a speedy recovery. Those are most sincerely accepted and appreciated.

The Premier, as I say, asked me to assure everyone here when I read this brief, I don't think anyone will have any doubt that he stands behind the propositions we put forward here and the stand our delegation will take in the next three days.

I have been very impressed with all the position papers put forward by the various Provinces and by the Prime Minister. I was especially intrigued by Premier Robarts of Ontario pointing out to us that 45 per cent of the Federal Government's revenue was obtained in prosperous Ontario. I think I should hasten to point out to him about 50 per cent of their prosperity has probably been by selling tractors to western grain farmers, and like everyone else I was very impressed with the new map pushing our boundaries up to the Arctic Ocean. That is a tough way to get into the battle for offshore mineral

rights but we accept all offerings.

I wonder if the Prime Minister should warn President Nixon that the Jolly Green Giant is on his way in Alaska, or maybe the B.C. Lions are looking for some new recruits.

Mr. Chairman, the Province of Saskatchewan comes to this Conference in a spirit of co-operation.

We hope that the deliberations of the next several days may contribute to the preservation and strengthening of our Confederation.

At the same time, we come to this Conference somewhat in a spirit of impatience.

We continue to believe that there are problems facing our people which have a far higher priority than constitutional reform, of the kind presently proposed by the Federal Government.

We consider that the basic objectives of this Conference should be to settle the financial aspects of Confederation.

The taxing powers that were appropriate for an earlier era no longer match the relative constitutional responsibilities of the different levels of government.

We insist that financial difficulties facing all governments are today the major challenge to the continued existence of our Country - not the Constitution.

Westerners are not impressed by recent financial policies of Ottawa.

To us they represent confrontation, shock treatment, further upward tax revisions, and interference in provincial tax fields.

The Government of Saskatchewan also comes to this Conference to once again oppose special concessions or "special status" to any single Province.

We believe that every Canadian should enjoy equal rights and equal privileges.

We also contend that every Canadian should assume equal responsibilities.

We believe that any reasonable or feasible step should be taken to keep Quebec within Confederation.

A Canada without Quebec is almost unthinkable.

But our willingness to compromise in this direction, does not indicate a willingness to accept a Constitution which will give other Canadians any rights whatsoever, which are not enjoyed by Westerners.

It would be folly not to recognize that Quebec has problems which are not shared equally by other Provinces.

But it would also be folly to assume that Quebec's special problems are the only ones, or even the most important ones, to be dealt with at this Conference.

In our opinion, if Quebec were given all the demands she has recently sought, the break-up of Confederation would be automatic.

The people of Saskatchewan believe in one Canada - not two or three.

I express the hope that the people of Quebec may decide that their true interests lie in an equal partnership with the other Provinces of Canada - and not in a separate development.

To a considerable degree, though not entirely, the decision is their own.

Speaking for my Province, may I say again that if Quebecers are to remain in Confederation, as we hope and pray, they must do so with the knowledge that they will have the same status as the other nine Provinces.

In Canada we want no second-rate citizens.

I am quite certain that under the statesmanship of Premier Bertrand, whose ability and moderation have won respect everywhere in Canada, Quebec will decide to remain a Canadian Province.

Surely every conceivable economic reason points in that direction.

But in any event let Quebecers make their decision then let us get on with the important task of building a better and more prosperous Canada.

I indicated earlier that the Government of Saskatchewan believes that the main threat to national unity is dominion-provincial fiscal arrangements.

In this Country, there has been a virtual breakdown in fiscal control.

During the present year, the two levels of government will spend \$1.1 billion more than they receive.

The trend must be reversed before governments spend the Country into economic chaos.

The differences between Ottawa and most Provinces have arisen by each spending more than they can collect.

Their joint deficits have demoralized their treasuries, and strained the whole federal system.

In passing, I feel I must say a few words about Saskatchewan's financial record.

Since taking office, our government has brought in four consecutive balanced budgets. In a few days, I hope we shall bring in our fifth.

This was accomplished:

- (a) despite the fact that equalization payments of \$35 million from Ottawa are being gradually phased out;
- (b) despite the fact that until recently, we have been the only Province financing a complete programme of medicare.

I also point out that presently all current expenditures for highways, hospitals, university buildings are not being capitalized, but rather paid out of current revenues.

The process has been difficult and unpopular, but I suggest that Saskatchewan has demonstrated financial responsibility.

But we are well aware that we cannot continue this record indefinitely, unless some federal-provincial changes

are made.

The costs of administering fields like health, education and highways, which are constitutionally the responsibility of the Provinces, have spiralled more rapidly than the economy, or the cost of federal responsibilities.

Therefore, either the lower levels of government need to transfer some of their responsibilities to higher levels - or there should be a transfer of taxing authority in the opposite direction.

If such a change does not take place soon, the overall economic health of the Nation will assume the proportions of a major crisis.

We have every sympathy for the urgent need of the Federal Government to bring its own budget into balance.

We doubt, however, whether the Finance Minister will have helped the taxpayer much if he simply transfers the federal deficit to the Provinces.

We believe that unless the Federal Government is prepared to participate very soon with the Provinces in a hard-headed, comprehensive appraisal of government expenditures and revenues at every level, our Confederation will be strained to the limit, and perhaps beyond.

Today, governments at the three levels are taking 35 per cent of the gross national product.

Canadians generally are fed up with this extravagance, and in my opinion, will not accept it indefinitely.

At the risk of appearing presumptuous, I wish to strenuously object to certain aspects of recent federal taxation policy.

Several years ago, the predecessor to the present government promised a degree of consultation with the Provinces, before major tax changes were introduced - particularly changes recommended by the Carter Commission.

That pledge has been for the most part ignored.

Ottawa has introduced one tax increase after another, which vitally affect the Provinces - on a unilateral basis:

1. Liquor taxes. For example, not long ago, the Federal Government sharply increased liquor taxes.

While they legally had every right to do so, surely this is a field which over the years has been recognized more and more as a provincial source of revenue.

The Federal Government is now taking more in liquor taxes than the sum total of all the Provinces.

2. Estates taxation. In the last federal budget, major and far-reaching changes were proposed in the Estates and Gift Tax legislation.

Even though the original intent of these changes has been somewhat modified, the overall effects will still pose a real and serious threat to thousands of individuals and small businessmen across Canada.

But on the Prairies, even with modifications, they could spell the end of many family farms.

The frustrating part of this action was that the matter was never referred to us at any time.

Though Ottawa retains one-quarter of the revenue involved, and though the Provinces retain three-quarters, there was no consultation whatsoever.

Is this the "participatory democracy" promised by the new government?

I tell the Prime Minister and the Minister of Finance that actions like these are dangerously stretching credibility in federal fiscal integrity.

I would also tell them that had there been consultation with the Provinces before such a measure was taken into the House of Commons, the most recent fiasco over Estates Taxes might very well have been averted.

3. Mining taxation. And now there are rumours circulating again in the capital that tax incentives for mining companies may shortly be eliminated, as recommended by the Carter Commission.

The former Finance Minister, I repeat again, gave the Provinces a firm commitment that no action on the Carter Report would be taken without prior consultation

with the Provinces.

But after what happened with the Estates Tax, can we have any confidence that such a pledge will be honoured in this field?

Saskatchewan believes that mining tax incentives have worked well, and have contributed to a vigorous development of the mining industry.

Without incentives, we believe mining exploration and development would slow down considerably.

Again at the risk of appearing presumptuous, may I warn the Minister of Finance that Western Canada will never willingly accept the mining tax proposals made by Mr. Carter.

We are determined that Saskatchewan's mining expansion shall not be crippled by a few theorists or bureaucrats in Ottawa or anywhere else.

4. Offshore mineral rights. Saskatchewan also believes that the sharing of the revenues from offshore minerals should be given careful attention.

Our Province is landlocked, and has no offshore minerals.

But we do believe that if the Federal Government intends to share revenues from offshore mineral development with the Provinces, then they should be shared on an equitable basis with all the Provinces of Canada.

By decision of the Supreme Court of Canada, these resources are federal, and as such the revenues from them must be shared among all Canadians.

We cannot agree that the Provinces themselves should devise a formula for the sharing of the revenues.

If such resource revenues accrue to the Government of Canada, then surely it is the responsibility of the Federal Government to determine to whom they should be allotted.

We believe major inequities exist in the distribution of revenues accruing from corporation profits.

Many companies presently operating in the Province of Saskatchewan maintain head offices in other Provinces.

Under the present distribution of taxes, we have available to us a very limited portion of the corporation income tax paid by them.

At the same time, as a government, we are obliged to provide many services to these companies, as corporate citizens.

The corporation income tax we receive from the federal authorities is not sufficient to pay for the entire cost of these services.

We believe some more fair and equitable formula for the sharing of taxation from corporate income should be found.

In our view, this is a major aspect of any fiscal reform.

If a change is being made in constitutional financial responsibilities, there are other areas in which the Federal Government should give consideration to assisting the Provinces.

At the present time, Canada is the only western nation that lacks a federal highway system.

Surely the federal authorities should assist the Provinces in the construction of main interprovincial highways, and northern and resource roads.

Finally, serious consideration should be given to more adequate federal assistance for education at all levels.

At the present time, the Provinces must themselves bear by far the largest part of educational costs, even though their advantages extend to all of Canada.

Mr. Chairman, I could deal with other aspects of federal financial policy, which irritate the Government of Saskatchewan, but perhaps this is not the occasion.

However, I must say we find it alarming, that despite huge tax increases, despite the federal invasion of provincial fields, Ottawa continues to roll up huge deficits.

The Finance Minister tells the Provinces to raise their own taxes or reduce expenditures.

He is not very convincing when he himself is both raising taxes and increasing expenditures.

In essence, he is saying to the Provinces: "Let them eat cake."

Would I be stepping out of line, Mr. Chairman, if I took the liberty of reminding the Minister what happened to the lady of historical renown who was unwise enough to coin that phrase?

The Minister of Finance tells us once again that his objective is a "balanced budget."

But this objective will fail to impress many, if it is to be achieved simply by transferring his deficit to the Provinces.

It is the total of the tax that matters to the taxpayer - not the government to which it is paid.

If the Provinces were to follow his lead, they would simply transfer their deficits to the municipalities.

The alternative of raising taxes is more easily stated than practised, when the Federal Government has already pre-empted the most rewarding tax fields.

The fact is that with the economy already over-taxed, the scope for new taxation is extremely limited.

The Minister of Finance is well aware of this fact.

Everyone at this table knows that the root cause of the current fiscal squeeze is that the spending needs of the Provinces and municipalities to meet their constitutional responsibilities are rising faster than those of Ottawa itself.

Are we prepared to do something about this harsh fact? Or are we content to merely drift along - hoping that something may turn up?

While these thorny fiscal problems remain, Westerners find it very difficult to get excited about a new Constitution.

Having established what we believe should be the number one priority in building a United Canada, may I say that Saskatchewan is quite willing to seek out useful constitutional changes.

In this regard, we shall do our utmost to work with Ottawa and the other Provinces.

On behalf of our government, may I now comment on some of the proposals which have been made.

As Saskatchewan stated a year ago, we do not believe there is a pressing need for a new Constitution for Canada.

We feel that our difficulties could be overcome by amendments to the existing Constitution.

As we have stated on previous occasions, Saskatchewan favours the early patriation of the Constitution so that constitutional amendments can be made in Canada, without reference to the British Parliament.

We hope also that a suitable formula for amending the Constitution can be found soon - perhaps similar to the Fulton-Favreau formula to which our government agreed more than three years ago.

Our government feels that while some aspects of the British North America Act may now be obsolete, nevertheless we could very well make changes and build on the framework of the present Constitution.

In regard to official languages, the Saskatchewan Government supports the development of bilingualism in Canada, because we believe that it is desirable for both English- and French-speaking Canadians to be at home anywhere in Canada, but at the same time, we believe that bilingualism can best be achieved through the educational process.

In Saskatchewan, legislation now permits upon request the use of French as a language of instruction from Kindergarten to Grade XII, in areas where such a programme is economically feasible.

In addition to French-language instruction in elementary and secondary schools, the Regina Campus of the University of Saskatchewan has recently established

a bilingual college.

We shall take further steps as they are found necessary and feasible.

We are not convinced, however, that bilingualism can be achieved effectively by legislation.

The Constitution already provides certain guarantees as to the use of the French and English languages in Quebec and in the Federal Parliament and federal courts.

We fear, however, that the proposals of the new federal Bill on Official Languages will result in bilingualism becoming a requirement -

- (a) for promotion in the armed forces; and
- (b) for appointment and promotion in the federal Civil Service and such federal Crown Corporations as Air Canada and the Canadian National Railways.

Mr. Chairman, only 6.5 per cent of the population of Saskatchewan is of French-language origin.

In the light of these facts, surely to make a working knowledge of both French and English a requirement for many employment opportunities, would be highly discriminatory against the great majority of Saskatchewan citizens.

This would not have the desired effect of binding the Nation closer, but rather would end in disunity and friction between the French-speaking and English-speaking races - leaving a situation unlike anything we have witnessed in Canada in the past.

In addition we believe there is a serious question as to whether the Official Languages Bill is constitutional.

We are of the opinion that the British North America Act, by an amendment made in 1949, specifically precludes the Federal Parliament unilaterally amending the Constitution with respect to languages.

Therefore, on those grounds alone, Saskatchewan cannot agree with the provisions of the Official Languages Bill now before the House of Commons.

Mr. Chairman, perhaps the most dangerous aspect of the proposals contained in the Bill will be their effect on the administration of justice.

We contend that if all federal statutes and regulations and all judgments of the federal courts are to be written in both languages and have equal effect, then only those lawyers and judges who are bilingual will be able to adequately interpret and administer the law.

It is our contention, therefore, that at least in Western Canada, justice cannot be served as suggested by the intent of the Official Languages Bill.

The Province of Saskatchewan would hope that the Federal Government could be persuaded not to proceed at this time with the Bill on Official Languages.

Our government pledges itself to fully support the reasonable development of bilingualism through the educational process, because of the practical value to the individual and the Nation.

Our objection lies chiefly in those aspects of the Bill which are impractical in Western Canada and would, in addition, prove highly discriminatory to many of our citizens.

However, if Ottawa does proceed with the Bill as proposed, we could not let the matter go unchallenged in the courts. But we must insist that this vital matter of education in French or English shall remain with the Provinces.

The Government of Saskatchewan holds certain other views in connection with the Constitution, which we shall be prepared to pursue at an appropriate time.

For example, we favour a strong and effective central government with the jurisdiction, powers and authority necessary to achieve national strength and unity.

The central government must have adequate economic and fiscal powers to ensure stable economic growth, cope with unemployment, combat inflation and deflation, and promote equalization of opportunity in the various Provinces and areas of the Nation.

We believe Canada should continue to be a federal state. We emphatically approve of the continuation of the monarchy, for the foreseeable future at least.

The time may come when Canadians will choose to abolish this institution.

But surely at a time when Confederation is already under every conceivable stress and strain, we should not further divide our people over a matter about which many feel strongly.

We believe the Constitution should provide that all Provinces should operate under the Parliamentary System, and, as I have already emphasized, have the same status and powers.

We contend that the Parliament of Canada should not have the power to make special arrangements with any Province, in respect of federal programmes.

These programmes by their nature are applicable across the Nation. Special arrangements should only come about with the unanimous consent of all Provinces.

We favour some kind of Senate reform.

It is our opinion that representation in the Senate should more adequately reflect the population of the regions and Provinces of Canada.

We believe the Constitution should recognize the primacy of the Federal Government in international affairs, and in all negotiations involving foreign governments.

We agree that the Supreme Court of Canada should continue to be the final Court of Appeal in all matters, including those involving the Constitution. Moreover the court should continue to be bound by precedent.

With certain qualifications, Saskatchewan agrees with the proposal that a Bill of Rights guaranteeing fundamental democratic rights be made part of the Constitution.

However, we also feel that great care must be taken that only fundamental democratic rights should be entrenched.

These are -

- freedom of religion
- freedom of speech
- freedom of assembly and association
- freedom of the press.

In conclusion, Mr. Chairman, these then are the views of the Government of Saskatchewan on a number of aspects of constitutional reform.

Our delegation will amplify these viewpoints during the course of the Conference. We have no intention of being truculent and unco-operative.

However, I emphasize again, that, in our opinion, an immediate effort by all parties involved, to settle the critical financial impasse which our governments have reached, is vital if Confederation is to be saved.

I appeal to the Prime Minister to give leadership in this regard.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Steuart.

I now ask the Honourable Harry Strom, Premier of Alberta, to let us have the Alberta statement.

**Opening Statement by
THE HONOURABLE J.R. SMALLWOOD
Premier
of the
Province of Newfoundland
to the
Second Meeting
of the
Constitutional Conference
Ottawa — February 10, 1969**

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Prime Minister, you yourself this morning, with great eloquence, expressed Newfoundland's point of view far better than I could do it so I might stop right here, by I won't. And I think I have never read or heard anything before so eloquent an expression of the meaning and significance of a Constitution as your remarks in the early part of your speech.

I must admit that I realize more than I had ever done before the meaning of a country's Constitution. It is far more than perhaps we normally think it to be.

Now, I am not going to try to add to what has been said here today about constitutional reform. I am going merely to say that what you said is what we would say; that what Premier Smith said from Nova Scotia expressed almost exactly what Newfoundland feels. He spoke for us and so did Premier Robichaud in almost a perfect expression of Newfoundland's point of view in these matters today.

Some of the things said by Premier Weir, a good many of them, expressed our point of view. A wee little bit of what Premier Bennett said; say, two per cent of what he said. And, by the way, talking about Premier Bennett - he doesn't mind - he appeared to be annoyed with my question ----

HONOURABLE W.A.C. BENNETT: Oh, no.

HONOURABLE J.R. SMALLWOOD: He appeared to be annoyed. I was trying to support him.

HONOURABLE W.A.C. BENNETT: Some support you can do without.

HONOURABLE J.R. SMALLWOOD: No. I was trying to support him by putting a little reason into what he said.

I enquired if this territory he wants for his Province - and he wants the Prairie Provinces to have - was not at the moment the property of all of us. I don't think he would deny that. And I wanted to know if British Columbia got a big slice of our common property and the Prairie Provinces, what would the rest of us get by way of compensation.

He said, "You are getting equalization." You don't want to take that from us, do you?

HONOURABLE W.A.C. BENNETT: In fact you may be able to put up some of the shared costs of the enormous amount involved in that area which would bring back hundreds of millions of dollars to the Federal Government mostly being spent in Newfoundland.

HONOURABLE J.R. SMALLWOOD: The very map that Premier Bennett circulated to us here shows us that between 1905 and 1912, I think, great slices of commonly-owned territory in Canada were given to Manitoba and Ontario and Quebec by Canada. Now, this surely was by way of compensation for the commonly-owned land that Canada gave to Alberta and Saskatchewan.

Anyway, I put in my claim now, Prime Minister. If British Columbia is going to get some of my land there in the Yukon or the Northwest Territories, I will send a bill. We want some compensation for that.

THE RIGHT HONOURABLE P.E. TRUDEAU: We will give you back some iron.

HONOURABLE J.R. SMALLWOOD: If we have a survey of the site, we will take it.

Premier Campbell of Prince Edward Island spoke for us as well, so really there is not much left for me to say,

although I cannot help saying, Prime Minister, that I am quite unable and I have tried - I have been ranging it over now in my mind and I am not able to think of anything that could generate such dividends of Canadian unity and goodwill at such a truly trifling cost as this proposal of yours to establish linguistic and cultural equality.

The investment would be at practically no cash cost whatever to Canada. It would mean just a small expenditure of toleration and of generous Canadian spirit. How in fact can we do less? A trifling investment yielding very considerable national dividends. This is surely part of high statesmanship. Surely this is what Canada needs right now and what is the alternative?

I cannot help wondering what our seven million Canadians across Canada in the ten Provinces whose mother tongue is French - what are they to think? What are their feelings about Canada to be if Canada rejects this reasonable and modest proposal?

I cannot help wondering if French-speaking Canadians all across Canada cannot have at least that much, then what can they have? Are they not bound to ask that question?

Now, that is all I want to say about the Constitution. All of this we believe - and it is a matter of emotion, a matter of justice. We believe it. But, Prime Minister, I will be very frank and say that the matter that really bites into our vitals in Newfoundland, as I am sure it does in New Brunswick and Nova Scotia and Prince Edward Island, and possibly other parts of Canada; the thing that really is the gut issue for us in Newfoundland is this matter of economic and fiscal disparity between the Provinces and between other regions of Canada, groups of Provinces or even parts of one Province as against other parts of the same Province. This is the issue for us.

Now, that is on the agenda and I hope to have a chance to speak to it if it comes up later this week.

May I conclude by saying that what we do want really in Newfoundland is a Parliament at Ottawa and of course a Government at Ottawa that have ample authority and ample means to direct the growth and development of Canada as a whole: and to help financially those Provinces that need help to have growth and development there as well.

If Newfoundland - and I put it to you practically - if Newfoundland at any time in the foreseeable future, maybe not fifty years hence or maybe not twenty-five years, but in the practical, foreseeable future, needs help, to whom do we go? To the Government of Ontario or to the Government of Manitoba or the Government of British Columbia? Do we go to the Government of Quebec or the Government of Alberta? We apply to the Government of Canada. This is our Country. This our national capital. This is the government of our great Nation: Ottawa. The Parliament and Government of Canada.

It is no use our looking to anyone else and indeed it is no use our looking to them unless they have the authority and the means to be of help to us, so that is why I suppose it is arithmetically simple really. This is why the Provinces that used to be called the "have-not" Provinces are not called that any more because it is not true any more. They have less than some others but they are not necessarily "have-nots".

Those that have less believe so strongly in a strong central Parliament of Canada and a strong and resourceful government; resourceful in money as well as other things, and I don't know if any Premier here can veto or say, "Nyet" - is that how you say it? I don't know if any Premier is prepared to veto in this Conference, but we would positively veto any proposals that would weaken the Parliament of Canada or the Government of Canada and as somebody said very wisely - somebody said - I think Premier Campbell said, "We want a strong central government but not ..." How did you put it?

HONOURABLE A.B. CAMPBELL: I will tell you tomorrow.

HONOURABLE J.R. SMALLWOOD: We do want a strong central government and anything that leads to that will have the support of the great Province of Newfoundland.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you very much, Mr. Smallwood.

Well, as Chairman, I want to thank all the heads of government for their very fine and useful statements. It is obvious that we are all united in our commitment to Canada and its people, and I think the fact that we were able to state our differences and express our aims bluntly with or without the aid of maps will just make it easier

for us tomorrow to progress on the various items of the agenda.

I think, although we are to adjourn at five, it may be useful if we take a very few minutes to look at the agenda in the hope that perhaps tomorrow morning we would be able to start off on a basis on which we either agree or not, but on which we would have discussions.

Please turn to the Conference Agenda which appears on the first page of the Conference Briefing Book.

We will be now at Item 2 on the agenda and I might say that 2(b) can take about five seconds. I think since last week all of you have had it in your hands, since last Monday or so, and that is the Report of the Continuing Committee. Therefore, we will not go through the motions of tabling it. We will take it as at least possessed, if not read, by everyone.

Item 2(c) I think we can very easily decide to postpone till the final hours of our Conference. It is the Procedure for Constitutional Review.

I think after we have discussed the other items we will decide what committees of ministers or premiers or of officials or sub-committees we will wish to set up to proceed with this constitutional review.

Therefore, we are left with 2(a) which is a general discussion of the objectives of the Constitutional Conference, and I take it in this item we would want to talk about what we want to do here through the next three days and this is the subject matter of the agenda.

If I can state quite briefly the way it strikes me now after having heard the Provinces and having the correspondence that we have exchanged, I think there is a definite insistence that we deal with Items 4(a), Official Languages, 4(b) on Fundamental Rights, 4(c), Distribution of Powers (including constitutional aspects of taxation and spending powers) and 4(e), Regional Disparities.

You will notice that this order is one that emerged from the Conference of last February, and we did not modify it except to expand Figure 4(c) to specify that we would discuss under that taxation and the spending powers.

I might suggest, if we can reach fairly quick agreement on it, but I do not want to curtail discussion, would be that if we skipped over 3, - it would be a very useful debate - but perhaps one on which we will be able to return later - if we take 4(a), (b), (c) and (d) and if we made sure we will be tackling them all, one suggestion might be to deal with 4(a) tomorrow morning and when that is finished 4(b). And if that is not finished by the time of adjournment tomorrow noon we could then even, if it seemed a very short operation, finish in the afternoon, or else perhaps preferably carry it over to the next morning so that tomorrow afternoon we could begin with 4(c). Then when that was finished, go on to 4(e) tomorrow afternoon, and there again if that were not finished tomorrow afternoon we would finish it the next morning.

Which would leave the day of Wednesday free for, in the morning, finishing whatever remained of 4(b) on Fundamental Rights, and 4(e) on Regional Disparities, and the remainder of the morning and the day of Wednesday could permit us to address ourselves to item 3, Objects of Confederation, item 4(d) Reform of Institutions Linked with Federalism, 4(f), (g), and then return to 2(c), being the procedure for what we did from Wednesday into the future.

I suggest that we certainly would not have any objection to reversing that if you want to begin immediately.

Yes, Premier Bennett?

HONOURABLE W.A.C. BENNETT: 4(c) becomes 4(a)?
Just reverse it?

THE RIGHT HONOURABLE P.E. TRUDEAU: If this is the general desire you would want to begin with 4(c) tomorrow morning and go on with 4(e) tomorrow morning? And then tomorrow afternoon we would take 4(a) and (b)? If this is the general desire I have no objection to it. I think we all want to make sure that these items are dealt with in due course, and we are prepared...

HONOURABLE W. WEIR: My correspondence has not really been related to the agenda that is here because in terms of long term I believe that the agenda is covered satisfactorily. I do not really care what order it is in.

But my concern is, as I tried to point out in my opening remarks, the operation under the existing Constitu-

tion, I believe, Sir, that you have an opportunity here by positive action for the short term to really give constitutional change a real helpful start.

As I said before, good will on all sides is what is necessary, and my concern is that we be able to get along in the meantime, and I would be satisfied in terms of the agenda in any way if the Federal Government would make a statement to the Canadian people - not necessarily to us, but to the Canadian people - because I think they are concerned about the total tax load that they have got.

If they would make a statement to the Canadian people saying they would convene as soon as possible a meaningful conference of ministers of finance, possibly as a sub-committee of this Conference, to resolve urgent matters of mutual concern, and that the Federal Government would freely negotiate this situation, and if they would say - if they would agree that during this period of time between the Conference that they would impose no new taxes in fields that were shared jointly without ministerial consultation and reasonable consensus of Provinces, and if they would agree they would not bring in any new programmes in that period of time that would be shared jointly without some full consultation at the ministerial level and some reasonable consensus, and if they would agree they would not cancel any existing programmes without consulting with the Provinces and some kind of reasonable consensus, because I think every provincial government is attempting to plan its budget and it needs to be able to look ahead a reasonable period of time, and I think, to coin a phrase that is being used around the table, if we could have participatory democracy in this field, if we could go on under these terms and conditions, that we could have some real good discussions in terms of the long view of Confederation.

THE RIGHT HONOURABLE P.E. TRUDEAU: I think if we were to agree to all these things perhaps we would not need to have the discussion, but perhaps we would not have much of a central government left.

I think it might be useful, Premier Weir, if we were to spend perhaps half a day or at least some hours so that you could state your point of view and we would hear that and other Provinces on this point, and then we would agree, I would say, Sir, right now we would agree to your suggestion to convene whenever Provinces are so disposed a meeting of ministers of finance, of ministers of regional development, or whatever ministers we decide are the

appropriate ones to discuss these questions.

I would say right away at the outset that we are anxious and willing to co-operate with the Provinces, and whatever mistakes we have made are not due to ill will but they are due to the fact that I think we are all discovering we are in a new area where consultation is something much more urgent than it was in the past.

I suggest we should perhaps say these things to each other and see what areas of agreement and disagreement there are, and then we could take your suggestion and refer the whole matter (if we have not completely agreed by tomorrow) refer the whole matter to a committee of Federal-Provincial finance ministers or other ministers to debate the constitutional aspects.

HONOURABLE W. WEIR: I don't know that I understand your suggestion. Your suggestion is we talk about the long term and not short term.

THE RIGHT HONOURABLE P.E. TRUDEAU: Well...

HONOURABLE W. WEIR: I think, Mr. Prime Minister, our objectives are the same, and I am the last man in the world that will criticize you for trying to balance your budget and get things in control because I agree that is necessary. But my concern is that a move you can take can escalate taxation in our field and the people in Canada are going to be faced with increased taxation as a result of it; not reduced taxation.

And I think we are defeating your purpose as well as our purpose by not agreeing at this stage of the game.

We have joint areas of responsibilities that we have accepted over a period of time. We have joint areas of taxation that are there. The Government of Canada still has indirect taxation fields in which they can move freely without consulting Provinces and going down the line, and I really believe if we can have a meeting of minds on this in this direct tax field where we can talk about it, you would still be free to go ahead, but at least there would be some consultation. We would have a means of planning.

I think the people of Canada would be the winners if we could arrange for this kind of consultation amongst ourselves. I think it is surprising, maybe, how well we would come out in what we were trying to achieve collectively.

THE RIGHT HONOURABLE P.E. TRUDEAU: I think we would agree to that. Let us try to have this meeting of minds as you suggest for a little while tomorrow rather than joining the issues tonight. You would surely have no objection that we continue this little exchange either tomorrow morning or tomorrow afternoon according to whether we take 4(a) and (b) first or 4(e) and (c) first.

HONOURABLE W. WEIR: Me. Prime Minister, the only thing I have been striving to get is an opportunity to talk about between "now" and "constitutional change" onto the agenda some place.

THE RIGHT HONOURABLE P.E. TRUDEAU: What is the feeling on that? Do we take 4(a) and (b) in the morning and the other in the afternoon or 4(c) and (d) in the morning and 4(a) and (b) in the afternoon?

HONOURABLE J.J. BERTRAND: Mr. Chairman, am I to understand that the problem raised by Mr. Weir being an immediate problem, a "short term" problem, it will be discussed tomorrow morning? Is that what you have just said?

THE RIGHT HONOURABLE P.E. TRUDEAU: In my opinion, tomorrow morning we should have looked at (a) and (b), "Official Languages" and "Fundamental Rights". In the afternoon we should have looked at 4(c), "Fiscal Matters and the Distribution of Powers", and 4(e), "Regional Disparities". Premier Bennett has suggested that we reverse this order. I am quite ready, if you are, to tackle finances on an empty stomach instead of languages. We have no objections.

HONOURABLE J.J. BERTRAND: Anytime. Especially now that we have our Ministers of Finance with us. They are preparing their budgets and therefore are no doubt very interested to know whether, notwithstanding your declarations that the Provinces should raise their own taxes, they can still hope to get some further percentage points from the Federal Government. In this way the Ministers of Finance could fulfill the expectations of their Provinces and still balance their budgets.

Mr. Chairman, I am ready for this discussion; whether it is held tomorrow morning or tomorrow afternoon is of no consequence.

THE RIGHT HONOURABLE P.E. TRUDEAU: Well, there is agreement then on proceeding this way. But there is some

uncertainty as to whether we would take finance first and the other in the afternoon or vice versa. Can I have one opinion on this?

HONOURABLE W.A.C. BENNETT: Finance for the Constitution; not immediately?

THE RIGHT HONOURABLE P.E. TRUDEAU: Finance for the Constitution.

Well, if that is agreed...

HONOURABLE W. WEIR: Can you tell me when we would be dealing with the immediate situation?

THE RIGHT HONOURABLE P.E. TRUDEAU: We are prepared to deal with any and all aspects of the situation tomorrow morning, Premier Weir. I think it might be useful if we try and also think of the constitutional situation.

HONOURABLE W. WEIR: All I ask, Mr. Prime Minister, is that we come to a conclusion some time, because last year I allowed myself to be pushed off taking a ministerial committee and I found I just had to keep on going. And if I don't, why, it will get pushed out of the agenda the other end. And I am not going to let that happen this year.

THE RIGHT HONOURABLE P.E. TRUDEAU: That is why I am suggesting we could have it in the morning rather than in the afternoon, if the Conference so prefers.

Agreed?

SEVERAL VOICES: Agreed.

THE RIGHT HONOURABLE P.E. TRUDEAU: The Conference is adjourned until tomorrow morning at ten o'clock.

THIRD SESSION TUESDAY MORNING
Ottawa — February 11, 1969

THIRD SESSION: TUESDAY MORNING

THE RIGHT HONOURABLE P.E. TRUDEAU: I would like to welcome you to the Federal Provincial Conference.

I believe that after last night's efforts we should deal with the proposed agenda.

We had agreed yesterday afternoon, at the time of adjournment, to deal this morning with items 4 (c) Distribution of Powers, especially from the point of view of the taxation and spending powers and 4 (e), Regional Disparities. This afternoon we had agreed to deal with 4 (a) and 4 (b), Official Languages and Fundamental Rights so that if either of these subjects was not concluded this afternoon we could continue with them tomorrow. Of course, if the discussion ends earlier we would automatically move to the next item.

I might make a proposal by way of announcement before getting into the discussion. It would be a suggestion if the heads of governments are agreeable to it to have a meeting over the noon hour after our adjournment at 12.30 of the Continuing Committee of Officials who might want to get together to look at a certain number of proposals we could or they could begin working on, with alternative outs, of course, to permit heads of government, when they reach any conclusion on the subject, to have something of a draft in front of them, if we decide to refer a subject to the Continuing Committee of Officials or to a Committee of Ministers as Premier Weir said. We might have them work on a draft of sorts for various items on the agenda, and although they should not be in a position to tell us what we should conclude, they might be able to speculate on the various conclusions we might draw, and accelerate our work, the draft part of it.

If that is agreeable to everybody I would ask federal officials to make arrangements to meet with the provincial members of the Continuing Committee of Officials so that they could sit down over the noon hour.

On the items we are dealing with this morning, 4 (c) and 4 (e), Distribution of Powers, including constitutional aspects of taxation and spending powers, I

take it that the discussion will be essentially on taxation and spending powers; that the Distribution of Powers, proper, the whole area of that subject, will not be discussed this morning.

Of course, it could be for anyone who wished, but it would take time away from the financial aspect which I believe should be dealt with at as great length as necessary.

Therefore it would mean essentially this morning we would be taking taxing power and the spending power, and I will ask one of the premiers who wants to raise this to lead off the discussion. I could only remind you perhaps, in my function as Chairman, that, if it is at all possible, we should have this discussion in the context of the constitutional debate. It might be useful also to recall to mind what the Constitution says on taxing power and spending power.

On taxing power it provides that the Provinces are empowered only to impose direct taxes. For the individual citizen this means income tax, retail sales tax, gasoline taxes, liquor taxes, property taxes and corporation income taxes. There are others, but this is the main thing it means for the citizen, and this is the main area where provincial governments under the Constitution can tax.

A Federal Government has these taxes too, although it does not use the property tax, but it also has the indirect taxes, and by "indirect taxes" roughly speaking and in practical terms this means customs duty or the tariff and indirect sales tax which is collected from the manufacturer.

Therefore, in practical terms the Constitution says that both the Federal and the Provincial Governments have the power to impose the major taxes, taxes on income, taxes on property and taxes on sales.

I might add in terms of total revenue the Federal Government levies just about slightly over 50 per cent of these taxes, and the Provinces just slightly under 50 per cent.

If I could add another important fact: much of what the Federal Government collects (something in the order of 20 per cent) it turns over to the Provinces, so the issue we will have discussed, and once again it will eventually have to come out in terms of the Constitution, is how can we achieve a balance between respective revenues and expenditures of each government? Not only today, but how can we do it in the future.

The second and related issue is the issue of the spending power. The Constitution does not use the word, but we all know the power of the purse or spending power is a form of prerogative exercised by not only Federal Government but also Provincial Governments.

In the Federal case it has been under that spending power on programmes like hospital insurance, social assistance under the Canada Assistance Act, Medicare, Health Resources Fund, and several other examples I gave yesterday. It is under this spending power that they come to exist through the Federal Government.

The Constitution the way we have interpreted it is to the effect that these programmes must be legislated and administered by the Provinces, but the Federal Government can support them by way of federal grants. It is in this way that 30 per cent of total provincial revenues come from the Federal Government. So the question I take it, on the constitutional question which is raised, is whether Parliament ought to have this power under the Constitution, this spending power, and if so whether there ought to be some rules about how it is used. Should it only be used to correct regional inequality or should it only be used to have equalization grants, or in areas which impinge on provincial jurisdiction? Should it only be used in consultation with the Provinces, and if so would unanimity amongst the Provinces be needed for us to use it, or a majority, or what?

These are difficult questions, but they are the ones we will have to face. If we cannot solve them this morning we will have to ask, I take it, our officials to prepare to have a further meeting between ourselves.

I do not mind, once again, discussing limitation of spending powers, and I am sure you do not either,

but we would like to know in the future how you would want the Federal Government to use it. I suggest the past is a little bit difficult to undo. It has been used for a hundred years, and though I am sure we will be talking about some of the past programmes and we will debate these as best we can, we will hope that in terms of constitutional review we will be looking for guidance for ourselves for the Canadian people under the Constitution as to how Provinces would want us to use this spending power because we would like to do the right thing. We would like to have what is a government by satisfactory consultation or communication, and we are anxious to have ways in which we can spell out the rules of the game. That is to say, the Constitution.

This being said, and I hope I did not abuse too much of my prerogative as Chairman, I would welcome an opening statement on the difficult problem of taxing and spending power by any of the provincial premiers who want to speak.

Mr. Bennett?

HONOURABLE W.A.C. BENNETT: It is not primarily a question of spending power. It is primarily a question of income or taxing power. Decision of the National Government on taxing powers. If the National Government has the money, they are going to spend it, even if it is not their own jurisdiction, and that has been our difficulty in Confederation.

We haven't had that trouble for the full one hundred years. It started in the First World War when Sir Thomas White was Minister of Finance. He entered the income tax field for the first time, and that is not a hundred years ago.

He gave a statement that this was really a provincial government field and not a federal field, and after the war they would have a new look at it. Then came the Second World War, and the Federal Government occupied the field completely, themselves, and then since the Second World War, in the greatest expansion period of all time, these revenues have grown tremendously. Instead of surrendering the legitimate field to the Provinces, they hold on to the revenues.

They have held on to the provincial field, and that is where we are in great trouble, with the Province of Quebec -- in that respect British Columbia agrees with Quebec -- and that is where we are in difficulty on the Constitution, so I would say that is the place for us to deal with it, and we go at it in this way: on the list of powers of the Federal Government, on page 25 of the British North America Act, 1867 to 1967,

- (91) 1A. Says "public debt of property". No problem there.
2. The Regulation of Trade and Commerce. No problem there.
- 2A. Unemployment insurance. No problem there because the people have the right of movement across the Country -- number 3 is where all the difficulty comes from.
3. The Raising of Money by the Federal Government by any Mode or System of Taxation.

This has been the field which has been abused by the National Government, and that is where all the trouble comes because no revenue is safe for the provincial government with this federal power because not even property tax in a municipality is safe. No tax field is safe for the Province and the municipalities and the cities, from the Federal Government using them. Whereas Sir Thomas White said it was really a provincial field, the Federal Government is refusing to surrender it. That is our great problem, so as Premier of British Columbia I suggest we take that out of the federal taxing powers.

THE RIGHT HONOURABLE P.E. TRUDEAU: You would suggest the Federal Government has no right to impose direct taxation, is that it?

HONOURABLE W.A.C. BENNETT: That is right.

THE RIGHT HONOURABLE P.E. TRUDEAU: Or just income tax?

HONOURABLE W.A.C. BENNETT: I would say we take this out, raising money by any mode or system of taxation. Take that out. And then let us define what the modes are of taxation, but not have the all-over declaration that they can go in everything and anything.

THE RIGHT HONOURABLE P.E. TRUDEAU: How would you suggest we define it?

HONOURABLE W.A.C. BENNETT: Let us agree on that one first, that you won't have that overall. And then let us deal with it point by point.

THE RIGHT HONOURABLE P.E. TRUDEAU: Well, the position of the Federal Government is that the whole Constitution is up for grabs, if I can use that expression ---

HONOURABLE W.A.C. BENNETT: This is not an expression: this is a definition.

THE RIGHT HONOURABLE P.E. TRUDEAU: -- for the purposes of discussion I would concede we are prepared to abolish this section of the Constitution and discuss what it should be replaced by, providing we can find agreement on what it should be replaced by.

HONOURABLE W.A.C. BENNETT: Yes, but let us deal with this first, and then let us agree because the whole Constitution itself will not be agreed to now but tentatively agree to this.

THE RIGHT HONOURABLE P.E. TRUDEAU: Are you suggesting, Prime Minister Bennett, that now we agree the Federal Government not have the right to any taxation? We should agree on this first?

THE RIGHT HONOURABLE P.E. TRUDEAU: O.K. We agree to that. We do not go into property taxes now anyhow.

HONOURABLE W.A.C. BENNETT: Let us agree on this one thing first.

THE RIGHT HONOURABLE P.E. TRUDEAU: All right.

HONOURABLE W.A.C. BENNETT: And then we go on specifically.

THE RIGHT HONOURABLE P.E. TRUDEAU: What specifics? Would you like us to evacuate direct tax completely and all our budgets would have to be raised by indirect taxation. Is this the proposal you would like to make?

HONOURABLE W.A.C. BENNETT: I would like to have a discussion regarding that with the Federal Government of responsibilities the Federal Government should take in our Country for the next period, and then you define what taxation fields you should be able to enter, we as Canadians should all enter through our National Government. What should be the responsibility, and I do not think we can define that until we start to find out what we agree on .

THE RIGHT HONOURABLE P.E. TRUDEAU: What their responsibilities are? Therefore, before discussing taxing you would like to discuss distribution of powers but I am afraid that is not what we agreed to yesterday.

HONOURABLE W.A.C. BENNETT: Distribution of the Federal power -- of the federal responsibilities; not federal power, but federal responsibility to the people of the whole. Because there was a great statesman who came from I think the Province of Manitoba and then became a Minister under the Federal-Liberal Government.

He then was a great senator. And two years ago I talked with him, the late Senator Crerar. He told me that 40 years ago he was a great centralist, 30 years ago he was a great centralist, ten years ago he was a great centralist, five years ago he was. But now, he said -- now he thinks that the National Government, because Canada is grown up now and has so many things to do in the world, in the League of Nations and the United Nations and everything else, and foreign trade etc., that the Federal Government is tied down with too much detail. And if the Federal responsibility was given to questions on all treaties, everything to do with other nations, everything to do with treaties of other countries, everything to do with the currency of the nation, everything to do with complete control of central banking and the control of chartered banks in your country and those general things, then when you come to these questions of health and welfare and education, those questions that are domestic should be handled by the Provinces or the regions.

THE RIGHT HONOURABLE P.E. TRUDEAU: Well, we see the importance of this, Prime Minister, but yesterday we had agreed that this morning we would not discuss distribution of powers in general -- what you are doing now -- and whether the Federal Government should have

some powers, but we would discuss fiscal problems and the spending power.

I don't want to use the gavel, if this is the desire of the Conference. I don't want to force my views, Mr. Prime Minister. I am only making a suggestion.

HONOURABLE W. WEIR: May I find out now exactly where we stand? This is the temporary situation. If we are talking about the long-term financing, I have some views on that.

I am more concerned before we get into that, if we can, that we put ourselves collectively to considering the position as regards the taxpayer in Canada today, while we are talking about the next ten years. And I think that it warrants the concern of all of us to look at our position and see if we can't find a means of agreeing how much money the public purse can afford for public services, and stop the teeter-totter that is going on between us, and elevate the tax load on the taxpayer.

The suggestion that I made yesterday was that, if we agreed that there would be a meeting of finance ministers in due course, as soon as it can conceivably be got ready, and if we could agree that in terms of the direct tax field that the Government of Canada would not make any great advances into the shared-cost programmes, or any retreats out of the shared-cost programmes, or any new taxes in the shared-cost field, without some reasonable consultation amongst the Provinces -- because I think we have a legitimate concern. I think we share the same views. It is a matter of mechanics as to how we can iron it out.

If we could come to some resolve on the immediate, I have got some views in terms of the long term on detail. I have all kinds of screeds. But I would like to try that one on for size.

THE RIGHT HONOURABLE P.E. TRUDEAU: All right. Could we have some discussion on these propositions -- essentially that we do not enter into any new tax-sharing agreements or new joint-cost programmes.

HONOURABLE W. WEIR: That is not what I said. You don't do it without some consultation and some reasonable

consensus, so that the impact on the Provinces as to whether or not -- for instance, if you want to withdraw from a programme. I think we are all looking for obsolete programmes we can withdraw from. But if Ottawa has a programme they believe is obsolete in some sections of the Country and it might not be obsolete in other sections, the withdrawal of that programme and the spending of the money in another area is a hardship, plus additional taxes to participate in the new programme that is being advanced. And I think we have a joint responsibility in this area to consider the impact on all of us as we move forward.

I am not suggesting for a minute that we stand still. I think that if we want to advance socially and economically within the nation we have to do so by considering some of the obsolete policies and programmes that we have. And in doing so I think we can move forward. But we cannot move forward by just straight advances and not considering some of the obsolescences that are built in.

There is only one way that you do that, and that is add tax on tax on tax on tax. And in my view, in a Country with twenty million people and, even more important so far as I am concerned, a Province with a million people, being able to compete in the economic markets of the world is pretty important. And our cost of providing public services is part of our built-in cost of production.

In terms of Manitoba I am not really interested -- well, I am interested; I am more interested in getting "Made in Manitoba" labels on the shelves in John Robarts' Province than I am on the shelves of Manitoba.

I am interested in the North American Continent. We are one million people out of a continent of 220 million. We have to compete in two fields. One is price and the other is quality.

We have no problem competing in quality, but we are starting to have some real difficulties in competing on price. And as we add on these costs of public services I have a real concern about our trading prospects, if we go marching merrily on without jointly sitting down and considering the matter.

HONOURABLE D.G. STEUART: Unless the Federal Government can talk about immediate financial problems, unless Mr. Benson is ready, I don't know how we can talk about money unless we talk about responsibilities.

HONOURABLE W. WEIR: If I could clear this up, Mr. Prime Minister, I am not down here to try to put my hands in the federal treasury. I think they have had their hand in ours for a long while. I am not arguing about that.

We are at a fixed position now. Let us consider our position before we have any arbitrary changes.

THE RIGHT HONOURABLE P.E. TRUDEAU: Is there some debate on this, that we should freeze all our joint spending programmes? Is that part of your ---

HONOURABLE W. WEIR: No, it is not. It is a matter that we agree before we advance.

THE RIGHT HONOURABLE P.E. TRUDEAU: Yes. We ---

HONOURABLE W. WEIR: When you say "freeze" you leave me with the impression that what you are attempting to do is not progress. And this is not my view at all.

My view is before we progress, before we make some changes, that we have some consultation and talk about it, and have some reasonable agreement.

THE RIGHT HONOURABLE P.E. TRUDEAU: Well, I think that is a reasonable proposition.

Certainly as much as two years ago when Mr. Sharp was Minister of Finance with Mr. Pearson's government, he indicated that we were not going in the direction of shared-cost programmes any more because we realized that we were determining certain provincial priorities in a way which was not acceptable to them. And it is at that Finance Ministers' Conference that Mr. Sharp indicated that we would tend to withdraw from these shared-cost programmes.

Medicare having already been discussed after a great deal of consultation with the various Provinces, I would not say that there was anything like unanimous agreement that it should be proceeded with. But this

raises a problem. Some Provinces want the shared-cost programmes and the others do not.

HONOURABLE W. WEIR: Well, Mr. Prime Minister, if you want to talk Medicare, I don't mind talking Medicare, because there is no difference, in our view, in terms of Medicare. The differences we have had are in the rules and regulations that they apply to it. And I have got some pretty firm views on that.

I thought we had a pretty reasonable plan that we presented that looked after things pretty well from our point of view; and it was turned down.

But I am not even complaining about that at this stage of the game. And it is not that I agree with it. I think it is over and it is done with, and I would be beating my head up against a stone wall to do it.

HONOURABLE J.P. ROBERTS: We do not take that position in Ontario. We still object to Medicare, and we will continue to do so. We also serve notice that we want the fiscal equivalent. We now serve formal notice now that we want the fiscal equivalent.

THE RIGHT HONOURABLE P.E. TRUDEAU: Would you suggest this principle be applied every time there is a shared-cost programme?

HONOURABLE J.P. ROBERTS: We want some ground rules, Prime Minister. We could point out to you -- I don't propose to do it because I think it is a little picayune -- but we could show you in hard figures that your government's withdrawal from certain programmes has made things very difficult for us. For instance, in one programme alone there was a sum of \$25 million owed to Ontario by the Federal Government when all of a sudden you said, "No." So we had to adjust our budgeting to produce \$25 million dollars from our own revenues. This is our objection to shared-cost programmes.

We also object very strenuously to the use of the federal spending power to really alter the Constitution because -- and I don't lay this on your doorstep, I might say, because it was done prior to your assuming office -- but Medicare is a glowing example, a Machiavellian scheme that is in my humble opinion, one of the greatest political frauds that has been perpetrated on the people of this Country.

The position is this: you are taxing our people in Ontario to the tune of \$225 million a year, to pay for a plan for which we get nothing because it has low priority in our plans for Ontario.

That is why I say we want the fiscal equivalent. We think it is a fair and proper demand. We would simply say that if we do not choose to enter your scheme, we should be given the money you are going to raise for that purpose from the people of Ontario.

I hope all the people in Ontario are watching and listening to me on television this morning, because I am speaking to them. They are the people that are going to put up the \$225 million. And if we don't succumb to your blandishments or yield to your pressures the taxpayers of Ontario are not going to share in the money that they are going to pay.

HONOURABLE W.A.C. BENNETT: We think the Federal Government is not only for every taxpayer but every citizen in this Country. You are elected direct, not through the provincial governments. Therefore all I want to say is that you only collect in certain tax fields, but within their powers a national government to be a national government must have the right, if their parliament agrees, because they got their power direct from the people everywhere to bring the policies that they feel best for Canadians everywhere.

Now, we will argue about them and so forth, but as a premier of a Province or a citizen of Canada I don't question the Federal Government's right, any federal government's right, within their powers to tax Canadians everywhere, as long as they tax them on a uniform basis. And then if Canadians everywhere, or anywhere, don't enter these programmes, that is the free choice of the different areas.

That was true of hospital insurance, because unless some Provinces had pioneered hospital insurance in this country, and if other Provinces had the right to veto it and withdraw and get equivalents, then we would not have had this wonderful hospital insurance that we have across this nation.

HONOURABLE J.P. ROBARTS: We have a wonderful plan in Ontario that suits us and suits our people. But we are asked to scrap it. We are told to destroy it.

HONOURABLE W.A.C. BENNETT: The Federal Government has this plan and the Provinces, if we want to share with it, we should dovetail in with the federal plan.

And we found no difficulty in British Columbia with dovetailing our plan in with the federal plans on Medicare.

I think I mentioned it yesterday, the two bills that a family has that can cripple a family for years and years to come, is a big hospital bill or a big medical bill. And that is what they have not got in the United States. And that is the reason why they are jealous and envious that this northern half of this continent can do these things.

And these two great reforms -- I would like to see no retreat on hospital insurance and no retreat on Medicare. Because if any Province can withdraw, then that Province could withdraw and have nothing in its place.

HONOURABLE J.P. ROBARTS: We have everything in its place. We have our own ---

HONOURABLE W.A.C. BENNETT: I believe what we must realize is that we have a Federal Government that gets its power direct from all the people and deals with national things, and provincial governments have their power direct. But I would only argue -- and that is the only point I am trying to make, is that I think the Federal Government, because of its going into every mode of taxation, has got into these deals with Medicare that we should have got into ourselves.

HONOURABLE J.P. ROBARTS: Don't forget equalization aspects. For instance, Newfoundland gains through this plan (now my colleague Mr. Smallwood is a great friend of mine; I have many friends in Newfoundland) but there is equalization, built into this programme. If we are going to take the national average, Newfoundland makes money.

You are a high-cost Province. You don't ---

HONOURABLE W.A.C. BENNETT: We are a high-cost Province, yes.

HONOURABLE J.P. ROBARTS: Do you agree with this?

HONOURABLE W.A.C. BENNETT: I agree that the Federal Government has a right to do it.

HONOURABLE J.P. ROBARTS: They have got the right to do many things, but that doesn't mean I agree with everything they do.

HONOURABLE W.A.C. BENNETT: What I am saying, Mr. Prime Minister, is this -- that I don't agree with equalization at all of the provincial governments, because you are equalizing taxes that should not be equalized, because one Province has one expense for teachers' salaries, for instance, and another Province has a much higher one. Your equalizing provincial governments is not the type of equalization I want.

But I want equalization for Canadians; no question about that. And I want it for individual citizens rather than provincial governments. I think that is the next great reform we need -- hospital insurance, Medicare and minimum income for our people everywhere. And those areas that are low income, like Newfoundland and so forth, will get most of the benefit.

I find no fault with equalization as such, but only that we are trying to equalize the wrong things.

(TRANSLATION)

HONOURABLE J.J. BERTRAND: Mr. Chairman, I believe that if we accept the views which have just been expressed by the Premier of British Columbia we would be led directly to a unitary form of State, a National Government invested with just about every power and every responsibility of government. It might not really be what he meant to say but that is what I concluded from his remarks.

We have made our position clear on more than one occasion. With regard to taxation powers it would appear to flow from yesterday's discussions -- that is the discussions of late afternoon yesterday -- that this matter

should be looked at from two different, but complementary, points of view. We should, to begin with, arrange matters in such a way that the Provinces would have at their disposal those resources they require to face their obligations under the present Constitution. That is what we might call the immediate problem.

Constitutional discussions can only go on with any degree of efficiency if our present system works reasonably well and if there exists a climate of mutual confidence.

On the other hand we should also look at the fiscal problem in a long time perspective. As you have noted yourself it should be looked at within the general framework of a new allocation of responsibilities and fiscal powers, what has been called a "new division of powers".

With regard to the immediate problem, last November and December the Federal Government consented, as indeed it had already agreed to, to re-examine with us the matter of fiscal arrangements. I was present at last November's Conference and my colleague, the Minister of Finance, the Honourable Mr. Dozois, was present at the December meeting. Unfortunately it must be said that no change in favor of the Provinces came from all this, in spite of the technical groundwork which had already confirmed the predictions of the Tax Structure Committee, i.e. that the income of the Federal Government is increasing more rapidly than its expenses while, at the same time, the irreducible expenses of the Provincial Governments are rising much more rapidly than their tax revenue. In fact I could quote in this connection a very large number of examples. I have particular reference to the area of education. Barely a year and a half ago, in our 1966 budget, we had earmarked approximately one half billion dollars for education. Last year the corresponding figure in our provincial budget was seven hundred and fifty million dollars. But there is more than that. Not only do the present arrangements indicate no improvement but they are not even respected. The Federal Government had undertaken to contribute toward capital expenses in respect of vocational and technical schools to a maximum amount of 374 million dollars in the Province of Quebec, with no cut-off date. It now seeks to impose, unilaterally, an arbitrary maximum figure of 34 million dollars for the next fiscal year even if Quebec is still

entitled to approximately 150 million dollars in federal grants under these agreements.

This amount of 34 million dollars is clearly inadequate and will not make it possible for us to continue with the construction already undertaken. We are faced with the possibility of not being able to continue our programme at a time when it becomes increasingly urgent in order to meet the increase in our population and to reduce unemployment.

I might add, finally, that this restriction is unfair to those Provinces who were unable to benefit from federal contributions at the original stages of the programme, thus making it impossible for them to make up lost ground.

Above and beyond all this, the Federal Government would like to see us move immediately into a universal and public medical insurance programme. I need not point out that, for the moment, we have not the means to do so even though we would very much like to.

As we stated last November we have the intention of setting up a Quebec medicare programme but we will do so when we wish to, that is when we are able to.

This, the fact is generally admitted, is a matter of exclusive provincial jurisdiction. It is up to the Government of Quebec alone to decide what steps it may wish to take in this direction. To finance this intrusion in what is clearly a provincial responsibility the Federal Government -- without consulting us, of course --, has brought down a new so-called "Social Development Tax" which will make it increasingly difficult for the Provinces to make use of the personal income tax field. In effect this will void, so to speak, the income tax reduction which had, in all fairness, been extended to our poor taxpayers.

Mr. Chairman, the Prime Minister of Ontario, Mr. Robarts, indicated what the citizens of his Province would be called upon to pay in this connection. In Quebec the figure will be approximately 120 million dollars. That is why I fail to understand why the Federal Government persists in wanting to levy these new taxes while the Provinces, in the exercise of their constitutional powers, have decided not to take advantage of the Federal medicare

legislation. How is it that it is not understood that in the present political situation in Canada and in Quebec, methods such as these undermine the confidence that one would wish to place in a federal system?

I must, therefore, repeat to the Federal Government the warning which we have given already. This lack of responsibility with regard both to tax sharing and to federal interference in matters of provincial jurisdiction -- more particularly in the field of health -- leads directly, we feel, to the breakdown of the Federal system. Far too often does Ottawa have the money and Provinces both the powers and the responsibilities.

The question to be answered is, therefore, as follows: Are the rights and responsibilities to be given to that authority which has the money or should we give the money to that authority which has the rights, powers and responsibilities?

As far as Quebec is concerned this has been repeated over the years. We need only, in this connection, read the statements made by the Prime Ministers of Quebec over the last twenty-one years. I have been in politics since that time and I know that at each and every Federal-Provincial conference Quebec has always stated its view that the money, the income should follow the rights, powers and responsibilities and not the reverse.

Mr. Chairman, that is my point of view. I know that point has been made over and over again. I did feel, however, that, this morning, Quebec had to raise it again on the occasion of this discussion of the immediate problem raised by our colleague from the West, the Premier of Manitoba.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Bertrand. I feel that

(ENGLISH)

HONOURABLE J.R. SMALLWOOD: Prime Minister, may I ask you a question? What are we at this stage supposed to be? What is it we have agreed we will discuss? Is it this: what powers shall the Parliament of Canada have that it may pass on to the Government of Canada with regard to

imposing taxes on Canadians? Is that it? Or is it: what authority shall the Government of Canada be given by the Parliament of Canada under Canada's Constitution to spend money?

Is it to collect money or is it to spend money that we are now discussing?

THE RIGHT HONOURABLE P.E. TRUDEAU: Premier Smallwood, I believe the argument covers both.

HONOURABLE J.R. SMALLWOOD: All right.

THE RIGHT HONOURABLE P.E. TRUDEAU: It is the taxation and the spending power.

HONOURABLE J.R. SMALLWOOD: Okay.

THE RIGHT HONOURABLE P.E. TRUDEAU: It would be useful if we could discuss one at a time.

HONOURABLE J.R. SMALLWOOD: The question, it seems to me, boils down really to this: what is Canada for? What is the Parliament of Canada for? What is the Government of Canada for? Is it to be a Parliament passing laws to impose enough taxes upon the Canadian people to give the Government of Canada the means to take on responsibilities for the armed forces, the post and telegraphs, railways, airways, fisheries, agriculture, harbours, aids to navigation, banking, foreign affairs, foreign trade; the obvious concerns of every national government in the world because no other government of any country can be given those responsibilities but that of the nation as a whole.

Is that to be the purpose of the Parliament of Canada or of the Government of Canada? Normal, conventional, traditional responsibilities and duties of a national government under any form of government in any country, large or small; whether it be half a continent as here, the northern half of the North American Continent, stretching 4,000 miles from the Atlantic to the Pacific and made up of ten Provinces, or a country like Mexico or Nicaragua or any country you like.

Is it to be the case? Are we reconciled and resigned to the case that the Canadian Government is just going to be charged with these normal functional and traditional responsibilities or -- is the Parliament of Canada to be

charged under the Constitution with a far greater responsibility than that; namely, the responsibility of guiding and moulding and helping to shape (not exclusively now) because there are Provinces and they do have their own legislatures and they do have their own governments responsible to those legislatures, and they do have their own constitutional responsibilities and powers so the federal one cannot in everything be exclusive and monopolistic. But surely - surely the reason for Canada, the reason for Confederation, the reason why we are not ten Balkan states, the reason why there is a Canada and a Parliament of Canada is this: that the Parliament of Canada or the Government responsible to the Parliament shall be charged with this supreme job of general superintendence of Canada as Canada and responsible for the growth and development and greatness of Canada, and therefore, of course, the happiness, harmony and unity of Canada.

If that is the purpose of the Parliament of Canada then surely we are not going to change the Constitution of Canada to take away from Canada ...

The Parliament of Canada took away that mission, that purpose, and the means to do it.

Let me give you a practical example. Newfoundland -- I apologize for using Newfoundland as an example, but I use it because I know it better than the other nine Provinces -- Newfoundland has a thousand little towns and settlements (you would call them villages) with a population of eight, ten, twelve families, up to fifty or eighty families. And when it gets up to a hundred families it begins to be a sizeable place in our eyes.

We have a thousand of them, and they stretch along six thousand miles of coastline.

Prime Minister, you flew over them. If you looked down you saw them spread out eight, ten, fifteen miles along the coast.

Would the Government of Newfoundland be justified in saying to each one of the thousand "You shall have what you yourselves are able to produce and no more. You shall have the roads, the schools, the health services, public finances, public services, standard of living, your families, your children shall have the opportunities of those only what you yourselves can produce, each of you in your own settlement."

Now, we would be a shame to Canada. We would be a shame to the world. We cannot do it. What we do is this -- obviously we have to do it. Corner Brook, a great paper mills town; Grand Falls, a great paper mill town; Labrador City, the city of Wabash, great mining towns and a few others -- not many -- but a few other towns are producing whatever wealth of real size we get in Newfoundland. It is produced primarily in a handful of places.

There is a great -- what is the word, absence of equilibrium -- disparity. This is the word I was trying to get you to say Prime Minister, this is your word. This is your word. You have made this word a household word in at least five of Canada's ten Provinces.

There is this disparity within Newfoundland between these thousands of places. In New Brunswick Premier Robichaud waged a great battle on this same issue. He said each individual little township, or whatever they call them in New Brunswick, (we call them settlements) each one shall not be dependant on what revenue, what wealth it is by itself alone able to produce. It and its children should not be forced to depend, for the kind of opportunities and kind of education they shall have on the accidental and oftentimes trifling amount of wealth that each little settlement produces. You made it the concern of all New Brunswick. You make it the concern of the legislature and government of New Brunswick. We have to do the same.

I suggest to you, Prime Minister, you have to do the same. The Parliament of Canada and the Government of Canada have to adopt precisely that same principle, and that there is no other reason for Canada. There is no excuse for Canada to exist.

I take it you are not to be presiding gracefully as Chairman of a sort of board of hard-faced directors called the Government of Canada, unconcerned, not caring about the disparities, but concerned only with railways and canals, airlines and foreign trade and foreign representation and defence and these normally conventional things. That is not what you are here -- excuse me, I don't mean you personally -- the Parliament of Canada, that is not what they are for. That is not what Canada is all about.

Now, you have recognized that this principle, you, your predecessors, Liberal, Tory, you have all recognized it because under both administrations you have brought in such

things as the Industrial Development Bank to lend money for enterprises that the conventional banks will not look at. You have brought in the transmission line loans, power lines for the Atlantic Provinces only; not for the rest of Canada. That applies only to the Atlantic Provinces.

You have brought in other schemes for the Western Provinces. The Prairie farmers have the Rehabilitation Act. You have brought in various other bits and pieces of legislation down through the years as a recognition of federal responsibility for help and assistance in developing underdeveloped parts of the whole.

Then more laterly the Atlantic Development Board, and ARDA, and ADA -- the Area Development Agency and FRED. These are, all of them, I take it, recognition on Canada's part of a federal responsibility, a parliamentary responsibility, a Federal Government responsibility, attempting, not by dragging down but by lifting up, attempting to bring about more equilibrium, more in the nature of equality to the ten Provinces.

Otherwise, surely the thing is to wash Newfoundland down the drain, and Nova Scotia, and Prince Edward Island, and New Brunswick and maybe Manitoba, and moving over into Quebec, maybe Quebec should be washed down the drain because Quebec is in the same position -- Premier Bertrand, you are in exactly the same position as Newfoundland is in. You cannot any more -- well, a little more than Newfoundland but not much more -- you can't maintain a standard of personal and family living and all public services in Quebec without helping hand from Ottawa in the hundreds of millions a year.

(TRANSLATION)

HONOURABLE J.J. BERTRAND: But if I may, Mr. Smallwood, should I conclude from your remarks with regard to the role of the Federal Government, that since we need money, the area of education should come under the Government at Ottawa? Because we have needs in the field of health, does this mean that health should come under the Government of Canada.

And should welfare come under the Federal Government because it is expensive, is that what you mean?

HONOURABLE J.R. SMALLWOOD: No I do not.

HONOURABLE J.J. BERTRAND: Would you permit me to add this?

We have never discussed this role which we feel is important, that is the part played by equalization payments designed to assist those Provinces whose needs are the greatest. We have never denied that. On the contrary. I will also say that Quebec has received equalization grants as well. I know that there are other Provinces in Canada which received them. Mr. Robarts stated that he was happy to make this contribution to the whole of Canada out of the prosperity of his own Province and Mr. Bennett from British Columbia has said as much. But, with regard to the basic point at issue it cannot be claimed that the Federal Government should deal with education, health or welfare because of the existence of needs such as those you have pointed out.

(ENGLISH)

HONOURABLE J.R. SMALLWOOD: I absolutely agree 100 per cent, or 101. I agree. And there is always, admittedly, the danger of the man who pays the piper insisting on calling the tune. If Ottawa ladles out large sums to this or that Province they will be tempted in laying down conditions. And obviously they have the right to lay down conditions. But in laying them down, they would be too overbearing. They would try to muscle in -- this is human nature; this is the nature of governments. No government likes to lash out money unconditionally and let the recipient spend it as he likes. And therefore they are trapped into the danger of wishing to exercise more authority in a field that does not belong to them than they ought to exercise. And in this, I am in complete agreement, but it is not that they, because that danger exists, therefore ought not to pass the money over to enable the Provinces to discharge their responsibilities. Or if so to hand money over, then going along with Premier Bennett's changed Constitution to give the Provinces the right to do their own taxing.

Now, I will come to that. Right to do their own taxing? Thank you very much, Prime Minister, we don't want it. It is useless to us. You give us what power you have now in your Parliament and in your government. Give us that power, the legislature of Newfoundland, and the Government of Newfoundland, and in fact we do not want it. It is useless to us because what you collect federally in Newfoundland and that the Newfoundland government collects provincially in Newfoundland, the two together are just not enough, you see.

Put it together and it falls far short of meeting our needs. Let me give you an example: Last year in the Province of Ontario the average per capita income of the people of Ontario -- now follow this -- was \$2,624 a head, per capita, a head. Everybody in Ontario, \$2,624. Newfoundland, \$1,424. So the average Newfoundlander had in 1967, 55 per cent of what the average citizen in Ontario had. Just a little over half.

Now, that is income. You are going to tax that income. You are not going to get as much money out of Newfoundland, or out of any part of Canada where the people's average income is \$1,424 as you will from a Province whose income averages \$2,600.

For all Canada it was \$2,300. Ontario was twenty-six. All of Canada was twenty-three. Now, that is taxable capacity.

Now, look at the tax. If Newfoundland ... or if Ontario were to impose the same rates of taxes on her people, Premier Robarts, if you were to call your House together ---

HONOURABLE J.P. ROBARTS: I am listening.

HONOURABLE J.R. SMALLWOOD: You are listening?

If you were to call your House together and to get that House to pass a law to impose on Ontario the same rates of taxes that we have done in Newfoundland, the taxes that are now in effect, here is what would happen: our sales tax is 7 per cent, yours is 5 per cent. If you put yours at 7 per cent on the same things that our 7 per cent tax is on, if you were to do the same thing, the same rate on the same things, it would give you \$221 million more revenue than you are going to get. By putting the same rate of taxes on Ontario that we have put on the people of Newfoundland, that one tax alone would give you a yield in one year of \$221 million. I am not suggesting that you do it, but we have got ---

HONOURABLE J.P. ROBARTS: Thank you very much.
Louder!

HONOURABLE J.R. SMALLWOOD: I say only that if we

HONOURABLE J.P. ROBARTS: Look at all the tax fields.

HONOURABLE J.R. SMALLWOOD: That is one. I can give you another one. If you put on the same tax on gasoline that we have done in Newfoundland and the same diesel fuel tax that we have put on, this would give you another \$130 millions a year. And we are collecting it.

If you put on the same tobacco tax that we have in fact put on, this would give you another \$36 millions a year.

Finally, if you were to tax alcoholic beverages at the same rate that we have done, this would give you another \$152 millions a year, or a total of over \$500 millions a year, by putting on the people of Ontario, whose average income is \$2,600, the same rates of tax that we have put on our people, whose average income is just a little more than half ---

HONOURABLE J.P. ROBERTS: What percentage of the income in Newfoundland is from equalization payments?

HONOURABLE J.R. SMALLWOOD: I am talking about the income of the people.

HONOURABLE J.P. ROBERTS: No, I am talking about equalization payments.

HONOURABLE J.R. SMALLWOOD: Well, I will talk about that, too, but at the moment ---

HONOURABLE J.P. ROBERTS: Let us examine both sides of the coin.

HONOURABLE J.R. SMALLWOOD: At the moment I am talking about ---

HONOURABLE J.P. ROBERTS: The people of Ontario might be interested in that as well.

HONOURABLE J.R. SMALLWOOD: At the moment I am talking about the suggestion that I had read or heard somewhere that has been made that if the Provinces, the government of the Provinces, want more money or need more money, let them go after it by taxing their own people.

I tell you that we are now taxed in Newfoundland perhaps higher than any other people in Canada -- any other people by any provincial government, you see. I have given you these rates.

HONOURABLE J.P. ROBARTS: What percentage of your total revenue comes from equalization payments?

HONOURABLE J.R. SMALLWOOD: I am talking about the revenue of the people of Newfoundland.

HONOURABLE J.P. ROBARTS: I ask a very simple question.

HONOURABLE J.R. SMALLWOOD: Wait a minute.

HONOURABLE J.P. ROBARTS: I don't have the answer, otherwise I would put it in the forum. I am just asking.

HONOURABLE J.R. SMALLWOOD: All right. But I will not be diverted.

HONOURABLE J.P. ROBARTS: You won't give the answer?

HONOURABLE J.R. SMALLWOOD: I am addressing myself to the Prime Minister's suggestion that we discuss the taxing powers of the Federal Parliament, the taxing powers of the Parliament of Canada. What shall they be? What shall the Constitution put them at? What taxing authority shall Canada's Parliament have?

I am saying to you, to this Conference and to Canada, that the Parliament of Canada must have authority in its Constitution to impose taxes that will provide for the equalization you mention, and especially in Provinces where the people's own income, the provincial gross product, is low. Right?

I am not suggesting that Nova Scotia is that low, but they are on average a lot below Ontario and British Columbia and Alberta.

I am not suggesting that New Brunswick is as low as we are. I believe we are the lowest in Canada, although on that I would be unfair if I were not to say that, whereas last year the average income of the Newfoundland people was 55 per cent of the average in Ontario, in 1957 it was only 46 per cent. We have come in nine years in Newfoundland from a point where the average Newfoundlander had an income only 46 percent of what the average person had in Ontario. We are up now. It is fifty-five. So we are progressing. In nine years the average income of our people has come up in relation to Ontario, which is the top in Canada.

We have improved; but we are still only 55 per cent. Don't tell us to go taxing our people more. There ain't any.

Now, what about the other recourse we might have? We might borrow. But we have borrowed. And with money as expensive as it is, horribly expensive -- seven, eight per cent, nine per cent -- with money that expensive and becoming almost impossible... Even rich Ontario has to go to Germany and borrow. Even the Government of Canada ---

HONOURABLE J.P. ROBERTS: It is advantageous.

HONOURABLE J.R. SMALLWOOD: That is why you had to go. That is the reason we have to go, too, and the Government of Canada had to go. You know where it is advantageous, so you must go there, because that is where it is advantageous.

So borrowing is no answer.

HONOURABLE J.P. ROBERTS: You are trying to make a sin out of it. We thought it was a pretty good deal.

HONOURABLE J.R. SMALLWOOD: I have sinned, too. We have gone, too. Mea culpa. I am not making you out a sinner. I am saying borrowing is not the way to raise the standard of living in Newfoundland. Taxing the people more is out of the question.

So we turn to Ottawa. Why shouldn't we? What is Ottawa for? I ask the question seriously: what is Ottawa for? What is this federal system for? What is Canada? Why is it a federal system? Why?

If it is not so that the power given in the Constitution, the power of the Parliament of Canada shall be undoubted and beyond argument and ample -- "ample," remember -- to impose the taxes by any manner or mode, or system -- it says by any manner or system -- don't change that. Listen politely but with both ears closed. Don't listen for one minute to the idea of stripping the Parliament of Canada -- the only thing there is that can make Canada great -- stripping them of the very means of doing it. You cannot change your Constitution so as to limit you in the amount of revenue you can raise across Canada. And then, having raised it, use it. Use it not just for the normal conventional things, but to help the five Provinces, Prime Minister. Five of us: Quebec (I am so proud to be in Quebec's company; I am so happy that she is

one of us) -- Quebec, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland; five of the ten. Help us. Help us to help ourselves.

And there are so many ways of doing it. But it all costs cash. So don't cut yourself off from the chance to get the cash.

THE RIGHT HONOURABLE P.E. TRUDEAU: Premier Smallwood, you have dealt with another item which was up for debate this morning. And I think you have shown that the problem of taxation and spending powers was also linked to the problem of regional disparities, which was also on the agenda this morning. And that is why I did not think it was in order to call you to order.

You have shown that there is a definite link between the two. And I think in view of that precedent we should all be encouraged to link these two items of the agenda.

(TRANSLATION)

May I simply put a few questions to the Conference? At the outset I should indicate that the principle stated by Prime Minister Bertrand, i.e. that Provinces should have sufficient resources, is a reasonable and simple principle to which we subscribe. The question to be answered, is however, the following. How can we organize matters in such a way that Provinces do enjoy those resources in sufficient quantity. In this respect Premier Smallwood has shown that six Provinces are poorer than the others and benefit from equalization grants. Equalization grants have allowed the Province of Quebec, last year, to receive 155 million dollars. This year, the figure will be 285 million dollars and the projected figure for next year is 310 million dollars. Obviously to make these equalization payments to Quebec, New Brunswick, Newfoundland, Manitoba, the Federal Government must have both taxation and spending powers.

The question which Confederation must answer is therefore to what extent must these powers be limited? The equalization principle cannot be compromised, clearly, since its need is recognized.

But since the spending power and the corresponding power of taxation have also made it possible for the Federal Government to assist the Provinces and more particularly the Province of Quebec, through ARDA programmes, for example, under which the Federal Government has paid 212 million dollars in the lower St. Lawrence area,

under the terms of an agreement, I should imagine that the Province does share the Federal Government's view with regard to this use of taxation and spending powers.

The Province of Quebec having also benefited from the Trans-Canada Highway programme and accepted capital grants in this connection from the Federal Government, it should also recognize this spending power.

The same holds true with regard to hospital grants.

The Prime Minister complained that with regard to grants made in respect of vocational and technical schools the Federal Government intended to reduce its spending. He has indicated that he would like to see us re-establish our grants.

There is therefore an admission on his part that we do enjoy a spending power in regard to that matter.

There have been complaints about Medicare. We should however remind ourselves that Medicare was negotiated with the Provinces and, notably with the Province of Quebec through its government. That government negotiated the modalities which we have applied to Canada. A number of the main elements in that programme were incorporated into Federal legislation at the request of the Province of Quebec. The legislation being what it is, it is rather difficult to change it simply because there has been a change in a provincial government.

However, we should not reopen old quarrels. The point at issue is what we can do in the future.

Why should the Federal Government be allowed to make equalization payments, which suits the Province of Quebec very well, why should it be allowed to spend under ARDA programmes, which also suits Quebec very well, why should it be allowed to provide 150 million dollars in respect of Expo 67, which suited both the Province and the city of Montreal very well, whereas at the same time we should not be allowed to put money into a Medicare programme, a programme which one of the two parties in Quebec, at least, finds excellent? I might agree that we could limit spending powers. But what we really are concerned with is how to go about it, how to reach an agreement in this regard.

The purpose of this Constitutional Conference is to define the rules which should be applied to the spending powers. One cannot claim that the power exists but that it can only be applied when it works in a way which suits him. Because Medicare does not appear to suit the Prime Minister of the Province of Quebec, but it does suit the Premier of British Columbia and the Premier of Saskatchewan...

We should therefore look for standards applicable to the whole country.

(ENGLISH)

...And that is what we are essentially trying to do; find the rules to the spending power and the taxing power which will come with agreement between the Provinces.

We do not want to raise taxes if it is for something which is not accepted by any of the Provinces but we must, as Premier Smallwood said, and as Premier Bennett said, we must think of the total welfare of Canada. We must think of our duty of correcting the regional inequalities or disparities, and I want to know in what areas we can use them.

Here again, we are prepared to listen to any discussion to lay the ground rules of this use. Why should we use it in ARDA schemes or rural development schemes and not in Medicare, or why should we use it in Medicare and not Trans-Canada Highway, or why should we use it in Trans-Canada Highway and not in hospitalization?

We have to know the rules. We are trying to govern for the greater welfare of the people of Canada. We are trying to make laws of equalization grants of different kinds which will permit all of the Canadian people to participate in a certain standard of living but I do not want to repeat what was excellently said by Premier Smallwood. We want the answers. We want you to give us the rules.

We are here to serve the people. You represent the people of your Province. We thought at this discussion or at continuing discussions we will lay down the rules. We don't know them. If we want to put spending powers in the Constitution and I repeat it is not even written in there, but we do need them; if we want to make all Canadians think that living in Canada is a beneficial thing; what are these rules?

We hope they will be spelled out.

(TRANSLATION)

HONOURABLE J.J. BERTRAND: Mr. Chairman, may I say, at the outset, that in a federal system there are powers and rights belonging to the Provinces. But it does seem to me that it should be agreed that the Provinces should have the fiscal powers required to meet their obligations.

You have made reference to joint programmes. You know full well that no shared-cost programmes have been agreed to over several years. The preceding government, indeed, had withdrawn from such programmes. At that time some taxation points were granted to the Government of the Province of Quebec. All this came about as a result of negotiations between the Quebec Government, the preceding government that is, the Lesage government, and the government in Ottawa.

As far as Medicare is concerned this is a matter which, or so it appears to me, has generally been recognized as belonging to the Provinces under the present Constitution.

HONOURABLE P.E. TRUDEAU: It was negotiated with the Provinces.

HONOURABLE J.J. BERTRAND: That, as far as my information is concerned - and my information, I think, is correct, the actual modalities of it were not negotiated. In any event we do not accept the principle. The matter was discussed at an interprovincial conference held at Waskesiu in Saskatchewan by provincial Prime Ministers. We do not accept the proposition according to which Federal legislation is required for the application of so-called "national" standards.

I know that sometimes we raise our voices a little. Of course there is nothing personal in this. I have the highest regard for our Chairman. But I do think it should be said, with all due respect, that standards should be established within the limit of our respective provincial jurisdiction, by an agreement between Provinces.

Look at education, for instance. At the present time there is an interprovincial conference of Ministers of Education. At Waskesiu, in regard to a very large number of areas of interest, we have all accepted the principle according to which we were ready to meet our own responsibilities and to exercise our own powers. It was there, I feel, that we did achieve a consensus on what

we felt is properly federal. In such a system Ottawa would exercise its powers, the Provinces exercising their powers also. We accept the power which Ottawa has of providing assistance. But this power - this equalization power - will be accepted by us only as an exception to a general rule, an exception which will be legitimate until such time as exceptional circumstances, such as exist in Canada at the present time, have not disappeared. In other words we will accept this power until such time as we do achieve what has been called equality of opportunity, for as long as regional disparities are still with us.

(ENGLISH)

HONOURABLE J.P. ROBERTS: Prime Minister, I would like to get back to Ontario's approach to this problem. I think that we can relate it very definitely to the question of constitutional change and constitutional responsibility. It is our feeling that the Federal Government has used its spending powers to alter the Constitution without constitutional amendments. Inasmuch as we are discussing Medicare, I think that is as good an example of what I am talking about as any example one can find. Fiscal leverage is being used to force upon the Provinces a programme that they really do not want, at least the Province which I represent and for which I speak.

Mr. Smallwood, we have no quarrel whatsoever if the Federal Government chooses to subsidize whatever it chooses to subsidize in your Province, or in the Atlantic Provinces or in any other Province. We in Ontario have never at any time quarrelled with the principle of equalization. We have accepted it. In fact, we practise it within our own Province. We have as many disparities within the boundaries of the Province of Ontario as the Government of Canada has within the boundaries of Canada: so I think that this question need not be belaboured.

What we object to is the spending power of the Federal Government being used to abort - a term used yesterday by you, Mr. Weir - to abort the Constitution, or to force us to take certain steps not in constitutional fields that are entirely ours. That is why we say what we say - I do not know why this seems so difficult to understand. If the Government of Canada has chosen, wisely or unwisely, to place itself in a legislative straitjacket by passing a bill in the House of Commons that it cannot deal with except by changing it in the House of Commons, why does it not give the Provinces the opportunity to simply

say "We don't choose to accept, and we will take the fiscal equivalent and go about our own business and establish our own priorities in our own fields of constitutional responsibility"?

THE RIGHT HONOURABLE P.E. TRUDEAU: What about the ARDA schemes?

HONOURABLE J.P. ROBERTS: ARDA schemes; please don't get me into those. This is a \$25 million programme which is simply not being carried out according to the agreement. I will leave this to my provincial treasurer because he has the facts and figures.

THE RIGHT HONOURABLE P.E. TRUDEAU: I will have a minister answer him.

HONOURABLE J.P. ROBERTS: All right. I think the point really being made is that the backing and filling and changing of position regarding certain schemes, this simply indicates this is not really the right way to do business.

I do not care who is right and who is wrong. I did not come to this Conference to debate picayune matters although I would hate to be put in a position where \$25 million was called "picayune."

Suffice it to say that because of certain shifts in policy of the Federal Government our budgeting has had to make some very abrupt shifts. We have had to meet commitments from our own resources although our original commitments were made on the basis that certain amounts were to be provided by the Federal Government.

The point I would really like to make is that in arriving at this topic, of the Distribution of Powers we really have reached the nub of our constitutional discussions. The Distribution of Powers is crucial in determining the character of the federation. This is really the great problem that we face. It has been coming upon us gradually over a period of time.

Are the Provinces to be simply administrative units? Are we just to function as administrators with all the decisions made by the central government? Or are we to have a federal system in which political authority and political decision are to be left, at least to some degree, to the Provinces in order that they may define policy in the areas given to them by the Constitution?

Surely this is the point; is the Federal Government to be allowed to use its fiscal leverage to alter the Constitution without amending it? This in effect is what you are doing. The Federal Government is using its fiscal powers to force the Provinces into programmes they do not want to enter, in areas within provincial jurisdiction.

Prime Minister, I think in your studies and writings (I won't quote them), you recognized this problem years ago, before you became as active in politics as you are today. This really is the nub of it. Is Ontario to be forced? You see the position I am in and as the leader of a government, when a 2 per cent tax, which amounts federally to nine percentage points of personal income tax, is imposed on the people of Ontario to finance a plan that we do not want.

HONOURABLE E.J. BENSON: That plan and other things.

THE RIGHT HONOURABLE P.E. TRUDEAU: It is supposed to finance some of our budget.

HONOURABLE E.J. BENSON: Balance the budget. There are \$310 million ---

HONOURABLE J.P. ROBARTS: Let me put it this way. If I don't take our Province into it, the people of Ontario will pay it and not share in it.

HONOURABLE E.J. BENSON: They won't have the advantage they should have.

HONOURABLE J.P. ROBARTS: This is what I call fiscal leverage to alter the Constitution without any constitutional amendments, because you are forcing a plan on Ontario that, frankly, Ontario does not want.

We are asking here, and I hope we will have a formal reply to our formal request, that we be given the revenues from that tax so that we may spend it according to our priorities and not according to the Federal Government's priorities in the Province of Ontario.

We are asking for this formally. You may accept or reject our position. But I hope you will do in as formal a manner as I am presenting the request.

Now, this really is the key to the whole problem we are discussing on this particular item of the agenda.

Is the spending power of the Federal Government going to be used for constitutional purposes? Are we going to arrive at a situation in this Country where we are going to be able to function within the powers that are ours according to the present Constitution? This is what we want to know.

Let me give you another example. It has been brought to my attention just recently that your Department of Health and Welfare recently decided that it is going to pay half the cost of care for juvenile delinquents. However, it will only pay it through one department of the provincial government. To take advantage of this offer, which we don't really want very much in any event, we will have to shift a whole administrative body from one department to another in our government to meet your requirements before we qualify for the grant.

Now, this is what I mean by the use of fiscal leverage to influence the conduct and the responsibilities of a provincial government.

HONOURABLE W.A.C. BENNETT: May I interrupt?

HONOURABLE J.P. ROBARTS: Yes.

HONOURABLE W.A.C. BENNETT: You mentioned nine percentage points. What would nine percentage points amount to in Ontario at the present time?

HONOURABLE J.P. ROBARTS: In personal income tax?

HONOURABLE W.A.C. BENNETT: Yes.

HONOURABLE J.P. ROBARTS: I would think about \$225 million.

HONOURABLE W.A.C. BENNETT: On your present plan of Medicare, what does it cost the provincial government?

HONOURABLE J.P. ROBARTS: Well, once again I have an answer for Mr. Smallwood. You see, we have ---

HONOURABLE W.A.C. BENNETT: What on your present budget at the present time?

HONOURABLE J.P. ROBARTS: About \$75 million.

HONOURABLE W.A.C. BENNETT: So you are asking for

\$150 million more than your cost?

HONOURABLE J.P. ROBARTS: No, no, no, we are not, because, unlike some other Provinces, we have a system whereby our people pay premiums. You see, in that sense it's not a tax. Our people pay premiums for hospitalization and for our medicare plan just as they would if they bought it from a private carrier. You oversimplify. I don't know whether your people pay. Do your people in Newfoundland pay premiums for hospitalization?

HONOURABLE J.R. SMALLWOOD: No, there is no premium as yet.

HONOURABLE J.P. ROBARTS: Well, ours do, so it's not just as free for our people as you say it is.

HONOURABLE J.R. SMALLWOOD: Premier, I didn't say anything was free.

May I answer your question on equalization, and say to you that when the Parliament of Canada imposes a tax across Canada they do it at rates that do not vary from Province to Province. All the taxes your people are paying and your corporations are paying, our people and our corporations are paying at the same rate. But there are not enough of them to do it, and they don't pay it on enough money because they don't have enough money, but we are paying the same rates as you are.

HONOURABLE J.P. ROBARTS: That is fair enough.

HONOURABLE J.R. SMALLWOOD: There is no money being taken off your people and handed over to us. It is handed to the Government of Canada who collect it from all the people and what they do with it is another matter. They are not scooping it off you to give it to us.

HONOURABLE J.P. ROBARTS: Please don't put it that way. You know around this table that Ontario has for many years supported the whole principle of equalization. That really is not in debate here today.

HONOURABLE J.R. SMALLWOOD: May I say that you and your predecessors have always been very, very kind friends of Newfoundland in every Conference and behind the scenes.

HONOURABLE J.P. ROBARTS: We are not kind friends. We are equals.

HONOURABLE J.R. SMALLWOOD: You have been good friends.

HONOURABLE J.P. ROBARTS: We love to be friends. I went and fished in one of your best rivers ---

HONOURABLE J.R. SMALLWOOD: Come again.

HONOURABLE J.P. ROBARTS: As your guest last summer ----

HONOURABLE J.R. SMALLWOOD: Come again.

HONOURABLE J.P. ROBARTS: And I enjoyed the salmon very much.

HONOURABLE J.R. SMALLWOOD: Come and try our tuna.

HONOURABLE J.P. ROBARTS: I treated my 12-year-old to his first Atlantic salmon.

HONOURABLE J.R. SMALLWOOD: Come and try our tuna.

HONOURABLE J.P. ROBARTS: I am going to do that with Mr. Smith.

HONOURABLE J.R. SMALLWOOD: We will have to send some up to Nova Scotia.

THE RIGHT HONOURABLE P.E. TRUDEAU: Well, gentlemen ----

HONOURABLE J.P. ROBARTS: I have not really finished my remarks. As a matter of fact, I have just nicely started.

We support the idea of a strong central government. But we do fight the way it exercise certain powers. We fight certain uses of spending prerogative. We just simply think much of this could be avoided if we had a little more participatory federalism, as we discussed yesterday.

We do not think the Federal Government should ignore the problems of the Provinces the very serious problems that we have when we think of things such as housing. However, we have to have some co-operation on how we handle these programmes. I want to make it clear that the Province of Ontario is not looking for any handouts. Let me make this as clear as can be.

We want some elbow room in order to be able to do

our own taxing. We have no worry or fear of accepting the responsibility of imposing taxes in our own Province. We are not asking the Federal Government to raise any money to hand to us. We will impose our own taxes.

Of course some aspects of the development of a tax system for Ontario, which would be complete in itself, would worry us when we think in terms of Canada as a whole.

We wonder whether we have all really examined every possibility, whether we are aware of all the effects of each Province establishing its own taxing system, its own money-raising system, its own fiscal controls. What does this do to the central powers of Canada? If we work this through thoroughly, do we know what the ultimate effect will be? I think in Ontario we have the feeling that this has been treated in a rather light and cavalier manner without a true examination of what it might lead to in terms of its ultimate effect on Canada.

However, that is something which no doubt will be dealt with as time goes on. We also realize that all kinds of regional preferences and differences, as explained by Mr. Smallwood and by the Atlantic Provinces, must be considered and dealt with by the Federal Government. We do not choose or wish in any way to usurp the powers of the Federal Government in this regard. Otherwise we shall not have the Canada we want.

I have sat at this table many times before. It used to be a big green one without the open space in the centre and I recall in those days saying that it must have meaning to be a Canadian whether you live in Corner Brook on the West Coast or the Atlantic Coast. There must be some common meaning if you are to be a Canadian. This is the function of the Federal Government. In this way I completely agree with you, Mr. Smallwood.

We do say that we must have a clearer delineation of responsibilities. In addition, we must have delineation of responsibilities and we must have a solid, meaningful backing-up of responsibilities by revenue sources. We must have an end to programmes affecting the Provinces that we must read about in the newspapers. We don't hear about them through consultation. We don't hear about them through: 'Come here and we will say what we are going to do and how it will affect you; we will change it this way and that way.' We read it in the Toronto morning newspaper, the Globe and Mail. Now I don't know what the name of the

newspaper is in Quebec or Montreal or Vancouver or Regina or Winnipeg, but where we read about these things is in the morning newspaper. We don't find out about them through some form of consultation where we might be consulted as to what effect they would have on our programmes and what we are planning.

I see Mr. Pearson sitting here today as an observer and I remember the great words "co-operative federalism." That was a good concept but we never really got it going. Maybe we should go back to co-operative federalism and forget participatory federalism or functional federalism.

HONOURABLE J.R. SMALLWOOD: Or both.

HONOURABLE J.P. ROBARTS: Or all three, really. The main problem has been some form of fair and equitable distribution of powers. I realize the political facts of life; I am a politician. I know it is very difficult for a government to have a surplus without seeking some way of spending it in order to satisfy, hopefully, some particular group of voters. The way you are working as our deficit goes up the surplus will go up.

I am thinking about the structure Committee. Is Mr. Sharp here today? He chose not to recognize the result of that Committee's work.

I would think, as far as we are concerned, Prime Minister, that with the way your expenditures are being cut down and with your pre-emption of the tax field, in two years you will be ready to launch another plan of some kind. I think you will be in a surplus position. Our forecast indicates you will.

HONOURABLE E.J. BENSON: Will we cut the tax?

HONOURABLE J.P. ROBARTS: Why don't you give us tax space in the meantime? You say we are really not raising it very much but the two per cent social development tax or whatever it was called, did amount in fact to nine percentage points of personal income tax. On the one hand you said to us "Raise your own taxes". And on the other hand you just pre-empted the field before we could get in it.

Somehow or other these two situations ... I see Mr. Bennett smiling. I think you may agree?

HONOURABLE W.A.C. BENNETT: I think they got a little room. Everyone is not coming into Medicare so they are going to have a surplus.

HONOURABLE J.P. ROBARTS: If we do not go into Medicare we are serving notice that we want the money.

Regarding the indirect tax field, it was said that we get a lot of trouble in our Province because of the very high tax we place on liquor. It is interesting to note that the Federal Government takes more from liquor than we do.

HONOURABLE J.R. SMALLWOOD: So do we. We get more than you do.

HONOURABLE J.P. ROBARTS: I was rather interested when you raised the whole question of ground rules for federal spending power and whether this should be something we should consider. I think we should consider it very deeply. I think we should look at how the federal spending power is used in terms of influence on the Provinces and what they do.

We have no, absolutely no complaint whatsoever about the Federal Government raising money to make equalization payments. We do say this: we think all equalization payments should be made in one lump sum. We don't agree with equalization through individual programmes such as the Medicare programme. Who in Canada really knows what the equalization payment is?

You take the national average of medical cost: your Province, Mr. Smallwood, will make money on Medicare in the first two or three years. Then, as soon as the costs escalate, as inevitably they are going to, that will disappear.

HONOURABLE J.R. SMALLWOOD: We will make money for a year on Medicare only because we have been in Medicare for 30 years already.

HONOURABLE J.P. ROBARTS: We have been in it quite a long time ourselves. We have a pretty good plan and we don't want to scrap it. We are being asked to destroy it in order to come into the federal plan. Our people don't want to go into Medicare. They are pretty satisfied with things as they are.

These are some of the problems that we see in fiscal spending. We think that they are very closely tied to constitutional problems. As I said in my opening statement, if Ontario cannot get room to continue to do what it is doing, if we are faced with the prospect of either over-taxing our people or limiting our programmes, if we have to cut back what we are doing in the fields of education, health, power development, transportation, urban renewal and pollution control, then we suggest that you will change the face of this Country through fiscal pressure much more effectively and rapidly than you will by fiddling around with certain paragraphs in the British North America Act. You will make it necessary for us to operate in a fashion, completely different from that set out in the BNA Act.

This is where we relate what we are talking about to constitutional change. You are going to bring about change, you are going to make Canada a different Country but you are not going to do it by the alteration of any statute or by rewriting the Constitution. You are going to do it by fiscal leverage, which is the term I choose to use. If we go on down this road with the attitude, 'We will raise our revenue and you raise yours and never the twain shall meet,' you will make it impossible for the Provinces to continue with the programmes they presently have. As far as I am concerned this is complete fiscal irresponsibility. I think it is complete irresponsibility as far as John Robarts as a taxpayer is concerned, never mind John Robarts as the leader of the government. I am going to be taxed and taxed and taxed in various areas, with no co-ordination of what happens to the tax money and no co-ordination of the burden of taxation.

We don't think the Country can be run in this way. We must work out some means of distributing tax revenues. Whether we do this by alteration of the Constitution or by agreement it will still be fundamental, very fundamental, to what this Country will be ten years hence. This is the position we take.

I was very interested, Mr. Strom, in your remarks about what might be an enlarged basis of operation for the Bank of Canada. Why does the Bank of Canada sit in Ottawa and advise only the Federal Government?

HONOURABLE W.A.C. BENNETT: I have asked the Governor and he has said that it is not federal policy...

HONOURABLE J.P. ROBARTS: We suggest we might change the policy. We are in touch with Mr. Rasminsky. I think he knows what we are doing in the money markets of the world.

HONOURABLE W.A.C. BENNETT: Would you be agreeable to that, Prime Minister?

THE RIGHT HONOURABLE P.E. TRUDEAU: I would certainly be agreeable to discussions between heads of government.

HONOURABLE J.P. ROBARTS: Fair enough. So we make progress. Believe me, we don't come here to start a fight. I said yesterday there is no crisis as far as I am concerned; there is only a discussion; there are many things to discuss, many new approaches to be taken. Prime Minister, I hope we can take some of these. I have the feeling in my heart that you are looking for some of the things that we are suggesting. Let us not be bound by what happened last year. Anything before the 25th of June, as far as you are concerned, does not exist!

Here we can really get started with some new approaches, new ideas. Let us make this Country of ours what it really can be and let us not worry about previous positions or attitudes. You won't find any worry on Ontario's part. We will say we are wrong if we have been and we won't worry about saying that as long as we can find a way to move on to solve some of our problems and let us not say that everybody has to go their own way. This is one Canada and this is one very miserable taxpayer, John Robarts, that I am worrying about. How much he is going to pay? Imposed by whom?

I must tell you one story, Prime Minister. Not too long ago at two o'clock in the morning my phone rang and a voice said 'John, I want to discuss federal-provincial fiscal arrangements.'

I said, 'It is two o'clock in the morning. Would you come to my office at nine-thirty?'

The voice said, 'At nine-thirty tomorrow morning, I won't give a damn!'

We care now. We care tomorrow morning. We want to discuss these things and we want some new approaches. Why can't we deal with this question on Medicare, since it is obvious to all the people of Canada that it is a real

dispute. If Quebec and Ontario, representing 50 per cent (I don't know what percentage of the population we represent) are reluctant why can't we do something about it? Are we just saying that this is a thing so rigid it cannot be touched or disturbed? When half the people of the country are not in favour of it? We will suggest to you to deal with each of us individually as Provinces ... 'Well, we will take it.' But Ontario did not vote for it, Mr. Benson.

HONOURABLE E.J. BENSON: All Federal members did.

HONOURABLE J.P. ROBARTS: Well, the Federal members have not the responsibility of running the programme that we have. They have their responsibilities. They discharge them as they see fit. I have mine, and I discharge mine as I see fit. And I am making this plea today, in discharging my responsibilities to the people of my Province, and I do not think they really want this plan, and for the life of me I can't understand why we have to be so rigid. Can't we change our mind? Are we unable ---

HONOURABLE E.J. BENSON: I think we should come back ---

HONOURABLE J.P. ROBARTS: I am not finished, but I will add the rest a little later.

HONOURABLE G.I. SMITH: There are just two or three things I want to say, and before I say them I would like to note these are not related to the subject of regional disparities. I hope we have an opportunity to say something when that specifically comes before us. The first thing I want to do is to say without reservation Ontario has also supported equalization; not merely by being passive about it but by advocating it. I do not think anyone should be allowed to believe that Ontario has ever been reluctant in this field. Both the present Prime Minister of Ontario and his predecessor to my personal knowledge have supported this from a long way back, and it seems if there was any suggestion that this was not so that it not be allowed to stand.

The second thing I want to mention is our old friend Medicare, and I want to mention it because of the suggestion that while this plan was being formulated and before it was put into the statute there was meaningful consultation with the Provinces in order to work out what might be a reasonable satisfactory plan to all concerned.

I do not believe that to be true in the slightest degree. I repeat I do not believe that to be true in the slightest degree.

There sits alongside me the Honourable R.A. Donahoe who has been Minister of Health for Nova Scotia for more than 12 years, who participated in all the discussions or at least all that Nova Scotia was allowed to participate in, and he assured me this morning before I make these comments that to his knowledge there was no meaningful consultation before the plan was formulated and enacted into law.

If there had been, Sir, we might very well have a different plan. And it is only keeping away from understanding the problem involved and keeping away from understanding why some Provinces feel so strongly about it to allow oneself to think there was such meaningful consultation.

Now, I also want to make a comment about the view expressed on behalf of the federal authorities that if the Provinces want more money, let them go and raise their own taxes.

As Premier Smallwood said so eloquently this morning, what good is that going to do a Province that doesn't have any more tax room and there are many Provinces in that situation now.

I do not think that it is a tenable position at all for the Federal Government or any federal authority to hold.

Now, let us look for just a moment at the problem we are dealing with, and that is how to solve the differences and difficulties that clearly lie in the way the power to raise taxes and the power to spend are exercised today and how they are divided between the two levels of government.

It seems pretty clear you can only deal with the situation either by change of the revenue sources open to the different levels of government or by a change of the responsibility which those governments have to discharge, or a combination of both.

That is not going to be something that is very easy to do, and with all deference to everyone sitting around here, I doubt if there is enough accumulated knowledge about the total tax potential of Canada to decide it

very intelligently today in any event.

I think to deal with it at all effectively or with any hope of finding a solution we have to examine the whole question of how much tax-raising potential there is in the whole country by all levels of governments, and that is something we do not know enough about now. I think that if the Tax Structure Committee had been allowed to continue, we might now be in a position to have this up-to-date information.

We have to go into the whole question of how much tax-raising potential there is in the country. And then we have to look at how that total potential can best be used for the benefit of Canadians. One thing, of course, we would have to look at right away: should you exhaust the whole potential; if not, how much of that total potential should you use by imposing taxes?

When you decide that, then I say you see what level of government can best use whatever money it is proper to raise in total, including the municipalities. In what field can money be used - I am sorry; what level of government can money used by highways best be spent? And then let us put the responsibility there along with the appropriate amount of revenue potential to deal with it.

It seems to me that it would be a reasonable way to deal with this problem either to revive the Tax Structure Committee - it has never died exactly, but certainly it has not exhibited many signs of life for a couple of years - the Committee which accumulated not only a good deal of knowledge about this field, but also had represented in it the finance ministers of all the governments, people best qualified to deal with financial problems.

I suggest that that or some other committee of equal status be given the task of tackling this problem in the way I suggest: first, seeing what the potential is, the total potential and then seeing in the various fields of government how a portion of that potential can be used best, and then get down to the business of trying to decide whether we are going to change the Constitution and bring this about or whether we simply arrange a better system of transfer payments, or whether we work out some agreement which does not involve the Constitution.

I have only another word to say, and it is simply to repeat what I said at the beginning, that I do not

really think we have enough knowledge around this table to decide the problem even if we thought we actually could make a decision today or tomorrow, and that the only reasonable way to deal with it is to put it in the hands of a really large committee composed of representatives of all the governments and with enough staff at its disposal to do the work and to do it as a matter of priority.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Premier Smith.

Before giving the floor to the leader of the Saskatchewan delegation, I want to clarify a point on consultation in Medicare. I believe you said there was no truth to the statement there was ever any agreement or consultation on Medicare. If there was no agreement, I can see it, but the point of consultation is the one I made, and there was a great deal of consultation on Medicare.

I was not around, but I have a history of it, and I would state it very briefly because if it is false perhaps we could re-write it.

HONOURABLE G.I. SMITH: What I thought I said, in any event, was that before the plan was formulated in such a way that it passed into law, there was no meaningful consultation with the Province of Nova Scotia in the sense of consultation directed to accommodate itself to views which might exist in Nova Scotia.

THE RIGHT HONOURABLE P.E. TRUDEAU: Oh, yes.

HONOURABLE G.I. SMITH: And I think every other premier will say the same thing.

HONOURABLE R.A. DONAHOE: There were four fundamental things that were decided in advance of all consultations, and when we came to consult about Medicare we were advised that the definite decision had been made that it must be universal, it must be comprehensive, it must be government-controlled, it must be portable. Unless you are prepared to engage in a plan that meets all of those four conditions then the Federal Government will not participate in the cost of any Medicare programme.

THE RIGHT HONOURABLE P.E. TRUDEAU: And some Provinces accepted, and some did not.

HONOURABLE R.A. DONAHOE: We accepted it. We are going into it on the 1st of April, Mr. Prime Minister, and we are going into it by virtue of going to almost the very limit of our tax potential in order to collect our portion of the revenue to do it.

THE RIGHT HONOURABLE P.E. TRUDEAU: I think a point might be made that apart from a visit to all the Provinces, apart from the Federal-Provincial Conference in July, 1965, with Medicare as one of the principal items on the agenda, where three premiers objected but the others either supported it or were non-committal; there were a series of five other meetings between the ministers of health and a technical conference of officials, and an individual meeting of ministers of health and other technical meetings.

There was a great deal of consultation on Medicare. Some did not agree with the scheme. Others did.

But this is the difficulty we are in again. How do we use spending power when there is no unanimity? We would like to have rules on this, and so far there have been suggestions, but they have not met with any kind of consensus.

HONOURABLE G.I. SMITH: There are many kinds of consultations, and I suggest what is a consultation in the mind of one person may not be in the mind of another.

But let me give you another example of which I have personal knowledge of alleged consultation when in fact there was no real meaningful opportunity for debate at a ministerial level at all, and that is in the working committee on the present formula for equalization.

There was a multitude of meetings of various committees, and particularly one committee in which this matter was discussed, but when we came to the ministerial level, there was no opportunity whatever to debate the alternative methods, or even to discuss alternative methods. And when I tried to do so, the Chairman of the Committee - a member of the Tax Structure Committee - said, "We will refer this back to the Committee."

No doubt in the mind of the federal authority there was consultation then. In my mind there was none of an effective nature at the ministerial level which could have the slightest influence upon a decision which was already taken.

HONOURABLE D.G. STEUART: I think this is the problem.

I am interested in a point raised by Mr. Robarts in regard to fiscal equivalence. Is there any consideration being given to this by the Federal Government?

THE RIGHT HONOURABLE P.E. TRUDEAU: If I might be permitted to answer a question I would be tempted to say to Mr. Robarts what he said to Mr. Smallwood: it is not as simple as that.

If we were to do this - let us just say we were to give you fiscal equivalence in the Medicare scheme, shouldn't we on the grounds of equality give fiscal equivalence to every Province who, at one time or another in our history did not get into joint shared-cost programmes many of which were designed to fit Ontario's needs.

Ontario came in in the first year. I know in the case of some programmes Quebec only came in much later, and in several cases the other Provinces could not afford to come in.

For years federal grants to universities were not paid to Quebec and they were paid to Ontario.

HONOURABLE J.P. ROBARTS: Weren't they accumulated?

THE RIGHT HONOURABLE P.E. TRUDEAU: In the latter years, yes, but what about the Trans-Canada Highway? What about technical and vocational schools which applied in your Province before they applied in many others? Should there be fiscal equivalence every time?

HONOURABLE J.P. ROBARTS: No.

THE RIGHT HONOURABLE P.E. TRUDEAU: A scheme which is made for all Canadians is either not entered or entry is delayed by one or more Provinces. If the answer is yes, then we would be prepared ---

HONOURABLE J.P. ROBARTS: I cannot answer that directly. All I know is that you have already stated that in five years you are going to pull out of the programme anyway, so why not pull out now instead of five years from now?

THE RIGHT HONOURABLE P.E. TRUDEAU: Fine. If you can get consensus from the Provinces. As I say, the Medicare programme won't apply in any Province if you can agree amongst yourselves that it should not.

HONOURABLE D.G. STEUART: There was consultation on Medicare. I sat on many of the meetings, and that colourful representative of the Crown, Judy LaMarsh, carried on many. Surely there is no suggestion that we did not take everything into ---

HONOURABLE J.P. ROBERTS: I haven't got through her book yet, so I do not know what she says about me.

HONOURABLE D.G. STEUART: You are in the last chapter, so hurry up and get there.

Mr. Prime Minister, I would like to come back to the original point that Premier Weir made; that is, what we need today, I think, is to agree, if we can (and Premier Smith alluded to this) to set up a committee that would start work immediately.

We have come as Western Canadians to this Conference not downgrading the need for constitutional change, not downgrading the need for more bilingualism or linguistic rights across Canada, or not downgrading any step that needs to be taken to bind Canada together; but saying that the major problem facing this country is fiscal, and asking that fiscal matters, which is the spending powers and the taxing powers of government, which is a part of the Constitution, and a very vital part of the Constitution, be given top priority, at least equal priority, with these other questions of bilingualism.

We cannot decide it here, but surely we should be able to decide that we could set up a committee and agree that we will consider cost-share programmes.

I think 80 per cent or 90 per cent of the problems between the Provinces and Ottawa stem from cost-shared programmes. You do re-arrange our priorities; and you do intrude in our responsibilities.

I sometimes wonder, as I am sure you do, and Mr. Benson, many of you, you talk about changing the powers. But I am not sure the rest of your people in your government really want to change the powers. There is a built-in vested interest by thousands of Civil Servants on the

federal payroll and on our payroll who check qualifications of cost-share programmes, and auditors who audit the work of auditors, and I don't know if we gave them the magic wand tomorrow to change these cost-share programmes and rearrange our fiscal spending and tax-gathering powers (which would be the perfect system) that they would not break the want or hide it, because there is a vested interest here in Ottawa and in the provincial capitals as well to maintain the status quo.

I think that we need to have a conference called of the proper officials that will work along the lines, be instructed to work along the lines, to take a hard look at these cost-share programmes, take a hard look at these cost-share programmes, take a hard look at the qualifications necessary. I think there should be more flexibility. I do not think it is reasonable to say if you want to qualify for this programme or that programme these are the absolute minimum qualifications. Granted there should be some national standards, but I think the standards in many cases are too high. I think they are put sometimes artificially too high to create more work for more bureaucrats in more capitals.

So I think they should be instructed that we want to rearrange our fiscal powers and our taxing powers. Because it makes sense. And there is only one taxpayer, and we are taxing him to death. And if we are confused, I wonder how the people of Canada right now are confused about who is taxing them to pay for what.

So let us agree that we can instruct some committee to take a hard look now, and then agree. And then we can come to some agreement on this particular power, that it should be transferred to you -- say, higher education; maybe that should be a national concern because of the mobility of our people. Quebec certainly will not agree with this, but is it necessary that Quebec agree? Maybe all education could stay within the Province of Quebec. Maybe we would be prepared to turn higher education over to the national government. Maybe we would not. But when we can come to some consensus of agreement with four or five Provinces containing 50 per cent of the people, let us make that change.

We talk about changing the Constitution. I think we will change the Constitution -- find out how to change it the day we have got something sensible to change it for, but not until then.

I would suggest we do set up a committee and tell them to get to work immediately on this question of cost-share programmes; and follow what Premier Weir said in the meantime -- give us some kind of guarantee without putting yourself in a straitjacket, but if you do have to make some changes that affect us, you will give meaningful consultation, not like the estates tax. If you do want some of the cost-share programmes you won't pull the rug out from under us, like you did with health grants, and some ARDA grants; but you will in fact consult with us and give us a chance to adjust; and instruct your people that you are serious about making these changes; and we will do the same with our people. And then we can come back and make the changes one at a time.

Because if we wait until we have got agreement -- we can hardly agree on the time of day around here, never mind some meaningful changes in toto.

Let us instruct them when we make a meaningful change to bring it back, and that is number one change. I think if we don't do that we will still be talking about some changes and still be coming to you with our hat in our hand.

Saskatchewan does not say that the answer to the Provinces' financial problems is to run down and beg to Ottawa every time. We have our own responsibilities. I think you people have not played fair with us. I think we have not played fair with you.

We came down to a meeting in September. We were supposed to bring our spending programmes down. They were ridiculous. There were 20, 17 per cent increases. They were inflated. Why? Because we were trying to impress Mr. Benson to give us some money. We didn't impress him. And I don't blame him.

So I think we need a new day in the fiscal arrangements and the changes in the Constitution on a sensible basis. And we would be prepared to go along with that.

HONOURABLE W. WEIR: I would like to make a point there, that Mr. Steuart was speaking for himself when he was talking about coming down with inflated programmes.

HONOURABLE D.G. STEUART: Mine was deflated -- only 7 per cent.

THE RIGHT HONOURABLE P.E. TRUDEAU: I think we should take up these proposals but...

(TRANSLATION)

HONOURABLE J.J. BERTRAND: I would simply like to say this. The idea put forward by the Saskatchewan representative and which follows on the suggestion of the Premier of Manitoba is to the effect that we should have a committee.

But what would be the purpose of this committee? Should we discuss immediate problems or speak of the future? In fact we should not have too many committees. We already have the Committee of Officials, the Constitutional Conference where all these problems were originally examined and where they will continue to be examined.

If we are talking of long-term solutions to the fiscal problem I believe that the following would be an ideal solution: we could set up sub-committees within the Constitutional Conference established last year.

If Mr. Weir's suggestion is to the effect that we should immediately set up a committee of Ministers of Finance to look into these matters more closely, I think that would be excellent.

But if we are involved in long-term problems I believe it would be better to leave those matters up to the Continuing Committee on the Constitution which already exists. What is being sought exactly?

THE RIGHT HONOURABLE P.E. TRUDEAU: As far as I am concerned I entirely share Prime Minister Bertrand's view. I believe that there should be some distinction drawn between the various committee levels.

(ENGLISH)

There are three levels at which we can operate. At the lowest level there are already in existence task forces which have been set up by Mr. Munro, the Federal Health Minister, with the Provinces, to examine various spending programmes to see which of them should be altered and modified with a view to getting more saving for the taxpayer, for the provincial and the Federal Government. This is going on now. It could perhaps be continued with a great deal of profit.

But then there are the two other levels. I believe that the immediate questions, the fiscal ones, are generally dealt with in the Tax Structure Committee. The Minister of Finance suggested in December that it should be reconvened. It could be reconvened immediately if this is the desire.

But I believe Mr. Steuart's and Mr. Bertrand's point would be best met by referring this problem we are discussing now, taxing and spending powers, to the Continuing Committee of Officials, which is the Constitutional Committee.

It could get some technical aspects of its work done by the Tax Structure Committee if it so decided. But it would be facing the problem we have been trying to grapple with this morning, the constitutional problem and the rules of the game in the spending power and in the taxing power. And if that were agreed, we could reach some resolution which would be drafted by the Committee of Officials, to which we could assent later on in the day, or tomorrow.

But essentially it would be referring the item Distribution of Powers to this Continuing Committee of Officials on the Constitution with the direction to look at the taxing and spending aspects of the distribution of powers.

If they wanted to go on to the other aspects that you, Premier Bennett, raised at the beginning of the discussion, it would also be within their authority. But they would begin with this particular aspect of the spending power. And then they could go on to the other aspects which you suggest.

HONOURABLE W. WEIR: Mr. Prime Minister, I may be alone, and, if I am, that is fine. And I hold the view - and I would like to share it - that the committees of this Conference should be ministerial committees who would direct the working of the Constitutional Review and the Continuing Committee.

In my view anything this does has an impact on the political lives of every individual Canadian. And I think they should know whom to blame for things that are said and things that happen.

I think the people should direct it - have the mood of the Cabinet - of the respective governments. And I

take a dim view (and I don't mind telling you) of hearing on the radio that there is a dragging of feet by some governments in terms of the Continuing Committee. I don't know whether they were referring to Manitoba or not, but by a number of the Civil Servants, a bureaucrat (to use my friend's, Dave Steurat's, words) speaking in British Columbia and talking about three Provinces dragging their feet....I don't mind the Prime Minister talking about me dragging my feet. I don't mind the leaders of the other governments talking about governments dragging their feet. But I think this is an area for the administrators to keep out of.

I believe that the research and the development should be directed by a group of people who are responsible, and through their legislatures to the people of the respective jurisdictions.

I hold the view, and believe it all the way down, where your short term committee, long term committee, any kind of committee that you have, the operation of your Continuing Committee of Officials should be directed by a Minister. And I think it could be run - I would be quite happy to assign the Attorney-General of Manitoba who is really in charge of constitutional affairs, to direct Manitoba's position on all of these things, taking his advice from his other colleagues as he needs to in directing the work of the committee.

HONOURABLE W.A.C. BENNETT: Mr. Prime Minister, we have our deputy ministers and our trusted advisers. They are carrying out the ministerial position for us. Their deputies are our deputies, and therefore they are working with us. And that is the way to get things done, otherwise you are tied down with lots of detail and never get it done.

The only point on shared programmes, I have just one observation. I don't mind the Federal Government coming out with proposals of shared programmes. I am in favour of that, as long as they have the money under the Constitution to finance their share. But I do object very strongly after establishing these shared programmes, to withdraw without unanimous agreement here.

And I would hope, Mr. Prime Minister, that on some of these announcements that we are starting to get about withdrawals, that you will put a stop to it immediately. Because that is not fair. And that is not the way to build

a strong Canada, Mr. Prime Minister.

I wish you would give us that assurance.

THE RIGHT HONOURABLE P.E. TRUDEAU: I will give you the assurance on item (g) on the agenda we are dealing with proposals on the mechanism on Federal-Provincial consultation, and if we could set up a mechanism whereby we will be able to do exactly this...

HONOURABLE W.A.C. BENNETT: I would like you to do this now - instruct your ministers that where the Provinces entered into agreements with you there is to be no withdrawals without agreement with the Provinces that have agreed to enter with you, because you cannot get a person into an agreement and then get his expenses going and then pull out. That is most unfair.

THE RIGHT HONOURABLE P.E. TRUDEAU: That is why we have task forces who are now negotiating with the Provinces to see where we could pull out. We don't pull out because we want to.

HONOURABLE W.A.C. BENNETT: We think that as a principle we should agree that once these shared programmes that we entered in good faith (and you got us into them; and we willingly went into them) that you are not going to pull out and leave us alone with them.

I mean, that is most unfair. You can't build any confidence on that. So I don't think that is a job for a task force; I think that is a position for the Prime Minister, if I may in due deference say it.

After saying that, I would like to see that we have showed progress here this morning. On 91 Distribution of Powers, I would suggest that we agree that we strike out 3 for the time being for further consideration.

Outside of that we have agreed to everything from (1) right down to (28) inclusive at this Conference this morning, and leave (3) or alternative (3) for discussion later, and (29) for discussion later.

So we can say to the Canadian people that we are not only talking; that we are getting things done too on this question of the Constitution.

THE RIGHT HONOURABLE P.E. TRUDEAU: Is that agreed?

SEVERAL VOICES: Agreed.

HONOURABLE J.R. SMALLWOOD: No, it is not agreed.
No.

THE RIGHT HONOURABLE P.E. TRUDEAU: I am afraid there is not agreement on that.

HONOURABLE J.R. SMALLWOOD: Let us see what goes in place of it before we kick it out.

HONOURABLE W.A.C. BENNETT: We are not kicking it out. We are setting that aside.

HONOURABLE J.R. SMALLWOOD: We are not talking about it.

HONOURABLE W.A.C. BENNETT: No.

HONOURABLE J.R. SMALLWOOD: All right. We are not kicking it out?

HONOURABLE W.A.C. BENNETT: No. Do you agree with it now? We will deal with everything about that at this time and leave that in abeyance.

HONOURABLE J.R. SMALLWOOD: But we don't disagree with that.

HONOURABLE W.A.C. BENNETT: No, not necessarily so.

THE RIGHT HONOURABLE P.E. TRUDEAU: There does not seem to be a consensus on this particular point but we will have to be...

HONOURABLE W.A.C. BENNETT: I want to say, Mr. Prime Minister, I want the people of Canada to know that British Columbia at least wants some progress made at this Conference.

THE RIGHT HONOURABLE P.E. TRUDEAU: Well, I tried to get an agreement as you saw.

HONOURABLE W.A.C. BENNETT: You and I were in unison in this then, Mr. Prime Minister.

THE RIGHT HONOURABLE P.E. TRUDEAU: I think the progress we will want to make is such as that suggested by Mr. Steuart and Mr. Bertrand and Mr. Weir although there is

perhaps a slight difference here as to whether the Continuing Committee of Officials should be doing the on-going work or preparing it for future meetings of ministers.

The difficulty which you are suggesting, Premier Weir, is that the Attorney-General will already be having a lot of things to consider which have already emerged from the Continuing Committee of Officials.

HONOURABLE W. WEIR: In my view, Mr. Prime Minister, you should be allowed to direct that he can delegate if he wants to do that sort of thing, but the Official Committee out of here should be that.

I don't mind telling you I believe that the reputation that I and some of my colleagues got in coming to Eastern Canada about this Conference comes as a result of briefing sessions which Civil Servants have had interpreting what we were going to do and leaving an impression across Canada that we were coming down here trying to break up the Nation and nothing could be further from the truth.

I believe we came down in a responsible fashion and really attempting to pull the thing together, and I think that the finger on every Committee should be at the political level for something that is as serious as our Constitution.

THE RIGHT HONOURABLE P.E. TRUDEAU: In our case, if I can explain it, the Federal Government has the finger on every aspect of the Constitution and there has been no submission by any federal official or proposition which had not been dealt with by Cabinet and sometimes at great length as to the position adopted by all the Provinces, if the Committee of Officials speaks only for the governments which have empowered it to do so, there perhaps will not be this difficulty.

HONOURABLE W. WEIR: But, Prime Minister, you say they don't make decisions but just in the preparation of research that they take on in separating the areas of investigation it comes back to us, a decision is made, and I think that that decision should be made by the political people of the Country.

(TRANSLATION)

HONOURABLE J.J. BERTRAND: If I may, Mr. Chairman, what about the problem raised by Mr. Weir? Should we not

deal with that under item 2(c), Procedures to be followed for the Constitutional Review? I think that would be the proper item.

Mr. Weir says: "All that work is being prepared by officials." But there is no doubt that these officials are working under the responsibility and supervision of the governments they represent. But what I had understood, when you first spoke, is that what you wanted to deal with was more particularly the taxation and spending powers in the present. I understood you to suggest that you would like to have a committee set up to solve such immediate problems. I might have misunderstood you but I feel that, in this case, you are reopening for discussion that item we already have on the agenda relating to Constitutional Review procedures.

(ENGLISH)

HONOURABLE W. WEIR: Well, I am sorry if I left a doubt because there are two things and I separate them both.

I hold the same view about both. I may be alone on the one, you know, in the terms of the Continuing Committee and certainly the right place for it to be brought up is under the Procedure for Constitutional Review, and we didn't really have much of an opportunity to discuss that yesterday and I intended to bring it up on a future occasion when we were dealing with that, but certain things he said made me bring it in at this stage of the game.

If you want to separate them, it is all right with me but...

THE RIGHT HONOURABLE P.E. TRUDEAU: Perhaps it might be useful to do that. We can on item Procedure for Constitutional Review, which we will be dealing with tomorrow afternoon before adjourning, we can perhaps come back to this problem, but right now there is perhaps agreement in principle to the suggestion of the Honourable Mr. Steuart to the effect that this problem we have been discussing this morning, taxing and spending power, be referred to the Continuing Committee of Officials, subject to any modifications we will make after tomorrow afternoon's discussion.

There is the problem of regional disparities - ?

HONOURABLE G.I. SMITH: Excuse me, Mr. Prime Minister. I am not going to disagree about referring it to the Continuing Committee, but just doing that will not meet the point I was trying to make, namely, that this after all, this constitutional problem is really wrapped up in money and we fully begin to say how the Constitution is going to deal with this money, the ways of raising it and the ways of spending it, someone has got to know how much money there is there. What are the potentials of the different fields from which taxes may be raised, revenues may be found.

I do not believe that the Continuing Committee is very well informed on that at present. I know it takes a great deal of work to do it because we went through it once in the Tax Structure Committee.

THE RIGHT HONOURABLE P.E. TRUDEAU: That is why on that aspect of it I said earlier that the Tax Structure Committee could be reconvened. It could be directed to meet in the very immediate future for these immediate items and the Minister of Finance, Mr. Benson, has, I believe, made that offer last December so we could, not as members of a Constitutional Conference, but as all interested in the immediate financial problems, direct this Tax Structure Committee to meet fairly soon. Could that be arranged, Mr. Benson?

(TRANSLATION)

HONOURABLE J.J. BERTRAND: But that is precisely the problem which I have just been discussing with my colleague, the Minister of Finance. We have stated that there were long-term problems. These problems belong to us, to the Constitutional Conference. We have also at this point short-term problems.

Some examples have been given this morning by the Prime Minister. Is there shortly to be a conference of Ministers of Finance to continue the talks initiated last November and December; problems of financing, taxation problems, etc., with a view to finding immediate solutions. Is that the point referred to by Premier Smith? Was he thinking of setting up a committee of Ministers of Finance called by the Federal Minister of Finance and empowered to deal with immediate problems, such as Medicare and others?

THE RIGHT HONOURABLE P.E. TRUDEAU: On that point the Ministers of Finance are to meet when Mr. Benson has produced his White Paper on Fiscal Reform. It might be

possible for the Ministers of Finance to avail themselves of that opportunity to discuss what has already been prepared by the Tax Structure Committee. Mr. Robarts?

(ENGLISH)

HONOURABLE J.P. ROBARTS: I don't think, Mr. Prime Minister, that this question will ever be settled by Ministers of Finance. As far as I am concerned it will have to come before heads of government. I think it is too fundamental. I think it is too deeply imbedded in what is going on in our Country. I just have the feeling that we will settle nothing with another conference. It must come before us as heads of government.

HONOURABLE W.A.C. BENNETT: You will have Premiers and Ministers of Finance.

HONOURABLE J.P. ROBARTS: Oh, he can bring as many advisers as he wants.

HONOURABLE W.A.C. BENNETT: Just one more minister.

HONOURABLE J.P. ROBARTS: Yes, certainly. All I say is that this is of such consequence that I don't think it can ever be settled by the Ministers of Finance.

THE RIGHT HONOURABLE P.E. TRUDEAU: Fine, but at what stage do you suggest, Premier Robarts? I mean many of the Premiers said they had not come down here to ask for more money. We were happy to hear that. We are here essentially to try to solve the on-going problems, the future problems, not take up the past, and that is why we say this is essentially a Constitutional problem and we agree with Mr. Steuart's suggestion that we have it referred to the Committee of Officials.

Now, at some point obviously the heads of government will have to come together and talk about financial problems. Our submission once again is that that can be done when we have begun to work out the rules of the game.

I repeat: if the spending power is not desired by all Canadians, if it is something we want to rip out of the federal authority, we can do so. We can consider it. We can look at the consequences on the Country but in the same way as education is within provincial jurisdiction, for one hundred years spending power has been in the federal jurisdiction. We are looking now at the Constitution to

know whether it should be altered in one way or another and this would be done eventually by heads of government but what do we do now when we adjourn on Wednesday night?

Should we not ask the Officials...?

HONOURABLE J.P. ROBARTS: I think that is probably correct, Sir. As far as I am concerned, once we adjourn for lunch I will never mention a dollar again at this Conference. It was on the agenda for discussion this morning. This morning is over with. We have completed our discussion on this portion of the agenda. We will go on to the other matters that are here.

All I say is that referring this to the Ministers of Finance, I think, will solve nothing. I think it must come back to the Tax Structure Committee. That work must be updated. Then eventually it will have to come up. When we do this it will be up to you and all the heads of government here. You will decide.

All I say is please let us not give this to the Ministers of Finance. All you will do is have a delay.

Eventually it has got to be solved by us. That is the last word I will say about money at this Conference.

HONOURABLE W. WEIR: Are we talking about short-term, about how we carry on between now and constitutional change or are we talking about long-term?

THE RIGHT HONOURABLE P.E. TRUDEAU: Premier Robarts was talking about both. The Tax Structure Committee.

HONOURABLE W. WEIR: Well, in my view the Finance Minister is the only man in my government who is going to be able to agree or disagree with our position in relation to increasing taxes, to dropping out of shared-cost programmes, to entering new shared-cost programmes. It is not going to be any official of the Government of Manitoba. There is only one man I listen to and it is this guy.

THE RIGHT HONOURABLE P.E. TRUDEAU: Perhaps each provincial and federal government should be authorized to delegate who it wants to the Continuing Committee of - we can call it - Officials and Ministers, if that is desirable.

I think many of us feel that it would be useful to have the officials meet and try to delineate the problems and suggest to us alternative solutions before coming together ourselves. But if your Finance Minister wants to attend...

HONOURABLE W. WEIR: In my view I am looking for something that is looking after the taxpayer tomorrow in case somebody is going to bring in a budget that we don't know anything about. The last one we had...

HONOURABLE E.J. BENSON: I promise you I won't.

HONOURABLE W. WEIR: Well, all I am saying we have heard these things before. I would like a mechanic whereby these people can sit down and talk about it and be concerned about the total tax on the taxpayer and I think it should be the elected person that is concerned in establishing the level that we have got and I will be satisfied if you make it Ministers and Officials as long as I can send my guy.

THE RIGHT HONOURABLE P.E. TRUDEAU: I do not think our officials would mind sitting down with your guy.

Well, is that agreed then?

Do we feel we have discussed regional disparities enough? It came in indirectly in many of the statements, but, if not, we will bring it up tomorrow morning the first thing on the agenda.

This afternoon we will take languages and we will take fundamental rights and any time left over we will go on with the rest of the agenda.

Premier Smith?

HONOURABLE G.I. SMITH: I would like to have an opportunity to discuss regional disparities further.

THE RIGHT HONOURABLE P.E. TRUDEAU: You will invite Mr. Robarts to talk about dollars.

HONOURABLE J.P. ROBARTS: No, I won't. I will keep quiet.

HONOURABLE L.J. ROBICHAUD: Premier Robarts said a moment ago he was not going to talk about dollars any more at this Conference. I hope he didn't want to write out of

the agenda regional disparities.

HONOURABLE J.P. ROBERTS: Not at all. You can say anything you like. It is just what I am going to say.

HONOURABLE L.J. ROBICHAUD: You have to mention dollars.

THE RIGHT HONOURABLE P.E. TRUDEAU: Then tomorrow morning, or later in the day if we have covered the rest of the items, 4(a) and (b), we will go on with regional disparities and the other items on the agenda.

FOURTH SESSION TUESDAY AFTERNOON
Ottawa — February 11, 1969

FOURTH SESSION : TUESDAY AFTERNOON

THE RIGHT HONOURABLE P.E. TRUDEAU: This afternoon the items to be dealt with are under Item 4: Official Languages, which I hope we will be able to discuss for part of the afternoon; and the other part, Fundamental Rights.

On the Official Languages, the first item, I hope I might be allowed to lead off very briefly since it is an item we sought to put on the agenda and I want to repeat statements we made yesterday in the name of the Canadian delegation.

I think essentially the question can be brought down to the choice between two sorts of Canada; one kind of Canada where French would be used exclusively in the Province of Quebec and English used exclusively in the rest of Canada, presumably the Federal Government using only the English language. That kind of Canada would obviously quickly lead to a division and associate states and probably two independent Canadas.

The other sort of Canada is the one on which I believe we reached a consensus last year at this Conference. A Canada where the rights of French and English are recognized as both being official languages. In practice, this means that in areas of the Country where there is a sufficient number of people speaking one of the official languages, that justified the use of that official language in the various institutions, schools and various dealings with civil authorities.

As I say, I believe the choice was made at the first meeting of this Constitutional Conference. One of the conclusions drawn last year was - and I quote:

"Recognition by this Conference that as proposed by the Royal Commission on Bilingualism and Biculturalism and as a matter of equity French-speaking Canadians outside Quebec should have the same rights as English-speaking Canadians in Quebec."

There has been a great deal of progress made on the application of this principle since last year. At the

federal level, as you know, we have gone beyond the strict provisions of Section 133 of the Constitution imposing certain obligations in the matter of recognizing two official languages. We have gone beyond that and introduced for the first reading the Official Languages Act, about which I expect we may hear more later on. The Provinces have also gone beyond the strict provisions of Section 133 of the B.N.A. Act imposing on Quebec and the Federal Government certain obligations, shall we say, to use both languages in the Legislature or Parliament. Certain Provinces have gone beyond that and made the French language an official language in their legislative assemblies; that is, the four Atlantic Provinces, I believe, and the Province of Ontario. As a result now there are these four Provinces plus Ontario and Quebec, making six, plus the Federal Government, making seven; seven out of eleven legislative bodies do recognize English and French as both official languages.

Beyond that we have the Provinces that told us yesterday (and we heard it with pleasure) that throughout the months of the year they have gone further than that in their language rights in the schools and set up either pilot projects or schools or the right to teach the other official language in the schools of the Province in certain conditions and under certain ways.

Therefore, there has been progress and the questions we would hope to deal with at this Conference now are one constitutional question and one practical one. The constitutional question is should we entrench these rights, should we state in the Constitution that we want to not only make the recognition of these two languages a matter of goodwill, which could be altered or modified by successive governments, or do we want to make it a basic right and principle upon which this Country rests that both languages are recognized as official; once again in those areas where it is practical.

On the constitutional side there is also a question that has been raised, I believe, by some of the Prairie Premiers: can we legislate in this area not only in the Constitution but can we legislate in the statutes beyond the strict provisions of Section 133? We may want to discuss this this afternoon and perhaps we will find that both aspects of the constitution question might have to be referred to a continuing committee or a committee of Attorneys-General of the Provinces and of Canada to look at these aspects of the problem. That would be one way

if we cannot finish the debate today to deal with it further.

The second question I said was a practical one. It is one of providing technical and financial assistance to Provinces who have decided to go forward with implementation of the B and B recommendations or of the principle adopted last year. It would mean, as we have stated last year, and I repeat today in the name of the Federal Government, that we are prepared to consider the provision by the Federal Government to the Provinces who want to deal with the minorities in their Province of the other official language, providing to them technical or financial assistance of one kind or another.

Right away when I say this we are back into the spending power. We would not want to do it if it is not recognized by the Provinces as a legitimate use of federal spending power to help the minorities across the land.

This is a question we can discuss and it is one that is made all the more actual by publication of Volume 2 of the Bilingual and Bicultural Commission, the one which deals with education and suggests various ways of technical and financial assistance. We might want to refer this whole practical question of providing assistance to a continuing committee of officials, one that has been set up last year, because this aspect of it has not been dealt with yet. I would merely add in the case of some Provinces they have already indicated their desire to co-operate with us on that and we are prepared to have bilateral meetings with them. We do prefer to have meetings of Provinces so that they can express various points of view so once again if we should use the spending power to help minorities in one Province it would not be contested as an invalid use of the spending power by other Provinces. If possible we would like to have general meetings on that.

(TRANSLATION)

I might simply add a word, directed at the Government of the Province of Quebec. They stated yesterday in their brief, and I quote: "That what is important for French-Canadians in Quebec is not the individual right to speak their language, even in those parts of the Country where it has little chance of being understood; it is to be able to work and live collectively in French and build a society which resembles them."

We do agree that it is important to be able to live as a French community and work in French. As far as we are concerned, however, speaking as citizens of the Province of Quebec, we would like to say to that Province and to its government that we will do everything in our power to assist them in the defence and promotion of the French language. We will do so within the bounds of the Constitution.

But what you said yesterday, Mr. Prime Minister, had reference to what is important for the French-Canadians living in Quebec.

But we would like to know from you what you think of the other people living in Quebec. We would also appreciate knowing your position on French-Canadians in other Provinces or on those who work for the Federal Government. We hope that in the struggle to affirm the equality of the two official languages we will enjoy the support of the Province of Quebec and of its government, who, over the years, has fought so much to ensure the rights of the French language. We would like to know now whether we enjoy the support of your government in respect of Federal legislation in that connection. What we would be dealing with here would be a constitutional amendment to ensure that the two languages be treated equally in all Provinces and not only in your own. That is more or less what I had in mind. I would now yield to any of the leaders of government who would like to take it.

Are there any comments on this?

(ENGLISH)

HONOURABLE H.E. STROM: Mr. Prime Minister, if I may I would like to say a word on behalf of the Province of Alberta. First of all, I want to make it very clear, as I hope I did in the talk that I gave yesterday, that our Province is not opposed to the greater use of French within our Province. In fact, we feel that we ought to give every opportunity that we can for the study of French throughout the whole Province and I think you will recall that we mentioned some of the changes that we have made to try and accommodate the desire that we have in this regard.

Our concern then is not with the greater use of the French language within our Province as far as our concern in regard to the Official Languages Bill. We do feel, and we don't think that it is an unreasonable request, that the Federal Government should be prepared to contest the validity of it by reference to the Court. If it is ruled that

it does not in any way affect us then of course we are not involved and it then certainly is the Federal Government's permission to go forward with it and to implement it if that is what they want to do. I would have to say as far as our Province is concerned, we do not feel that this is the best way to get the greatest advantages as far as language is concerned.

We feel with that on a voluntary basis we will accomplish more. We will create less problems as far as our Province is concerned, and I want to make that point very clear here again today.

Therefore, as it stands at the present time, we do not go along with the Official Languages Bill. We would like to see the Federal Government have it tested in the Courts, but again I make it very clear that we will proceed to do everything that we can to encourage the use and the opportunity to study the French language in our Province.

THE RIGHT HONOURABLE P.E. TRUDEAU: Prime Minister Robichaud?

HONOURABLE L.J. ROBICHAUD: I think the position of New Brunswick on the matter of two official languages has been made clear on various occasions. I think the Premier of Alberta is quite in his right by wanting a reference as to the legality of the Bill presently before the House of Commons.

I might say that in my humble opinion chances are 99.999 per cent that the Bill is a legal one. Perhaps I should say 100 per cent. Anyway I think they should reserve the right to have it tested in the Court.

In the meantime, however, I do not think we should stall the proceedings towards the implementation of this legislation. I know that in New Brunswick we are not ready to stop. We want to go forward because we feel that the ability to speak two languages is an advantage for all Canadians whether they be French- or English-speaking.

Now there may be two ways. We have to decide, number one, whether we will have two official languages entrenched in our Constitution or not. And if we do, then whether it would be entrenched in the Constitution or in a charter of human rights.

Last fall I had the privilege of participating in a panel discussion at the Bar Convention in Vancouver, and one of the members of the audience asked me a question when he said, "If we have faith in human nature as we do, why do we have legislation proclaiming the two languages official? Why do we need legislation? Why don't we do what Premier Strom suggests: Faith in human nature and we will let nature follow its course." In my answer I said, "All the Provinces have faith in human nature, but all the Provinces have laws controlling the sale and distribution of liquor as well."

HONOURABLE W.A.C. BENNETT: No comparison.

HONOURABLE L.J. ROBICHAUD: Well, there is no comparison. There might be some comparison. I do not see anything wrong, personally, in having the right to speak English and French entrenched either in the Constitution or in a charter of human rights. Who can it hurt? It doesn't hurt anybody. The Prime Minister made it quite clear yesterday when he said that nobody in Canada would have to speak a second language in spite of himself.

Nobody will be forced to speak a second language unless he so wishes to do it. Whether he lives in New Brunswick or the Province of Quebec or in Alberta or British Columbia, it doesn't make any difference. He does not have to speak a second language. But why not make a second language available if he so wishes to learn a second language?

Premier Smallwood said yesterday it is a very trifling amount of money to have to pay to keep this Canada united. And I agree with that 100 per cent. I do not think the cost means so much - not only the material cost in terms of dollars, but I do not think it will offend anybody if this feature should be entrenched either in the Constitution or in a charter of human rights.

New Brunswick unanimously supports this legislation, and I say unanimously most advisedly. I know there is a minority of people who think that there will be detrimental effects if this should become law. I really do not think so. I can speak English and I can speak French, and a lot of people can do likewise, but it is not necessary for everybody to do likewise. I do not think it is essential for any civil servant whether he be a federal civil servant or a provincial civil servant to be bilingual. I don't think it is at all. If he happens to be bilingual,

so much the better. It does not mean that his pay needs to be higher; if he is bilingual, much better, yes.

Last week I had at my office the secretary of a newly formed association in New Brunswick, the Association of Indians. There are two tribes in New Brunswick, the Malecite and the Micmac.

They came to me for assistance to preserve their culture and their language, and I told them I would support them 100 per cent. Not that I am ever going to speak Malecite or Micmac. I do not intend to learn that language. But I will fight for their rights to preserve their own language for themselves, and I think it is a basic and fundamental right.

For our part, in New Brunswick we are 100 per cent behind the Federal Bill, and we will introduce legislation at the spring session of the legislature proclaiming French and English as the two official languages of New Brunswick. The legislation may be challenged in Court, but we will have a battery of lawyers to defend it, and I am quite sure that we will win the case.

Now, there is a question of cost. This will have to be negotiated with the Federal Government, and that is why we very likely will make this legislation subject to proclamation because we want to know exactly - or not necessarily exactly, but approximately - what form of financial assistance the Federal Government will be able to give us because, according to the B and B Report, the Federal Government will participate in the expenses incurred by the various Provinces. This I believe is subject to negotiation. And we are ready to negotiate that with federal authorities.

(TRANSLATION)

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Robichaud. Mr. Jean-Jacques Bertrand?

HONOURABLE J.J. BERTRAND: Mr. Chairman, I am happy to respond to the invitation you addressed to me a moment ago and to say a few words on this item of the agenda, "Official Languages". In any event even if you had not called on me to do so I would have done it. It was my duty and I do think that Quebec must make its voice heard here on a problem of that nature.

There is no doubt that the language problem is, at the present time, everywhere in Canada, including Quebec,

a very delicate, complex and difficult matter. I feel we should begin by distinguishing the various aspects of the problem. To my mind there are at least three.

At the outset there is the matter of bilingualism in federal institutions so that these institutions may serve all Canadians, of both cultures. This is quite clearly a matter for decision by the Federal Parliament. Then there is the problem of language minorities - official language minorities, and all steps which should be taken so that they are dealt with fairly. This matter is one for joint action by the Federal Government and the Provinces.

Then there is the problem of the use and the development of French in Quebec itself. This problem is born of the crushing predominance of English in North America. In the Province of Quebec, this is a matter which essentially belongs to the provincial jurisdiction.

May I now make our position clear on each of these three aspects of the problem of Official Languages.

Mr. Chairman, Quebec supports bilingualism within federal institutions.

We feel that these institutions belonging to all Canadians, French-speaking Canadians and English-speaking Canadians, both must have equal access to them and should be able to work within them without any obstacles. This will be possible only if English and French are put on the same footing both as working languages within these institutions and as languages of communication with the public.

Quebec therefore supports the principle of the proposed federal legislation on Official Languages, "Bill C-120, an Act Respecting the Status of the Official Languages of Canada" whose first reading, according to the paper I have before me, was given on October 17th, 1968.

We would therefore ask other Provinces not to oppose its adoption in principle.

However, as has already been noted by a Sub-Committee of the Constitutional Conference, that dealing with Official Languages, Quebec has indicated certain reservations in respect of one of the principal aspects of the proposed federal legislation. I am referring here to the establishment of bilingual districts. It is obvious that in the case of Quebec this idea of bilingual districts is meaning-

less since, in fact, all federal services, with very few exceptions, are already available in both languages in all those locations where English-speaking Canadians are to be found in any number and, indeed, even elsewhere, as most federal civil servants in the Province of Quebec know and speak English. In any event the proposed federal legislation indicates that bilingual districts will be established in all those places where services were available in both languages prior to the implementation of the Act, even if the minority involved is less than 10 per cent.

The matter may be further dealt with in the details of the legislation. I would not object, on the contrary, if you, as Chairman or my colleague the Minister of Justice would indicate to me if I err in what I am saying at the present time, since we are not dealing here with the principle but with the various aspects of the Bill.

In any event, in practice the entire Province of Quebec will be a bilingual district. Conversely, however, bilingual districts in other Provinces may quickly turn out to be what, in certain cases, has been referred to as "reserves" or ghettos. This might well compromise the mobility of French-speaking Canadians. It might very well be that a French-Canadian will hesitate in moving to a location not situated within a bilingual district. From that point on we will no longer be able to speak of the presence of French "a mari usque ad mare", at least outside those districts.

I would therefore ask the Federal Government to remain faithful to its principles to the maximum extent and to state that, as far as federal institutions are concerned, French and English enjoy the same rights in Canada, everywhere. It would be lacking in realism not to admit that I understand that the application of this principle of equality must be done progressively, as bilingualism itself progresses. We should begin by providing services in the two languages in all those places where we find Canadians belonging to the two language groups. But, little by little, all Canada - as far as federal institutions are concerned - will have to become bilingual. How long will this take? How long will the waiting period be? It is then that Canada should be bilingual, not only Quebec and certain districts of the other Provinces.

It does seem to me also that the disappearance of this idea of bilingual districts will probably do much to assuage the fears expressed by certain Provinces with regard to this proposed federal legislation. It would be clear, then, that this proposal involves only federal institutions, Provinces remaining perfectly free to deal with the language problem in a way which best meets their special circumstances. In any event I have heard a number of provincial premiers say, not only here, but at the Confederation of Tomorrow Conference held in Toronto and at the first Constitutional Conference held here, that in their Provinces efforts were being made, more particularly in the area of education, to promote greater use of the French language.

I must say that it is wonderful, for me as well as for my fellow Quebecer, the Prime Minister of Canada, or my other fellows here, to note that there is an awakening in this regard after so many years. It is very gratifying to note that the Premiers of the other Canadian Provinces are taking an increasing interest in the promotion of the French language in the area of education within their jurisdictions. As examples of that, we could quote the very positive, and indeed rather spectacular steps taken by the two Provinces adjoining Quebec, that is Ontario and New Brunswick. Mr. Chairman, it would then be clear that the legislation involves federal institutions only, and that the Provinces, I repeat, the Provinces, will remain perfectly free to deal with this language problem in the way which best suits their special circumstances.

A few words now of two other aspects of the question to which I referred at the outset. In the brief which he presented to the first meeting of this Conference last year, my predecessor, Mr. Johnson, had stated that "certain of our people even object to the position of the English language in Quebec". I might say right away that we will not correct what might seem to be an anomalous situation by depriving the English-speaking minority in Quebec of its fundamental rights. Indeed we are quite ready to guarantee the rights of the English language in the Province of Quebec, the form of such guarantees to be determined at some future date. I continue with Mr. Johnson's remarks: "However, the rights of the French language in Quebec should also be not only guaranteed, but dealt with in such a way that French, in our Province, will find means of development beyond these simple legal terms and suitable to our demographic reality."

Mr. Chairman, you and your colleagues who are here and who follow current events will have noted that the Government of the Province of Quebec has already acted with a view to determining how these two objectives could be reached, notably through the setting up of the "Gendron Commission of Inquiry", whose terms of reference call upon it to recommend those means which should be taken to ensure the linguistic rights of the majority in Quebec along with the protection of minority rights.

Quebec therefore fully intends taking its responsibilities in this field. You might allow me to remind you that the present position of the English-speaking minority in Quebec is still that described by the Laurendeau-Dunton Commission and suggested as a model for the rest of Canada.

You asked a moment ago, Mr. Chairman, what the attitude of Quebec would be in respect of French-speaking minorities in Canada. I need not remind you at this point of the historical facts; it would be as long as it would be boring. There would of course be a great deal of truth in all that I might say. But let us simply state that at this time and indeed, over the last few years, acting through the Department of Cultural Affairs of Quebec, appreciable assistance was given to French-speaking minorities in Ontario, New Brunswick, Saskatchewan, Manitoba, Alberta and British Columbia, that bursaries were given to students and teachers and grants paid to French-Canadian associations in various Provinces. There is even a newspaper of this Country, l'Évangéline, published in New Brunswick, which has received substantial assistance from the Government of the Province of Quebec. I might add that in this area our Department of Cultural Affairs, through that particular division charged with French-Canada outside Quebec, has also extended substantial assistance to our French-speaking fellows in the United States.

All this should indicate that, at the federal level, we find no fault with the principle of the proposed Bill. We do have reservations, however, as I have already noted, with regard to some of its details. With regard to assistance to French-Canadian minorities, we hope that the policies established by the other provincial governments will develop and that we will be able to correct what has been, over the years, unfair treatment meted out to our fellow French-Canadians.

It often happens that surprise is expressed at our reactions. I had the occasion to speak with one of my colleagues, the Premier of another Canadian Province, and to explain Quebec's position to him. I told him: "You might often be surprised at the way we talk but perhaps you should attempt to put yourself in our place. There is no better way of understanding somebody else's point of view than that." There are five or five and one half million of us in the Province of Quebec.

We are the majority. The Laurendeau-Dunton Commission, in two paragraphs which I feel should be referred to here, and which have already been quoted to this Conference, speaks of the political dimension of Quebec's role. It is said that English-speaking Canadians have the majority in nine out of ten Canadian Provinces and that French-speaking Canadians are in a majority in the Province of Quebec.

That is the situation of which we must take advantage. The concentration of more than four million French-speaking people in a single Province is the only factor which, at the outset, gives any reality at all to the idea of association and equality. Quebec is the place where the aspirations and needs of four out of five French-speaking Canadians can be satisfied. Because of this concentration life in French is realized spontaneously and easier to organize.

As the commissioners wrote, the role of Quebecers in the French life of Canada should be recognized to a much greater extent than is the case at the present time. We have a reference at this point to employment in the Federal public service as well as in the private sector. It is added, however, that the situation has also a political aspect. Quebec is the only Province where French-speaking people are in a majority and English-speaking people in a minority. In this instance numbers favour the French-speaking and provide them with a very powerful lever. They may exercise a leading influence within their own Province and also be heard by the rest of the Country - notably, of course, within the Federal Parliament - as well as take a vigorous part in the life of Canada. Of course, all this is fraught with certain dangers. The problem can be put in this way. How can the new Quebec be integrated within contemporary Canada, without restricting Quebec's move forward and, at the same time, without endangering the unity of the Country? The commissioners add: "From all this there results a Quebec leadership

for the promotion of the French language and culture in Canada, whatever may be the prevailing political solution. This is a result not of ideology, nor of some form of messianism, as might have been referred to in the past, but from the very nature of things. In this way, whether we like it or not, it is an obvious and indisputable fact that Quebec is not a Province like the others."

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Bertrand.

(ENGLISH)

HONOURABLE J.P. ROBARTS: Prime Minister, last February we said that the place of the English- and French-speaking communities in Canada was one of the critical and crucial problems which faced this Country. We stated then, and we believe still, that a solution has to be found to this problem in order to meet the legitimate needs of both language groups and to create the kind of climate which will enable the Country to meet more effectively the challenges of constitutional change and economic disparities.

I think this is about as close as I will come to money this afternoon.

In the past two years, I think that Canadians by and large have been made more aware of the linguistic difficulties in our Country, both by the Confederation of Tomorrow Conference where the matter was discussed openly perhaps for the first time, and in the Constitutional Conference that took place here a year ago.

We established a climate a year ago. There might be some question as to whether we have been able to improve that climate in the year that has elapsed. But as far as we in Ontario are concerned, we believe that this whole problem is one of the keys to future progress in our constitutional discussions.

We do not think that the place of the two official languages in Canada can be solved simply by means of directives, regulations, legislation, charters or indeed constitutions. We think that we must take steps of this nature, of course. But we think we must also have in the Country a willingness among Canadian people to act in a generous and fair manner in the question of language usage. We do not think it is only a question of legalities. It is much more than that. It is a question of heart. It is a

question of conscience. It is a question of attitude, a question of thoughtful attitude.

So this is one reason why any incident that occurs in our Country, regardless of how small it might be, involving linguistic rights and privileges may trigger strong and sometimes violent reactions in other parts of the Country. We need a rational and calm approach to this question because there still exists in our Country some narrow and legalistic attitudes to the whole question. The action or inaction of governments, private groups and individuals is crucial to the development of the climate that we think is necessary if we are to solve this problem. We think therefore that every individual, every organization in the Country, has some role to play in the development of positive attitudes towards the position of the official languages in our Country.

We must recognize that events in one jurisdiction can have an influence on another jurisdiction many miles away. In this respect, no one Province is an island that can act solely on its own, because whatever it does is going to be reflected in attitudes taken by people in other parts of Canada.

I think that we must bear these considerations in mind as we develop whatever policies we do develop, as governments, in dealing with linguistic policies in the Country. I do not think that we should allow our perspective to become distorted by individual events that may occur. I think we should strive to eliminate the causes of misunderstandings if they do occur, although we must realize it is a very long-term problem indeed and one that will not be solved overnight.

It has been mentioned here that there are problems in finding people skilled in both languages to do the things one may want to do, in either providing the services in both languages at the government level or providing the form of education we might wish. We cannot solve this problem quickly. But I think we can continue from where we were a year ago and move forward from there. I think we must recognize that the things we do are basically just and proper. We also should move forward with the knowledge that those who look at what we do recognize that it is the just and proper approach.

We consider the work being done by the Sub-Committee on the Official Languages to be very important. We are

very pleased with the exchange of ideas and technical information which we have received from many other Provinces in the course of the work of the Sub-Committee. We believe that the course of action proposed by the Sub-Committee is probably as good a way as any of dealing with the problem, and we want the work of the Sub-Committee to continue.

Perhaps I should outline to you Ontario's approach to the question of Canada's official languages. The three propositions we have submitted to the Continuing Committee set out clearly the principles upon which the position of the Province is based. We have implemented these principles. We think that through the legislative process of each government we can probably ensure the most effective protection of linguistic rights. Our belief in the local, legislative process, which we are using in our own Province, leads us to the position where we do not view with any particular concern the Federal Government's present course of action on its Official Languages Bill. To us, this Bill is the Federal Government's means of implementing and meeting its responsibilities in this area of its jurisdiction, and we accept this position. We have no objection to the contents of the Bill. I said this in our Legislature a week or so ago.

We are not, however, necessarily opposed to having its constitutionality tested in the Supreme Court of Canada. If there is a question of constitutionality, we take the position that this impediment should be removed. We would suggest that we might ask their Honours to deal with it very quickly, which I think they could; perhaps a little more quickly than they deal with the normal pieces of legislation that go to the Supreme Court of Canada.

We would not institute such a review of the legislation because - I agree with Mr. Robichaud - the opinion that I have received is that it is legal. However, if there is doubt we think this should be resolved. But we also think it should be resolved rapidly and should not be allowed to delay unduly the implementation of the Bill.

Now regardless of the decision, although we are quite certain the Court will find it is constitutional, we think what is really necessary is that the Bill and the concept behind it should have the support of the people of Canada. As I have said, we can write the law down on paper. But if we, as a people, do not agree with it, it is not really going to be terribly effective. Unless the Bill is supported, it will lose much of its effectiveness. We accept

it as something the Federal Government is doing to discharge its responsibility in this area and we will therefore support it.

We would like to hear today a discussion of this Bill. I am putting our position very frankly, and if there are other positions I suppose this is the place we should hear what they are.

We think it is not the letter of the law that is important in this regard. It is really the application and the way people feel about it.

I do not propose to recite in great detail the steps which we have taken to provide bilingual services and to discharge the positions that we took last year, except to say that we did make certain commitments to this Conference in regard to language rights last year. I would like to give you at least a brief report of what we have done to carry out our undertakings.

We took some quite large steps in the field of French-language education. I reported to this Conference a year ago that we had appointed a committee to examine the whole question of French-language schools in Ontario. We introduced legislation last year to put the provision of French-language elementary and secondary education in Ontario on a statutory basis. That legislation was approved on the 3rd day of July, 1968 and I think it is fair to say that in a way unmatched by any jurisdiction in Canada, it provides statutory guarantees for the use of English and French as languages of instruction throughout our public school system. We are proud that we have been able to do this.

We have read the recommendations in the second volume of the Report of the Royal Commission on Bilingualism and Biculturalism and we think that we have met the spirit and intent of those recommendations. We think that we have done what is necessary to discharge our responsibilities and, frankly, we do not think we need to go any further than we have gone in this regard. There are some proposals which still need some clarification and evaluation. But this will come in due course.

I would like to give some attention to the question of minority language education, French or English, as the case may be. This concerns all of us who are seated here today. In our proposition on minority language education,

we put forward the view that Canadian parents should be able, wherever feasible, to have their children educated in either the English or the French language. We are convinced this guiding principle should not be held in dispute by any government or indeed by any Canadian. We think that this is fundamental and that our legislation of last July meets this principle in a clear and realistic fashion.

On page 141 of the second volume of the Royal Commission on Bilingualism and Biculturalism certain objectives were mentioned. I will quote from that report:

"The chief objective is to provide equal opportunity for both official-language groups to maintain and enjoy their language and their cultural heritage. At the same time, the education provided by these schools should ensure an adequate knowledge of the majority language and culture, with academic standards and educational opportunities equivalent to those of the majority-language schools in the same Province."

We have subscribed to this objective and we are taking the necessary supporting measures to ensure that that objective will be met. We do not really think that French-speaking Ontarians can live in our Province without knowing English as well, and we will ensure that the young people who are educated in French are also able to speak and work in English.

We will have a final report from the committee studying the subject (I think it will be along later this month) dealing with a variety of matters. We have asked for advice on such things as curriculum, personnel and administration in French-language education in our Province.

Unfortunately, Prime Minister, I said this morning I would not mention money again today so I am going to ask the Minister of Education to take over.

HONOURABLE W.G. DAVIS: Prime Minister and gentlemen: I shall be brief. My Prime Minister suggested I might mention the economic aspect of our French-language instruction programme, just to give the gentlemen here some indication of the extent of the programme and the cost.

A lot of people today, particularly the youth, refer to changes in some instances as "tokenism." Gentlemen and Prime Minister, I want to indicate that this is not an experiment, not a pilot project. We are talking about many thousands of young people in the school system in the Province of Ontario. In September, 1967, there were in Ontario over 94,000 French-speaking pupils attending bilingual elementary schools. In our Province we have two bilingual universities where the Government provides certain additional funds to allow the lectures to take place in the French language and to extend the curriculum so that it meets the educational needs at these post-secondary institutions.

We have also developed in the Province two bilingual teachers' colleges, to assist in the preparation and to increase the flow of elementary school teachers into the bilingual schools.

We have had some discussion, Prime Minister - perhaps you have been aware of them - in this city in particular, dealing with the establishment of a College of Education in conjunction with the University of Ottawa. Once again the provision of teaching personnel is the key to any educational programme and this, too, is an expanding part of our operation here at the present time.

The Prime Minister of Ontario referred to the very significant day of last July when legislation was proclaimed in our Province. It not only provided for the permissive establishment of bilingual or French-language instruction in the public school system, but it also made it mandatory where the numbers of French-speaking students, both economically and educationally, would permit. This is one of the very interesting aspects of this legislation: there is no question of permissiveness, the public school board will provide school facilities and programmes in the French language. We hope that where the numbers of students justify it, this will lead to a programme that is comparable to the English-speaking system, where we can have a complete range of subjects in what we call the composite school approach.

This will not be possible, Prime Minister and gentlemen, in every part of the Province of Ontario because the numbers of French-speaking students would not justify this type of facility. But we know it will work in a number of districts within our Province.

I think it is also relevant to indicate briefly another philosophical base of our approach. We have tried to involve the French-speaking community, not as trustees, because in a lot of areas the trustees will be basically English-speaking people. We have taken a slightly different approach and we have established what we call advisory committees which are actually elected by the French-speaking ratepayers within the communities concerned.

Each committee is composed of four French-speaking people plus three representatives from the Board of Education who form the French-language advisory committee. This gives them an opportunity to involve the whole French community in the development of the school programme.

I think it is important to point out, Prime Minister, as my own Prime Minister indicated, that it is really people's attitudes that are relevant. Even prior to the introduction of the legislation which took effect on the first of January, 1969, a number of communities in the Province of Ontario moved ahead of the legislation. I think they knew it was coming. But nonetheless they moved ahead with it and provided French-language instruction in the high schools within their communities prior to the actual legal date of the legislation itself.

This means, Prime Minister and gentlemen, that there are over 20,000 students at the secondary school level who are now receiving basic instruction in the French language. Some have moved, I might say, from private schools into the public school system of Ontario.

But we have also made one thing abundantly clear: we are making sure that English will be an obligatory subject on the curriculum, because many of these young people will, in the final analysis, be pursuing their profession or their vocation, in an English-speaking environment. We think it is our obligation to see that these young people have a working knowledge of the English language as well.

My Prime Minister indicated, Sir, that I might touch on finances for a moment. There is no question that the introduction of this programme adds to the dimensions of the educational costs in the Province of Ontario. In the initial stages, the operating costs of our new high schools will be in excess of those in the English-speaking public school system. However, I believe that over a period of years this will stabilize itself and will eventually be comparable in cost, after perhaps four or five

years, to the English-speaking system. But there will be that four- or five-year period.

We also face, Sir, certain major capital expenditures that we will need over a period of time. I really have not discussed this point with my Prime Minister, but if you are concerned about shared-cost programmes I have a very simple solution for you. That would be, Sir, that you would provide 100 per cent of the capital cost of these programmes. In this way there would be no shared cost. It would be entirely yours and then the subject would become a relatively academic one.

THE RIGHT HONOURABLE P.E. TRUDEAU: And that would be a valid use of the spending...

HONOURABLE W.G. DAVIS: I cannot speak for the Treasurer. That is the extent of the programme in our Province, Prime Minister and gentlemen. There are some economic implications. I was very encouraged to hear once again the reference to the fact that the Federal Government recognized this, as was stated in the B and B Report, and that we can anticipate some economic consideration for the programme that has been undertaken by Ontario.

HONOURABLE J.R. SMALLWOOD: Prime Minister, I wonder if it would be asking too much to ask you to ask your Minister of Justice if he would satisfy perhaps a million or perhaps two million people, Canadians from coast to coast, who are probably looking in and listening in at this moment, not with a second reading speech but with a broad description of this Bill that we are discussing?

You yourself this morning told us several things that were not in the Bill. But really there has been no description that I know of to the general public of Canada as to what the Bill is.

Is it one that will require everybody in Newfoundland - because if it is I am out of luck - to learn French and speak it and read it and write it fluently? Does it require all Canadians to start now to learn French? Does it require all French-speaking Canadians to begin now learning English? What is this Bill all about? Broadly what is it?

THE RIGHT HONOURABLE P.E. TRUDEAU: I think the Minister of Justice of Canada would be happy to briefly answer your question.

HONOURABLE J.R. SMALLWOOD: His answers are always very good; almost as good as yours.

HONOURABLE J.N. TURNER: I would be glad to describe the Bill in general terms, and despite the caveat of the Premier of Newfoundland, I would like to say something about its constitutionality at this time as we see it.

I want to say, first of all, I appreciate very much the courtesy shown to me on a jet trip across the Country by the Premiers and by their Attorneys-General, where we discussed this Bill and where we discussed the Federal programme generally on the Constitution and on languages.

Basically, in answer to Premier Smallwood's question, the Bill provides that within the Federal institutions of Canada - that is to say the Public Service, the Government of Canada, the Federal Courts, Federal Administration Boards where these boards operate in Federal bilingual districts which would include the capital of Canada and which would include certain bilingual districts across Canada - where there was a 10 per cent minority of one of the two official languages, which, as the Prime Minister pointed out...

HONOURABLE J.R. SMALLWOOD: Ten or more.

HONOURABLE J.N. TURNER: ...would affect parts of Ontario, parts of New Brunswick, parts of the Province of Quebec, parts of Manitoba and Saskatchewan; maybe one district in Alberta; parts of Nova Scotia. But the Bill in no way renders the use of the language compulsory by the people of Canada.

It means that the people of Canada will have access in certain parts of the Country through their government in the language of their choice.

I suggested to the Western Premiers particularly on my visit to Western Canada, that really the effect on their Provinces and the people of those Provinces would, for a good deal of time, be minimal. This is not a Bill to force compulsory bilingualism on the citizens of Canada. This is a Bill enabling the citizens of Canada where they are found in sufficient numbers to approach the facilities of the Federal Government in either the French or English language.

HONOURABLE J.R. SMALLWOOD: How would it work in Newfoundland? In Newfoundland you have a number of Federal agencies and departments and courts. How would it work there?

HONOURABLE J.N. TURNER: Well, in Newfoundland there would be, according to our statistics, no Federal bilingual districts because you have an insufficient number of French-speaking Canadians in Newfoundland.

Admittedly under Section 11, particularly Section 11, subsection (3), there might be an opportunity for a French-speaking citizen to ask that his evidence be taken in French and he probably already would have that right.

HONOURABLE J.R. SMALLWOOD: We have done that in Newfoundland for at least fifty years. Chinese, French, any foreign language. The man comes in court and doesn't speak English, there is a translator there. You cannot do less than that, can you?

HONOURABLE J.N. TURNER: That is right. He has already. Subject to the discretion of the Judge he would now be guaranteed that right. Under subsection (3) of Section 11 an accused at a criminal trial would have the right to ask the Judge to have that trial conducted in his language, but subject to being at the discretion of the Judge who, looking at all other circumstances of the case (the language of the jury and the prosecutor, the Judge himself, the court stenographer and the facilities of the Court) would decide it was practical to give and grant that man justice where he would get a fair trial in his own language. And obviously if the Judge were to decide the man could not have a fair trial, justice in his case is more important than the importance of having a trial in his own language. We must ensure that justice be done. And that means that all circumstances of the case would have to be looked into.

HONOURABLE J.R. SMALLWOOD: How would it work in Quebec?

HONOURABLE J.N. TURNER: Well, I was very interested to hear the comment of the Prime Minister of Quebec.

(TRANSLATION)

I have been, like him, a member of the Quebec Bar for a number of years. I am gratified to note his approval

in principle of our Bill.

(ENGLISH)

HONOURABLE J.R. SMALLWOOD: Mr. Prime Minister, is that good French he just spoke?

(TRANSLATION)

HONOURABLE J.J. BERTRAND: Very good. Indeed, Mr. Turner is one of the eminent members of the Quebec Bar. When lawyers meet, they like saying pleasant things to one another.

I believe he was recently admitted to the Ontario Bar also.

HONOURABLE J.N. TURNER: The Ontario Bar and the Barbados Bar.

HONOURABLE J.J. BERTRAND: The Barbados Bar. Well! We have here an almost universal lawyer.

(ENGLISH)

He would be a good counsel for the Prime Minister of Newfoundland.

HONOURABLE J.R. SMALLWOOD: I will remember that.

HONOURABLE J.N. TURNER: But the Prime Minister of Quebec said that the Province is in favour of the principle of the Bill, but that they were concerned with what he called modalities; some of the terms, some of the details of the Bill. He was concerned about the effect of setting up a Federal bilingual district in the Province.

Well, we in the Government of Canada are behind the Bill strongly in principle and intend to defend it, both in the Courts and in Parliament, on the principle.

We are anxious to have the opinion of the Provinces and anxious to consult with them and talk with them about the details, of the Bill, about individual sections, and in Western Canada I spoke with the Attorney-General of Saskatchewan and to the others.

I might say to Prime Minister Bertrand that I would think that Sections 12 and 15 and Section 38 of the Bill -

I won't go into them now - probably contemplate some type of prior consultation with the Provinces - not necessarily a condition precedent, but they certainly contemplate that type of consultation.

(TRANSLATION)

HONOURABLE J.J. BERTRAND: Would my colleague mind my interrupting him for just a moment. When he speaks of consultation, does he mean that there is a requirement for assent from the Provinces?

HONOURABLE J.N. TURNER: Following first reading of the Bill, introduced in the House by the Prime Minister last October, we sent copies of it to all the Premiers in Canada. I also sent the Bill to all the Attorneys-General in Canada, in order to obtain their agreement or ideas on the modalities of the Bill.

HONOURABLE J.J. BERTRAND: But we should not forget that at the same time we had set up, within the Constitutional Conference, a Sub-Committee on Official Languages. As far as I am concerned, I may say that I have made myself aware of the contents of their report. In that report the Quebec representatives expressed reservations such as those I have myself expressed with regard to bilingual districts. We are speaking of consultations. The Bill was given first reading. Does this mean that it will soon come up for second reading or that it will be referred to a Committee of the Federal House?

HONOURABLE J.N. TURNER: It will be done in both ways. First of all, under the new rules of the House, the Bill, at the second reading stage, will be referred to the Standing Committee on Justice and Legal Affairs. This will provide an opportunity for all Provinces, should they so desire, to appear before the Committee.

But beyond that, I feel it might be a good idea to consult with the Attorneys-General of every Province on the details of the Bill. We could discuss with them the actual provisions, terms or modalities of the Bill. I am ready to proceed in this way.

This would not prejudice the actual processing of the Bill through Parliament. As the Prime Minister has indicated, we are already bound, in principle, to have this done.

(ENGLISH)

Now, as to the constitutionality, I would like to say - and it is the opinion of our law officers - that the Bill is perfectly within the competence of the Parliament of Canada; that it does not unilaterally amend the Constitution; that it deals only with those aspects of language within Federal jurisdiction on which it is competent to legislate. Language is in no way circumscribed, but Section 133 of the British North America Act sets out merely four categories where the use of English and French must be used, but beyond that it is not mandatory, merely permissive.

And if we were to argue that Section 133 were to limit the Federal Government in legislating either the use of the French or English language, then it would prevent us legislating in the English language as well as the French language.

Premier, when I was talking to the Judges of Ontario, Chief Justice Gale - as a matter of fact Mr. Wishart was there - I was asked whether as Attorney-General I would exercise my right to appear in the Courts on behalf of the Government of Canada. It has not been done for 40, 50 years. And I said, "Well, I will think about that. There would be two conditions attached to any appearance by the Attorney-General. One of them, it would have to be a case that was important enough for the people of Canada; and, secondly, it has to be a case we can win." And I think this Official Languages Bill satisfies both these prerequisites.

I think it is important for the people of Canada, and I believe that we are on solid ground if we proceed with it.

I want to say too Mr. Prime Minister that I would be anxious to talk to the Attorneys-General about the sections of the Bill without prejudice to our right to proceed, because we believe that it is within our competence.

The Bill was carefully drafted in a sense that we contemplated that it would cause some technical difficulties, particularly with respect to the Courts. But there are terms in it: "Significant demand", where there is a significant demand for the service. I mention Section 11 (3), leaving it to the discretion of the Judge. And

the government certainly realizes the difficulties of implementing some of the parts of this Bill.

There may be technical difficulties, the difficulties of finding translators, interpreters and stenographers.

We understand, Mr. Davis, some of the financial implications in terms of education in the Provinces that is really a prerequisite to a more bilingual Country. We also recognize quite a good many of the problems in Western Canada and in the Atlantic Provinces.

We also recognize the effect of Section 10 upon the Public Service of Canada and the worries some of you gentlemen have about recruitment in the Public Service, and I would want to be assured that nothing in this Bill would militate against or would prevent the recruitment of young men and women from Western Canada or from the Atlantic Provinces into the Public Service of Canada.

It is a progressive policy. It contemplates a willingness to learn.

HONOURABLE W.A.C. BENNETT: Would that apply to promotions as well?

HONOURABLE J.N. TURNER: It would apply to promotions as well, but it contemplates a willingness to learn - to have an opportunity to learn.

HONOURABLE W.A.C. BENNETT: At public expense?

HONOURABLE J.N. TURNER: At public expense. But there is no bar so far as this government is concerned, in any way wishing to limit the national recruitment into the Public Service.

HONOURABLE W.A.C. BENNETT: No, no - but there would be no bar on promotion just because they did not have the two languages?

HONOURABLE J.N. TURNER: Well, no bar - no bar if that particular Canadian when he got to a stage in the Public Service in those parts of Canada where it was necessary, if he displayed a willingness to learn, and was given an opportunity...

HONOURABLE W.A.C. BENNETT: But then if he chose to stay in an area such as British Columbia, which is 99.99 per

cent English-speaking, he could get the top promotions there on an equal basis to balance out.

HONOURABLE J.N. TURNER: He could get the top promotions in British Columbia. And competence is still the prior element in appointment and promotion in the Public Service.

HONOURABLE J.R. SMALLWOOD: Knowing French would not necessarily represent competence.

HONOURABLE J.N. TURNER: It is an additional fact, but without the initial competence...

HONOURABLE J.R. SMALLWOOD: May I ask this? If a man is arrested, or if for any reason he finds himself in court and he is in a Province where there are very few French, as in Newfoundland, less than one per cent, but he wants to be tried in French, we have not got French-speaking judges, stenographers, interpreters, and the like. Would it be practicable for the Government of Canada or some other agency in Canada to maintain a pool, a pool of bilingual Judges and the like who could be invited into a Province to deal with a matter requiring bilingual proficiency? Could that be done?

A Province that has very few French-speaking people could hardly be expected to maintain the machinery - you know, a bilingual machinery of justice. It is too expensive.

HONOURABLE J.N. TURNER: We understand that.

HONOURABLE J.R. SMALLWOOD: Could you have a pool to draw on?

HONOURABLE J.N. TURNER: Within the Federal Courts, the Exchequer Court on circuit, it is something we could contemplate. But in a provincial court it would call on the jurisdiction of your Attorney-General, Mr. Smallwood.

And here again referring to the language of Section 11, subsection (3) the words are:

"If it appears to the Court that the proceedings can effectively be conducted and the evidence can effectively be given and taken wholly or mainly in one of the official languages...."

Now, it is obvious, Premier Smallwood, that where you have a jury in Newfoundland all English-speaking and a Judge English-speaking...

HONOURABLE J.R. SMALLWOOD: We have no French.

HONOURABLE J.N. TURNER: The Judge would in his discretion have to say: "This trial cannot effectively be held in the French language."

Mr. Prime Minister, I think I shall limit my intervention to this at the moment.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Turner.

HONOURABLE D.G. STEUART: Attorney-General Heald will present the case for Saskatchewan.

THE RIGHT HONOURABLE P.E. TRUDEAU: Mr. Heald?

HONOURABLE D.V. HEALD: Thank you. Mr. Prime Minister, ladies and gentlemen, I welcome the opportunity to try to interpret the position of Saskatchewan so far as official languages are concerned.

We did submit a proposition to the Continuing Committee of Officials which said:

" The linguistic rights provided in the B.N.A. Act shall continue to be guaranteed as at present. The matter of education in French or English and the use thereof shall remain with the Province, so that the Province may proceed with the development of bilingual programmes, as is being done in most Provinces."

This sets forth, Mr. Prime Minister, our position in the matter of the use of the French language.

In our opening statement read by Mr. Steuart yesterday we tried to make it clear that Saskatchewan supports the development of bilingualism in Canada. However, we believe that bilingualism can best be achieved through the educational process. And, as he indicated, our legislation now permits French to be used as a language of instruction in areas where such a programme is requested and is economically feasible.

The Regina campus of our university has established a bilingual college in their programmes. Dr. Spinks tells me that the degree courses are offered in both French and English. English students must have 30 per cent of their courses in French. French-speaking students must have 30 per cent of their courses in English.

The teaching of French has also been extended to elementary schools wherever possible, with special attention being paid to conversational French.

Such programmes will be extended in our Province as finances and the availability of teachers permit.

However, as stated in our proposition, we do oppose any constitutional change with respect to the use of French in Canada.

We also have many concerns about the Official Languages Bill, as I have indicated to the Minister of Justice and to you, Sir. It seems to us that the Bill, this Official Languages Bill now before Parliament, is attempting to impose bilingualism on those now in the work force of this Country instead of increasing the use of French by providing for assistance to the Provinces for the purpose of promoting the bilingual education of the children that are now in our schools.

As I have said, we fully support this development of bilingualism because of the practical value of Canadians becoming bilingual so that they will feel at home anywhere in Canada, as has been indicated.

We feel that this will unite Canada if it is carried out by the educational process, whereas legislation, this kind of Bill making both languages official for all federal purposes, we fear will divide rather than unite the Country.

We fear that the provisions contained in this Bill could result in bilingualism becoming a requirement first of all for promotion in the Armed Forces, in the RCMP, and we welcome the assurance of the Minister of Justice this is not the case. But we are still concerned about it. We are concerned about bilingualism becoming a requirement for appointment and promotion in the Federal Civil Service and all Crown Corporations, such as Air Canada and the CNR.

We are also concerned about Section 10 (getting a little more specific in the Bill) - bilingualism becoming a requirement for employment in airport restaurants, news stands, airport taxi services, and so on. We are quite concerned about Section 10. That is one of the sections we would like to talk to you about more.

As we said before, and as Premier Thatcher said last year, only 6 per cent of our population is of French language origin, while we have 9 per cent German descent, 7 per cent Ukrainian and several others that are about the same size in number as French. To make a working knowledge of both French and English a requirement for employment discriminates against the great majority of Western Canadians who have had no opportunity to become bilingual.

We feel this would not, as I said, have the desired effect of binding our Nation closer together but would end in disunity and friction so our concerns about this Bill, Mr. Prime Minister, are not completely legalistic at all. We have these other concerns and we are afraid of the friction that will or could be caused by the Bill when all the ramifications are known to everybody and the members of the public.

I want to say something about the legality and I say I do so with deference to the most distinguished Premier of New Brunswick in his legal opinion and to you, Sir, (Honourable John Turner) in which you stated this is the kind of case you would like to take to the Supreme Court.

Our advisers give us a different view about certain portions of the Bill. We think you have to look at this Act, the B.N.A. Act, and Section 133 in the light of the historical background.

The facts are that English was the language of Ontario, Nova Scotia and New Brunswick and the working language of the Federal Government was intended to be and has been English, while French was the working language of the Government of Quebec.

I suggest to you it was never intended that French was to have a wider use outside Quebec. If it had been intended that both French and English were to have equal status in the civil service and elsewhere, it would have been very easy to say so in the first instance.

The original Act, the 1867 Act, is silent on the question and of course was itself in English showing that the languages at that time anyway were not to be equal in Canada.

I think this is made even more clear by the 1949 amendment to the B.N.A. Act when provision was made for the Federal Parliament to amend the Canadian Constitution with the exceptions there set out except as regards the use of the English or French language.

Now, I submit, Mr. Prime Minister, that if it were intended to merely prevent any variation of Section 133, it would have been more reasonable to have provided that Section 133 could not be varied.

Now, I am not going to get into a general argument on the constitutionality. I think everybody is familiar with the two sides. As to the constitutionality of the Bill, generally there is the position which Mr. Thorson has put forward and there is the Federal Government position and probably the Courts are the place to decide this, but I would like to express to you our concern about a couple of the sections of the Bill because we think they become involved in the Constitution, maintenance and organization of the Courts, which is a provincial responsibility under the B.N.A. Act.

We think that subsection (1) and (3) of Section 11, and subsection (5) of Section 11, insofar as it relates to (1) and (3) are beyond your jurisdiction, Sir, because we believe that they provide for matters involving the Constitution, maintenance and organization of the Courts. We do not think they are matters of procedure.

Could we look at subsection (1) for a minute? Subsection (1), in my opinion, seems to require that any judge asked by a counsel or an accused, or a witness, to be allowed to speak in French would, if not completely bilingual, have to arrange for a bilingual judge to hear the case, as otherwise, I suppose, it may be claimed that a person wishing to use French is under a disadvantage because he is not heard in the sense of being understood in French, if an interpreter is used.

Now, if this subsection merely means an interpreter is to be used then say so. It means a lot more than that. The use of interpreters, as Premier Smallwood has stated, is in general use all across the Country. I think this is a part of the organization of the Courts.

The suggestion was made (I think in the Committee; one of the committees) that a bilingual person could choose to give evidence in French even though completely bilingual and that a Court could now require him at the present time to speak in English. In our opinion this section goes much further, particularly when you read it with subsection (5), which provides for the power to make rules. We think it goes further because it would not be necessary if subsection (1) merely meant that a person could elect to speak French and have what he said translated by an interpreter. From what you said today, I think you intend it to go further, and accordingly we do think it is an invasion of provincial responsibilities.

Subsection (3) of Section 11 we think is not a provision dealing with criminal procedure because we think it relates directly to the Constitution, maintenance and organization of the Courts. I think that subsection (1) clearly suggests that our Courts in Saskatchewan be bilingual whereas our Courts are now all English-speaking. I think when you read subsection (3) with subsection (1) the intent becomes quite clear. The Courts are to become bilingual Courts which we think goes to the Constitution, maintenance and organization of all our Courts, and that is a provincial matter.

In our opinion, Sections 19 to 34, particularly Sections 25 and 26, which provide for a Commission to enforce the equality of French in our federal institutions is ultra vires for the same reason that we think Section 2 may be ultra vires.

The whole purpose seems to be to require all employees to be bilingual as otherwise they cannot carry on their work as a bilingual, French-speaking employee can refuse to speak anything but French and he can make all his reports in French, even if he is discussing a letter or a statute that is in English.

We think it means that English-speaking employees must be able to understand fully anything said to them in French even though he in turn has the right to answer in English. We submit that this is ultra vires again as being intended to require anyone wishing to take part in the business of government to be French.

Now, you have stated, I think, in the federal position, that you are not amending the Constitution. You are not amending Section 133 or you are not changing anything

dealt with in Section 133, and therefore you can, you feel, deal with the use of English and French language in every respect in the federal field.

This argument, we submit respectfully, ignores the 1949 amendment to Item 1 of Section 91 entirely.

If this is a valid argument, Sir, we think that the use of English by the civil service could be prohibited except insofar as Section 133 may require some to use it. We think the effect of the Bill is to require all Federal Civil Servants in Ottawa, and many elsewhere, to become bilingual unless their employment does not require them to communicate with any French-speaking employees or other French-speaking persons.

These are in a general way, and partly in a specific way, our concerns with some sections of the Bill. We would welcome further consultation with the Minister of Justice and the Attorney-General. I think this is a good suggestion. We have many concerns about the Bill. We think that you are into provincial jurisdiction in certain specific sections and we really believe that the place to talk about this in a detailed way is at a meeting between the Minister of Justice and the Attorneys-General. We would welcome that meeting, and as the Honourable Mr. Turner said, he would attend that meeting without prejudice, and I think perhaps the Attorneys-General would do likewise.

Now, Mr. Prime Minister, before we finish our presentation on this Bill, I would like to introduce to you my colleague the Minister of Labour for the Province of Saskatchewan, who is going to finish our presentation en francais. Mr. Coderre.

(TRANSLATION)

HONOURABLE MR. CODERRE: Mr. Prime Minister, Heads of Provincial Delegations, my dear colleagues - my dear colleagues of Quebec more particularly. I assure you that I had the Larousse Dictionary at my side when I began drafting this speech. I am happy at this time, in my capacity as a member of the Government of Saskatchewan and as a member of the Western Canadian Community, to address a few words in French to you to supplement what Mr. Heald has just been saying. I would like to make particular reference to the position taken by the Government of Saskatchewan in respect of Bill C-120 on Official Languages. These remarks of mine express a common feeling on this matter by

the provincial authorities of Saskatchewan on the one hand, and, on the other, of the French-Canadian cultural associations of our Province, of which I am myself a member. At the outset, I should say that in spite of the impression which might have been broadcasted throughout the Country by the joint statement of the three Prairie Premiers, the Saskatchewan Government is not opposed to Bill C-120 as such.

We recognize that this Bill is designed to correct a situation which has done a great deal to endanger national unity. The Saskatchewan Government's position vis-à-vis this Bill, however, does reflect the fears of the people of our Province with regard to a possibly overly rigid and literal application of the Bill in its present form.

I would like to call your attention, more particularly, on the following points:

First, absolute bilingualism in Saskatchewan would not be a very practical proposition, it might even in our Province become discriminatory as it could in the Province of Quebec.

We could hardly require, for example, that all federal employees, all employees of federal Crown Corporations, all judges or magistrates be bilingual, nor that they not be bilingual at all.

We do feel though that all government offices, at all levels, should provide for the services of one or several bilingual employees especially in those towns or communities where there is a great number of French-Canadians. And of course, this should be done gradually according to the availability of bilingual staff.

Secondly, we believe that if there are still constitutional impediments to the adoption of Bill C-120, the attitude of the government of the Province is such that it would support the constitutional amendments required to overcome these obstacles.

Third, French-Canadians in our Province deplore the attitude of certain parts of the French-speaking press in Eastern Canada who have been underestimating and criticizing the efforts made by the Government of Saskatchewan in order to promote the teaching of French in those schools with French-speaking pupils.

This teaching in both languages in Saskatchewan, as indeed in the Province of Quebec, entails certain extra expenses, especially during the first years that it will be provided. We do feel, therefore, that the Federal Government, in line with its policy of promoting bilingualism everywhere in this Country, should promote bilingual teaching through grants, as is the case in our universities or in that of a bilingual college which is presently being set up.

Personally, I am not opposed, nor is the Government of Saskatchewan, to the principle of the Bill which requires bilingualism to be made mandatory in all those places where it is necessary and practical, as has always been the case in Quebec. I simply wanted to indicate to you the dangers involved in certain aspects of the Bill.

In conclusion may I add that even in Saskatchewan it is already possible to obtain bilingual services in a number of offices, both provincial and federal. Last week, for example, I had to call the information service from our telephone department to ask for the telephone number of the A.C.F.C., which is the Provincial French-Canadian Association. The operator answered courteously and in excellent French. This, of course, is still an unusual case but I have no doubt that the situation will improve gradually.

I believe that through education and education only will it be possible for us to reach our objectives.

We have social groups such as the Association Culturelle Franco-canadienne de la Saskatchewan which has set up a French class in Regina for young people. Ninety-seven people have already enrolled, of whom twelve only speak French or have French as mother tongue.

In Saskatchewan, as was stated a moment ago by Mr. Heald, we have set up completely bilingual schools. Gravelbourg is an example of the two we have set up so far and we will establish more.

I have already stated that we have opened a bilingual college at the University of Saskatchewan. We, members of the A.C.F.C., are proud of the progress achieved so far by the Government of Saskatchewan. We are not perhaps moving ahead as quickly as we would like, but it is nevertheless appreciable progress, and appreciable politically.

I believe there is a requirement for considerable Federal Government participation to ensure any further development along those lines.

(ENGLISH)

Prime Minister, Gentlemen, I thank you.

(TRANSLATION)

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Minister.

HONOURABLE J.J. BERTRAND: If I may I would like to put one question to Mr. Coderre, our fellow from Saskatchewan.

How many bilingual districts would you have in Saskatchewan under the present Bill?

HONOURABLE MR. CODERRE: One only. That is the district of Gravelbourg, which is part of the Assiniboine constituency.

HONOURABLE J.J. BERTRAND: And how many people would that involve?

HONOURABLE MR. CODERRE: I would not know about that. About 20 per cent, but fairly spread out.

THE RIGHT HONOURABLE P.E. TRUDEAU: Gravelbourg?

HONOURABLE MR. CODERRE: Gravelbourg, Willowbunch and Saint-Victor.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you. Mr. Prime Minister?

(ENGLISH)

HONOURABLE G.I. SMITH: I am not suggesting at all that the Commissioner has to accept without reservation our views but I think it might help the effectiveness of the Bill itself, what it is intended to achieve, if there could be close agreement on the boundaries of the districts. I think we would all agree very quickly on the general regulations as to where the district should be. I don't think there is any trouble about that. There is a possibility there might be some substantial difficulties in

establishing the actual boundaries.

The remark I made yesterday about the availability of personnel I am sure is very present in the mind of the Minister of Justice and of yourself, Mr. Prime Minister. We think that may be even more difficult perhaps than was first apparent because it will take quite a number of people if we in the Province are to try and go along in provincial affairs as you are in the federal field.

Reverting for a moment to language rights generally, as some other speakers in this discussion have, I think I outlined yesterday what it is we have done and what we are trying to do. I omitted one thing which I think is of some importance. We now have a commission of very well-qualified, bilingual educators from outside Nova Scotia considering what we may best do in the higher level of education in the French language. Perhaps I should more accurately say in bilingualism. I am sure the names of these gentlemen would be recognized at once as authorities in the field and they are bilingual.

With reference to the teaching of French our general stand, as I stated yesterday, is that we believe that the French language in Nova Scotia ought to be treated in the same way and with the same regard as English is in the Province of Quebec. I am following that by saying that we know there are quite a few things we have to do.

We have discussed with some of the Federal authorities an experiment or pilot project in each of the four districts in Nova Scotia where it is likely bilingual districts may be established to try and ascertain how it can be done and what the cost would be of providing instruction in French in the elementary and high schools. I am not suggesting that the project envisages in this particular aspect the cost of serving all the students in the bilingual district but rather envisages taking one portion of each bilingual district and serving it as best can be done in the school where the teaching would be.

As I mentioned, we find for those four schools the additional cost in the first year would be a million-and-three-quarter dollars and thereafter would be likely between seven hundred and fifty and eight hundred thousand dollars. This would be for serving, of course, only a portion of the total students who would be likely to wish to take advantage of this kind of instruction if it were available.

As I said yesterday, we think that the additional costs involved in promoting bilingualism through the Nation is a national obligation and these costs, additional costs, ought to be borne by the Nation as a whole through the Federal Government.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you.
Mr. Campbell.

HONOURABLE A.B. CAMPBELL: To complete the roll call, let me simply reaffirm the position of the Province of Prince Edward Island which is summarized in my third sentence to the first Constitutional Conference, and reads:

"Speaking for my Province I wholeheartedly endorse the Federal proposals. That is, with respect to the bilingual and bicultural report I pledge my support to their speedy implementation."

I simply want to explain our attitude to the Official Languages Bill presently before the Parliament of Canada.

HONOURABLE H.E. STROM: Mr. Prime Minister, could I have the Attorney-General say a word, please? Mr. Gerhart.

HONOURABLE E.H. GERHART: Mr. Prime Minister, I do not wish to weary the Conference further with a lot of legal discussion. However, I would like to make a couple of small points. If Bill C-120 will have none of the undesirable effects outlined by the Attorney-General for Saskatchewan, of course this Bill will not affect Alberta in any way. But if it is different than the situation today in our proposed bilingual district, and if that change pertains only to the services that are presently within the Federal competence, then such a programme could be implemented as a matter of policy without the necessity of such an Act.

On the other hand, if it would have any of the effects outlined by the Attorney-General for Saskatchewan then that would be a situation different than presently exists in Saskatchewan and Alberta; in our view it would be a unilateral amendment of the existing Constitution and therefore would be challengeable and the fact that several different points of view have been put forward on legal consultation from several Provinces on this matter and in spite of the airtight case the Minister of Justice feels he has, we feel this alone justifies such reference

of the Bill to the Court.

We would welcome a meeting with the Minister of Justice and the Attorneys-General to thrash out just precisely at least what the Minister of Justice thinks the Bill means.

HONOURABLE J.R. SMALLWOOD: In case there is some misunderstanding I hope it is understood that like Premier Campbell and Premier Smith here we thoroughly and absolutely are in favour of this. If you want a speech I will make one!

THE RIGHT HONOURABLE P.E. TRUDEAU: On the next item!

HONOURABLE W. WEIR: I would not repeat what has been said before, but we believe the situation like this would be better with reference to the Court before rather than after and extension of language rights and privileges will be more successful than legislative action. In some areas it is fairly well laid out. I don't think probably I need to repeat it again today.

HONOURABLE L.R. PETERSON: Prime Minister, perhaps before we leave the subject of the desirability of the Attorneys-General meeting with the Minister of Justice on this Bill, I think this would be preferable to having the matter go before the Courts to determine. Perhaps after such a meeting if the Government remains firm and does not agree to amend the Bill then you can consider the other alternative of having the matter go before the Courts. I think we should first explore the possibility of resolving the differences that appear to exist among us in respect to this Bill. Certainly from British Columbia's point of view I think our position has been stated in our opening brief and I don't want to repeat it except I think it is gratifying, certainly to myself and I would think to all Canadians, the extent to which the Provinces from one end of Canada to another have gone in the last year to encourage the development of the culture and language of both French- and English-speaking Canadians.

Encouragement is one thing and compulsion, Mr. Prime Minister, is another. I think this is where some of us part company in this respect because certainly there is no argument as far as we are concerned that the Federal Government must serve all Canadians and those who use the French language and those who use English and others but whether it

is necessary to do it by compulsion, by legislation, and whether indeed you are not going much beyond in the terms of this Bill I think is perhaps the point in question.

Certainly with reference to the authority given to the Courts, which is of importance as far as the provincial administration of these Courts in the Province of British Columbia is concerned, and other aspects of the Bill, I would hope we could agree to have this meeting before we suddenly throw the Bill before the Courts to determine its constitutional validity.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Peterson. I think we might try to draw all the threads together of the discussion on this item. It appears that there are two distinct discussions: one on the Federal Government's Language Bill and the other on the general policy of this Conference on the question of constitutional reform or entrenchment; whether there should be one or not on the whole language question in Canada.

To deal with the first, I think we would be prepared to accept Mr. Peterson's suggestion, and one that was also made, I believe, by other Attorneys-General or Premiers. It would mean in essence consulting with the Attorneys-General of the Provinces who thought that the Bill had some ultra vires aspect of it and consult with them on those particular parts or sections which they thought to be ultra vires.

I take it the policy itself, although perhaps there is some disagreement on it, is up to us as elected representatives of the people of Canada to decide. Our policies might be right or wrong, but I understood from the discussion that a Federal Bill should not be discussed as to policy by provincial governments.

The constitutional aspect is an important one and we certainly would undertake two things: one is that before defining or applying the Bill to any district there would be consultation with the Province, as is suggested by the Bill, and as I suggested when I sent copies of it to the Premiers saying this entailed federal-provincial co-operation and we would not want to go ahead and decide the districts on our own. That would be the second step.

The first step would be to decide whether we could or could not under the Constitution decide such districts or draw them or should have more provisions in there.

Perhaps the best way of proceeding would be to have the officials of those Provinces who have doubts about the constitutionality to contact the officials of the Department of Justice in order to spell out with some detail those particular parts of the Bill judged ultra vires, and then the Minister of Justice would be prepared to meet either here in Ottawa or any part of Canada. This meeting between the Attorneys-General would take place as soon as you are ready and we hope it would be very soon because we would like to proceed and go on to the second reading at some point which discusses the principle of the Bill and therefore which would not serve to settle the issue of specific sections.

Then when we do go on to the Committee stage, hopefully by then the difficulty would have been resolved. If they are still in the process of discussion, we could suspend the date in Parliament on those particular sections.

Then if there is agreement, fine, and if there is not agreement, it would be up to us to decide either to proceed with the Bill and let the Provinces refer to the Courts, or, conversely, for us to refer to the Courts.

I can say now that our mind is not made up. Our preference is obviously to proceed with the Bill. It has been suspended a long while because of the delay in the Federal-Provincial Conference itself. But if we felt there were very strong arguments of many Provinces against it, we might want to reconsider. But it would not be our first inclination. If that would be agreeable, we would proceed in that way.

HONOURABLE W.A.C. BENNETT: Also a slight amendment to your Bill.

THE RIGHT HONOURABLE P.E. TRUDEAU: We would be prepared to accept considerations for amendment and improvement, and the Minister of Justice would then make it his duty to submit to Cabinet any amendments which he had agreed to with the Provinces, and we would have to amend them, to the Bill, and we would make it a government amendment. Perhaps the Minister of Justice would amend my Bill...

HONOURABLE W.A.C. BENNETT: At the Committee stage.

THE RIGHT HONOURABLE P.E. TRUDEAU: The other point - perhaps a more basic one, what do we do to the problem of

constitutional entrenchment or otherwise of language provisions? There has been no unanimity here. Far from it. I guess there has been no consensus either, but several Provinces have encouraged us to proceed or have indicated that they are willing to proceed and some others have indicated grave reservations. Rather than try to reach a conclusion here I think we might stop the debate and suggest that the Committee of Attorneys-General take it on. There are objections to the possibility of amending the Constitution in one way or another, and I think the Attorneys-General, after having met on the specific items of the Bill, could at some other stage carry the discussion forward on whether or not Section 133 of the Constitution should be amended, and if so, how. That would permit us to proceed on to some other item and then we could have a report...

HONOURABLE J.N. TURNER: You are talking, Mr. Prime Minister, about that part of the charter involving language?

THE RIGHT HONOURABLE P.E. TRUDEAU: I am talking about the charter involving language and the whole question of whether Section 133 should be amended in a way which has been suggested by the B and B first volume report.

There are a lot of constitutional difficulties. Premier Manning raised some last year, and rather than go into a legal discussion here I think we might agree to have the Attorneys-General look at the possibility, desirability or otherwise of amending 133 and they could report to the plenary conference at some further meeting of ours.

(TRANSLATION)

HONOURABLE J.J. BERTRAND: Mr. Prime Minister, I would like to understand you clearly. Am I clear on this? At the outset the Committee of Attorneys-General or Ministers of Justice would meet to examine, at first, the problem of constitutionality which has been raised?

THE RIGHT HONOURABLE P.E. TRUDEAU: No. It is not quite that. It would involve only those Provinces which have expressed reservations with regard to constitutionality. A number of Provinces have indicated that they agree, that the Federal Government should move ahead.

What we would like is that those Provinces which have reservations with regard to the constitutionality of the Bill make their representations to the Minister of

Justice. After that, we will see if any amendments should be made to the Bill. As to the application...

HONOURABLE J.J. BERTRAND: Modalities, and possible amendments that you have referred to, and reservations expressed by us a moment ago and expressed by me with regard to bilingual districts, all those things are problems which we may discuss when we will be consulting with the Minister of Justice?

THE RIGHT HONOURABLE P.E. TRUDEAU: Yes. It is possible that at that level - that is at the level of the definition of districts, in respect of the actual application of the Bill, assuming that it is constitutional, these meetings should proceed not with the Minister of Justice, but possibly at the outset with the Committee of Officials who could negotiate the setting up of the districts or see whether it would not be possible for us to amend our conception of these. At a further stage the Ministers of Education or Culture, or our own Secretary of State might wish to report to the Committee. I would therefore entertain both solutions.

HONOURABLE J.J. BERTRAND: In order to establish the relationship - because a relationship should originally be established with the Minister of Justice - could we not agree that we will deal with him? Could it not be the Minister of Justice who could see to the referral of the problems to other ministers?

Otherwise, we might have to organize a meeting of the Ministers of Cultural Affairs, Education and Justice.

THE RIGHT HONOURABLE P.E. TRUDEAU: That is why I suggest that the application of these provisions be originally dealt with by the Committee of Officials and that the legal or constitutional aspect be made the responsibility of the Minister of Justice.

HONOURABLE J.J. BERTRAND: By the Sub-Committee and the Committee which have been set up. Very well.

(ENGLISH)

THE RIGHT HONOURABLE P.E. TRUDEAU: Is that agreed then?

Thank you. We can go on to the next item which is item 4(b) on Fundamental Rights.

The Minister of Justice might briefly restate the federal position and then we could carry on the discussion and debate on this.

HONOURABLE J.N. TURNER: Mr. Prime Minister, I will take account of your word "briefly". It has been federal policy, gentlemen, for some time to give priority to fundamental rights in this total review of the constitutional process, and it has been our view that once the rights of people are adequately defined and protected, then we can turn to the rights of governments.

We would submit to the Conference that a charter entrenching human rights would override public or private action denying those rights, and would be subject to change only by way of constitutional amendment.

We recognize that - and certainly it was brought to my attention on my tour across the Country - that some Provinces object to the impingement upon the legislative supremacy in the legislature or in Parliament. We would think limitations on absolute sovereign power of a legislature or parliament are not new even within the tradition of the common law. The Magna Carta in 1215, the Bill of Rights in 1869 - these developments harkened their new sovereignty, namely the sovereignty of Parliament, and far be it from me, Mr. Prime Minister, to deprecate parliamentary sovereignty which is one of our cherished traditions and it has served us well. But I would like to suggest on behalf of the Government of Canada parliamentary sovereignty and parliamentary government is not what it used to be. We all know just how complex government has become and how intricate, and the bureaucracies it has spawned. I think one of the favourite terms of abuse that I have listened to is the word "bureaucrat".

Well, I think we run the risk more than we ever did before of this impingement by the state on the rights of people. What Lord Hewart once called the new despotism.

We suggest parliamentarians and Members of the Parliament of Canada and the legislators of the Provinces need help to preserve fundamental rights and freedoms.

That is our view, Mr. Prime Minister, viewed from this perspective.

The Canadian Bill of Rights in 1960 was an important step. Some provincial legislatures have taken important

steps and these are important too in moves along the way, but if we really believe government is for the people and for man and not man for government, surely there is no rational basis for fearing a constitutional Bill of Rights, and surely we can agree and define those matters - indeed it is human values that we all consider to be fundamental and upon which governments everywhere should not tread.

Wouldn't it be a great thing for Canadian unity if our citizens could say regardless of where they lived in Canada they hold certain fundamental rights, certain fundamental rights in common. If those rights were uniformly respected by all levels of government, federal or the provinces anywhere, that is the appeal and the challenge we want to make to the Provinces for a constitutional Bill of Rights.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Turner.

The discussion is now open. Any remarks?

HONOURABLE J.P. ROBERTS: May I ask Mr. Wishart to speak on behalf of Ontario?

HONOURABLE A.A. WISHART: Mr. Prime Minister, ladies and gentlemen, I think it might be fitting in offering a few comments on a Bill of Rights, particularly entrenched rights in our Constitution, if I might be permitted to quote the opening words, part of the preamble of the Ontario Human Rights Code.

Those words are:

"Whereas recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, and is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations. It is public policy in Ontario that every person is free and equal in dignity and rights without regard to race, creed, colour, nationality, ancestry or place of origin."

These are the words from the preamble; they state what has been and what is and what will continue to be public policy of Ontario.

Last February, just prior to the Federal-Provincial Conference on the Constitution, the Federal Government proposed adoption of a charter of human rights to become part of our written Constitution. At that time we had very little time to consider the proposal and give it the serious consideration we thought it deserved. Our position was that while we welcomed the proposal, we felt it should be studied in conjunction with other matters bearing on our Constitution. In the intervening year we have studied that idea along with the other matters, and we have come to certain conclusions.

I suggest that there are certain basic liberties fundamental to democratic government. They include freedom of conscience and religion, freedom of speech, freedom of assembly and association, freedom of press, and I would add, the right to vote.

The Federal Government booklet entitled A Canadian Charter of Human Rights which was published in February a year ago refers to these as political rights. These are I take it, rights belonging to the people which are fundamental, which all people accept, and which are basic to our kind of society. They create the atmosphere in which all our institutions, all our society and our government function.

These freedoms are the cornerstones of our democratic system of government. There is, in my opinion, a strong case for their ultimate entrenchment in our Constitution, and I would say, Mr. Prime Minister, that we would agree that they should be entrenched.

There is this factor relating to these fundamental political rights-that they need little legislation to make them effective. They do not need a great deal of legislation for their enforcement. If you consider all the rights that I have described, you will see that that is so.

Now I think it must be borne in mind that in any society, particularly in our own free society, there are certain minimum constraints on the exercise of personal freedom. These constraints would establish limits on our actions consistent with respect for the freedom of others.

They include, for example, protection of the individual from defamation, libel and slander. When you think of

freedom of speech, it does not imply or give the right to defame, or to libel, or to slander another citizen.

Freedom of the press, which we cherish, I think must carry with it the constraint that the press, while it may be fully critical, cannot advocate the overthrow of our democratic government by violence.

These are some of the constraints that we would have to bear in mind. The freedom to assemble, the freedom to demonstrate would, I believe, have to have about them some constraint so that they would not interfere for a great length of time or seriously with the free going-about and lawful pursuits of other people.

These are some of the constraints which would apply even to these very basic political freedoms.

HONOURABLE L.J. ROBICHAUD: May I ask one question? Would these constraints include the distribution of hate literature such as was distributed to the Premiers today in the hotel?

HONOURABLE A.A. WISHART: I would suggest that this becomes a question of whether that kind of literature goes beyond what we would regard as freedom of speech or freedom of the press. It would become a question as to whether this type of literature goes beyond the bounds of freedom.

I think I would have to see the material to pass upon it. Perhaps I could give you a reasonable judgment then.

I would point out that the European Convention on Human Rights, which was signed in 1950 by the members of the Council of Europe, is an example of a charter which defines the difference between one man's liberty and his interference with the liberties of others.

If we entrench these political rights, it will be important, I think, to indicate - perhaps in the preamble to our Constitution, or in that section of it which deals with these rights - the constraints which should be observed by the Courts when they come to interpret that part of the Constitution.

Now there are other kinds of rights besides the political ones. There is a whole concept of individual

rights today. And we see them, I think, in a new dimension.

We talk about the rights of the consumer. We have laws with respect to the consumer. We talk about the rights of the tenant. We have laws between landlord and tenant. The rights of old-age security; the right to a minimum standard of living; the right to an education. These are just a few. And the list is long. All these matters contribute to the development of the individual. Indeed, in many cases they are necessary for the full realization of each man's potential as a human being and as a member of society. And in that sense they are rights which our individuals should have the right to enjoy.

But I am attempting to distinguish those from basic political rights. And I am going to suggest that there are some rights which perhaps should not be entrenched because they could be more effectively enforced, or effectively brought to the individual, by legislation.

Therefore I think it is important in discussing this matter that we determine, first of all, what rights we shall entrench; and then that we determine how best the various rights which we have and which we cherish can be protected and effected.

The right of the individual to protection against discrimination because of race, creed, colour or national origin presents a particular problem. It takes a great deal of legislation to make this right meaningful. And I make this point - there is a great difference between this kind of right and, for example the right to freedom of worship, the right of free speech, the right of assembly. Those political rights do not need great enforcement in the way of legislation.

But these rights - the right to be protected from discrimination, for instance - take a great deal of legislation to make them meaningful.

In Ontario, through our experience in the administration of our Human Rights Code, we know how much legislation is involved. Our anti-discrimination legislation is, we think, the most advanced of its kind in North America. In fact, I think it would be fair to say that it is the most advanced in the world.

Its arm of action is the Ontario Human Rights Commission, which investigates problems and sets out a step-by-step procedure to solve them. And in this way the Code's provisions are far more effective in eliminating discrimination than are most bills of rights in the constitutions of other countries.

I might just stop here to suggest that, if one looks at some of the countries which have entrenched bills of rights, the result has not always been the effective protection of the rights of the individual.

The Human Rights Code also provides for the investigation of complaints by the Commission. If discrimination is found to exist, an attempt is made to solve the problem by persuading whoever is involved to make amends. In this effort, the existence of an enforceable law to back up the Commission's actions is indispensable. If this procedure does not succeed, a Board of Inquiry is appointed to investigate and report on the complaint. This procedure is largely fact-finding and advisory. It must be emphasized that resort to judicial machinery is a final step, taken when, and only when, persuasion and conciliation fail to achieve a settlement. Our Commission has handled more than 8,000 complaints since the Code was consolidated in its present form in 1962. Nearly 1,600 formal cases have been investigated. Of these, only 50 -- I repeat only 50 out of some 1,600 cases -- have required the appointment of a Board of Inquiry. Furthermore, only in two cases has it been necessary for the Commission to take judicial action to achieve compliance. In addition, the Commission has made superb educational efforts in the field of anti-discrimination. On the basis of this experience, it is hard to believe that there is a more effective way than the machinery Ontario now has to ensure that these important rights are respected. After all, effective protection, not just a written charter for its own sake, is our goal.

Now, I would hope that I make it clear that I do not speak from any lack of commitment to the elimination of discrimination, nor do I speak from disagreement with the principle that we must protect people from anti-discrimination as best we can.

But I do question whether there is any merit in altering a proven effective method by entrenching a constitutional provision, which might result in a less flexible and potentially less effective method of enforcement. The

overriding characteristic of Ontario's programme, as I have said, is conciliation and education supported by law. I think we must ask ourselves whether entrenchment, which provides a direct appeal to the Courts to enforce such a constitutional guarantee, is preferable to our method of conciliation and persuasion, which is a proven procedure.

To entrench these rights might well be detrimental to our goal of effective anti-discrimination. And do we really want entrenchment if that result would follow?

I think we may answer "No, that is not the result we seek." What we wish to do is effectively to attack discrimination in Canada by means of a human rights code and commissions rather than by entrenchment, because I believe that this is the effective way to go about the matter. Certainly our experience leads us to that conclusion.

Nine Provinces already have some form of anti-discrimination legislation. I think it would be useful for all provincial governments to consider adopting uniform legislation, perhaps using as a starting point the Ontario statute, which has already served as a model for much recent Canadian legislation in this field. We would be willing to share, as we have in the past, the experience that our government agencies have gained in their 18 years in this field. If this suggestion for uniform legislation is acceptable, its desired result would be to extend the most effective equal protection against discrimination to all Canadians. Surely, this is our goal. There may be other, equally effective ways of achieving this goal, but I offer this suggestion for consideration.

Now, there are other rights which I would call, and which I think the publications which have been delivered call, "legal rights". These are somewhat different from the others that I have been talking about.

Some relate to criminal proceedings, and they are covered by the Criminal Code of Canada. There are others which relate to civil actions. They are regulated by provincial legislation.

I think we can perhaps speak of the procedure sections of the Code - our rules of evidence, our law of evidence. These are legal rights which, certainly I think, lie within federal jurisdiction. These are spelled out in the Code which is a federal statute and which covers the rights of people brought before our Courts in criminal

matters. And no one questions the principles which underlie those legal rights.

But experience has demonstrated that a judicial interpretation of some of those principles will vary from time to time, and I think indeed they must, in a healthy, changing and sensitive system of democratic law.

Therefore we should be wary, I think, of confusing principle - that is, the great principle of rights and freedoms - with administrative reform related to legal rights.

I might mention that we have been active in looking at that area of our law to ensure our citizens' rights. First, the Honourable J.C. McRuer was appointed in 1964 to conduct an extensive investigation into these matters. We have already benefitted enormously from his initial report. Ontario's new Expropriations Act and the proposed Professional Engineers Act are examples of legislation based on his recommendations.

I might say to you that we have found it possible since the report was received last year to implement by legislation and make effective one hundred and fifty of the recommendations which were made. Before the end of this session of our Legislature now sitting I would expect that the legislation I have before me will implement another two hundred of the recommendations made by the Honourable Mr. McRuer.

In his second report, which we anticipate will be published shortly, Mr. McRuer will deal with the matter of a Bill of Rights. We expect that his findings will contribute even further to our understanding of the problems involved.

This is one area of protecting and guarding human rights in which we have been most active, and I think we have gone a long way towards our objectives.

In considering this I trust you will bear in mind the distinction I have made between fundamental political rights and those other rights which I believe can be best dealt with, best protected by legislation.

Second, we have also the Ontario Law Reform Commission, appointed in 1964, which has done a great deal of work in the review of all our laws. And it has been making recommendations for improvements in our statutes. That work will be of a continuing nature also.

The Commission is in a unique position to make suggestions based on experience. I would describe that Commission as a continuing research facility in the field of law for the purpose of improving the administration of justice concerned with rights of our people.

If we were to entrench a great many rights in the Constitution, it strikes me at once that in order to reach that safeguard, in order to reach that shield, in order to reach the protection of those rights, one would have to go to the highest court in the land for interpretation. With these other rights about which I speak, which are in our statutes dealing with our everyday procedures in the courts and in the provincial jurisdiction, the right is close at hand and quickly determined, and could be enforced.

There is a further aspect of legal rights to which we must direct our attention. Law enforcement is a complex problem, and the legal rights mean nothing unless the day-to-day administration of justice is so designed that it aids the individual who claims those rights. There is no way for the individual to take advantage of them when he needs them. Ontario has recognized that without conscious effort on the part of government, there can indeed be one law for the rich and one law for the poor. That is why the Ontario Legal Aid Plan was established in 1967. It was established with the co-operation and with the assistance of the Bar in our Province.

The plan provides for a Duty Counsel who is on duty in Magistrates' Courts and Family Court to advise accused persons with respect to their legal rights. In criminal cases, the Duty Counsel makes representations with respect to sentence if the accused chooses to plead guilty after he has received legal advice. The services of the Duty Counsel are available to any accused person who requests them, regardless of his ability to pay.

As with protection against discrimination, the definitive test of our actions is the results they achieve. In 1967-68, the first year of the Plan's operation, over 67,000 accused persons were assisted by Duty Counsel. Over 1,000 persons a week are now being helped by the Plan. The provision of legal services to those who need them is only one of the commitments implied by a guarantee of legal rights, although it is a basic one. The figures I have cited indicate the magnitude of such a commitment in the Province of Ontario.

There are many ways in which legal rights can be effectively ensured. We must draw on the experience of the bodies which deal with the day-to-day operation of our system of justice, such as the legal profession and the courts, in order to understand better the specific problems that need to be solved. Furthermore, no serious study of the implications of entrenching legal rights has been undertaken. We must give this problem the serious consideration it deserves. If our declaration of them is to be meaningful and not merely a piece of paper to soothe our consciences, we must develop the means of translating legal rights into concrete help for those who need it.

When we guarantee certain rights, we must be sure that we can carry out our undertaking. Meanwhile, we can proceed with revisions of our own statutes, through law reform commissions or by other means. Many desirable results can be achieved right now through legislation. Action to protect rights need not wait for entrenchment in a bill of rights and a constitutional amendment. Indeed, we must examine most exhaustively the pros and cons of the entrenchment of legal rights.

Linguistic rights fall into a special category, special for Canada, and are a basic element in our federation. Our discussion here, as in our earlier meetings, has already uncovered many of the factors which make it a unique topic. Clearly, this category deserves and has received attention in its own right rather than as a sub-topic of the subject we are now discussing. This is one area where ordinary legislation has proved to be the most effective means of correcting an injustice. The changes which Ontario has made within its public education system and the Federal Government's proposed Official Languages Bill are examples of protection through the mechanism of legislative action.

Our experience has shown us that some rights can be effectively protected by constitutional entrenchment and others can be better protected by ordinary legislation. Once it is decided what rights and freedoms would most advantageously be protected by constitutional entrenchment, then the most effective way of entrenching them must be determined. The goal should be a Constitution which reflects the realities

of our political system. The political rights, to which I have referred, are part of the fabric of our political system as it now exists and as we want it to continue. For that reason, they belong in our Constitution. We have, in this Constitutional Conference, the necessary machinery for deciding what changes we want to make to the Constitution although we lack the mechanism for effecting them.

I would think perhaps we might get agreement here, and I would hope we could, to entrench a very solid category of rights. I think this would be a great thing to achieve as my colleague, if I may call him so, the Minister of Justice and Attorney General for Canada has stated; a great aim and a great objective; something to achieve. But having done that, we have got to get it in the Constitution, and at the moment we would have to make a trip to Westminster.

I would hope that another great objective -- and it could be achieved here, certainly with the personnel in this group, though I would not say it might be achieved today but it seems to me it would be a great achievement to find a way by which we could amend our Constitution, a formula for amendment. Then, when we make that trip, Sir, to Westminster, with what we achieve by way of a formula for amendment, we could say, "This is the last occasion on which we shall trouble you."

I would hope we might strive to reach that event also.

HONOURABLE J.N. TURNER: There will be a celebration on that one, Arthur.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Wishart.

HONOURABLE W.WEIR: May I call on the Honourable Sterling Lyon, Attorney-General for Manitoba, to speak on this matter.

THE RIGHT HONOURABLE P.E. TRUDEAU: The Honourable Mr. Lyon.

HONOURABLE S.R. LYON: Prime Minister, I was delighted to hear my distinguished colleague Mr. Wishart from Ontario give his exposition of the position of his government with respect to the proposed Charter of Human Rights. May I, Sir, at the outset say that our government as well as for the people and for man - I think those were the words that were used by the Minister of Justice today - our government as well as for the preservation and enhancement of civil liberties in this Country. Indeed, I think this is a subject that we can discuss quite freely and openly around this table because no one here will say they are opposed to the nurturing and enhancement of civil liberties for our citizens; and perhaps what we are going to have a slight academic argument about it in this context is how this can best be done.

May I say that I welcome the initiative of the Prime Minister, who, as Minister of Justice, first introduced this concept and now that of his Minister of Justice, Mr. Turner, in bringing this fundamental matter before us because it does give us an opportunity, I believe, to examine our existing institutions to see perhaps where they are not serving the people as best they might and to determine whether or not a new course should be struck in order to guarantee individual liberties to the citizens of Canada.

But I would start from this fundamental proposition, Sir, and I think it is appropriate to record it, that Canadians presently enjoy individual rights and freedoms in a manner at least as advantageous as any people anywhere on the face of the earth. And I think this is the basic breaking-off point from which this discussion should proceed because we would be doing I think a disservice to the people of Canada (and I am sure that the Minister of Justice does not intend this at all) if we were to indicate in any way that we need a new charter of civil liberties or individual rights in Canada because the enforcement of them is in some way deficient under our present system.

So we do have this extremely enviable circumstance in Canada today, not a perfect system by any means because

it is carried out by man-made institutions and man-made institutions are not infallible - they are not perfect - but it is an enviable circumstance; what some might describe as the essence of a settled and orderly civilized society.

And I think it is well to note that this circumstance or this condition did not materialize out of the air or indeed out of any abstract doctrine conceived by a Utopian theorist or any such sort at all, but rather the wisdom of our Fathers of Confederation in ensuring the continuance and nurturing of the common law of England in our land was the root cause, I suggest, of the beneficial state of individual liberty in Canada today.

Now, what is the concept of the rule of law, which is at the heart of our heritage, which we enjoy in this Country? The expression, "the rule of law," has no less than three conceptions.

Firstly, that no man is liable to punishment or discipline except for a distinct breach of law established in the ordinary legal manner before the ordinary courts.

Secondly, that every man is subject to the ordinary law of the Country, of the realm.

Thirdly, that individual rights are conceived by judicial decision in particular cases.

These historical concepts together with the power of a sovereign parliament and sovereign legislatures, each in its own field, to mould our laws to changing needs, these concepts are the basis of our liberties in Canada today and may I add, Sir, the system works, which is a very important point to register.

At common law rights are limitless presently today under the system we enjoy, save where expressly abridged by the common law itself; that is, rights of one man are limited when they infringe the rights of another, or by statutory enactment. The enactment of rights by parliament came by amendment to the common law, to their rules, or in fields untouched by common law, such as social legislation, but these were specific rights that were made at a time under a specific social or legal circumstance to guarantee an improved individual liberty.

Common law at an early date recognized individual rights and an independent judiciary and a parliament responsible to its electorate guaranteed them.

In common law jurisdictions it was, thus, unnecessary, if indeed not undesirable, to enact rights by a specific constitutional document. The rights existed and emphasis could be placed on ensuring that they could be enforced.

Canada not only inherited a common law system but we have developed it over the past 100 years to meet our own particular circumstances within the federal state and to meet the changing social conditions, economic conditions that face each of us in our respective parts of this Country.

I pause just for a moment to comment upon what Mr. Wishart said with respect to the Ontario system, of which he, I think, can be very justly proud.

He made mention of the fact he would not want to see matters that are presently dealt with by his Commission, if I understood him correctly, he would not want to see those in any way trespassed upon or become part of the entrenched bill - and if I am mistaken in my interpretation, you can tell me - because he applied the test which I have just applied. It is working well in Ontario. I am suggesting that as we consider this - and I am sure we will at meetings of the Attorneys-General and at subsequent meetings of this plenary session, that we should keep that fact in mind.

Mr. Wishart, I think, was quite proper to point out that his system is working, so don't move into a field where we are already giving protection to the people and try to do something in that field that is perhaps new or different because it sounds like a good thing to do in the present circumstances. Let us take the test of the usage which he has established as one that should guide us in our consideration of this matter.

Not all countries have the common law. Many countries in continental Europe developed a different system of law altogether. Many of the states which did not have the development of the common law, a development of the rule of law, had to seek security for individual rights and liberties by virtue of charters of human rights in one form or another and the constitutional history of the various countries is replete with the examples of how this development took place.

So I think we must engage ourselves in a logical determination here of what is in the best interests of all Canadians. We must take into account Canada's 100 years of experience as a Nation; in other words our heritage and tradition that we presently find, and the advantages and disadvantages of the system that we have developed here, and other systems that may have developed in other countries from which we can derive some experience as to whether or not they would be as good to draft onto ours or otherwise.

I think an examination of what exists today in Canada and the Province reveals a limited written Constitution with which we are all familiar and that is what we are talking about around this table for three days.

The B.N.A. Act provides for the organs of government and the distribution of powers between them. This represents an immediate difference from the Constitution of the United Kingdom, of course, but only to the extent necessary. Canada was created out of former colonies and as new institutions were being created, legislative enactment of them was necessary: as it was to be a federal state a distribution of powers was necessary. The legislation was passed to fit the particular circumstances and was not intended to deal with individual rights.

Individual rights, both federally and provincially, were protected by the courts and by parliament at the federal sphere, or by the legislature. This was so in Quebec where the civil law was codified, for so long as the legislature of that Province could alter the law the citizens' protection came from the institution rather than declaration of rights.

Thus it has remained in Canada for over 100 years, notwithstanding the 1960 Bill of Rights passed by the Parliament of Canada which is declaratory of existing and continuing rights.

Now, in considering which system is most desirable for Canada today, I would submit that we must give reasonable consideration and that there must be a heavy onus on those who advocate change to justify it, particularly in the light of the fact that no grave injustice can be found in the present system.

In this regard, Prime Minister, I am reminded of the story told of the custom that is apparently adhered to in one of the city states of Old Greece. The man who advo-

cates a new law must place it on a large box with a rope around his neck. If the citizens approved his law, they took away the rope. If they registered disapproval, they took away the box. By this means they avoided the evils of excessive legislation.

Now, I am not suggesting that that test should be applied today, particularly to any of us sitting around the table, but I do suggest we do have to look at the institutions we are trying to draft new ideas upon to determine whether or not they need this kind of ingestion of a new form in order to make them better than they are so the issue is not whether certain rights should be recognized and how to do so; the rights already exist and they can be readily enforced. The true issue is whether we can improve upon our traditional and familiar common law guarantees of those rights by implementing into our Constitution a new concept, no matter how well-intentioned, of a charter of rights which would be elevated to an entrenched position in our written Constitution.

I want to make it quite clear, Prime Minister, we do not balk at this because it is new but because we are convinced that rather than leading to an enhancement and growth of individual liberties in our Nation, it could (and I stress the verb "could") - it could lead us into some fundamental problems which have beset foreign jurisdictions with a constitutional charter of rights.

The denial of formerly defined rights is, unfortunately, not always a rare occurrence in other jurisdictions. As the Attorney-General of Ontario mentioned, we do not have to give examples of that around this table today, but that is a known fact.

It is our job, I suggest, as parliamentarians whether in the Legislature or in the Parliament of Canada, to make sure that we do alter our fundamental common law and statutory law to meet ever-changing conditions that we are finding in a very complex society.

The needs of the future, I suggest, cannot be conceived today, no matter how good we think we are, in terms of ten, fifteen or twenty-five years from now or one hundred years from now. We cannot conceive of everything. I would suggest it is better to permit the judges of tomorrow to apply the principles of today than to stultify the law by grand phrases appropriate in today's context only. Effective machinery to ensure the enjoyment of rights is as

important in our heritage as their definition.

I need not belabour this meeting with a detailed enumeration of the disadvantages of codifying common law rights, which are discussed at length by many eminent jurists.

I would like to point out, for example, that non-violation of air space is an example that might be used. This might have seemed in 1867 to have been a fundamental right to the Fathers of Confederation had they attempted to enact a charter without any thought, quite naturally, to the use of air for travel. What would have been the consequences of entrenchment of such provision in our Constitution to the early development of air transport in Canada? Hypothetical, yes, but possible.

This is what we might do today in terms of some of the rights we might have entrenched in the Constitution which would have the effect, which would have the deleterious effect later on because of changing social conditions. Therefore, I agree, of course, with Mr. Wishart that if this concept is to be proceeded with in any way at all - we would suggest it not be done but if it is to be done in any way at all there be very strict limitation of the rights that are to be put into the Constitution of Canada. What are the fundamental rights and who is going to make the decision as to what is fundamental to me, to the Prime Minister, to the Minister of External Affairs, or whatever?

Rights in many ways are individual things and apply to individual people: enjoyment of one's home, enjoyment of clean air, enjoyment of many things are individual rights and they are presently protected.

I suggest in concluding, Mr. Prime Minister, that the essential virtue of our traditions of common law is its practical nature ensuring not only the recognition of a right but its availability. The right is developed out of the machinery for its enforcement, rather than as an abstract principle to be applied by a means not yet conceived.

To reiterate the freedom enjoyed in our present system is largely enshrined in our institutions of parliament and legislatures and an independent judiciary. It would seem to us much more important that we devote our energies to the preservation of liberties by keeping our institutions healthy rather than by declaratory codifications which might well erode the present premise of those familiar institutions.

Here again, I refer to the remarks of Mr. Wishart with respect to the Ontario Human Rights Commission. Every Province but one has enacted an Act, I believe. We do have in Manitoba certain legislation with respect to the practice of discrimination in terms of employment, public hostelrys and so on, and this is an area which is needed in this complex society that we are living in today. It is responding to a current need which is being met by legislatures at the present time under their constitutional jurisdiction. It is working and it is guaranteeing to people rights that they seek in this day and age.

A declaratory statement of rights may help to make a man feel secure but Canadians may prefer, should the need arise, to be sure of enjoying the consequences of right rather than admiring a statement. The granting of a right to adequate housing may make the draftsman feel that he is promoting the just society, for instance, but the man without a home may much prefer executive action to see he gets a home rather than to have the principle stated.

In short, Mr. Prime Minister, we take the position we should concentrate on ensuring enjoyment of rights rather than defining them. We would enjoy having with you and with the Attorney-General and other participants in this Conference a further discussion on this item as to the best means of preserving what all of us want for all Canadians.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Lyon.

I think it might be well before adjourning at five-thirty if we could look at the agenda for tomorrow and decide briefly how we might proceed. It is obvious we will have a full day and I think all of you who could possibly plan on a full day should do so. I think arrangements are being made to fly the Premiers and whatever other personnel we can put on a plane both east and west and that would be a plane flying tomorrow at six o'clock, or one hour after the adjournment of the Conference, whichever is the earliest, I take it.

If that is agreeable we would have to finish off this item tomorrow morning and perhaps the final words of Mr. Lyon might indicate to us a way in which we could consider it: have further meetings on the subject by the Attorneys-General. It would be well if we could take at least part of tomorrow's meeting, a little part of tomorrow morning, to perhaps go around the table and give every delegation a

chance to state its position on this item.

Going back to regional disparities, on this item I might ask you, Premier Smith, to lead off in the morning.

That would cover the things we have started but many things remain on the agenda. I will just name them: 4(d), Reform of Institutions linked with Federalism; that is, the Senate and Supreme Court. We may want to spring another topic there on you. Premier Bertrand, Premier Robarts and myself may want to report to you on some progress made on the National Capital Area, and if we can reach agreement amongst ourselves we may submit it to you. That is under Reform of Institutions linked with Federalism. If we cannot reach a quick agreement we won't concern you with our problems.

4(f) and (g) covering Amending Procedure and Provisional Arrangements and Mechanisms of Federal-Provincial Relations. I hope this might be brief and at least the mechanism of federal-provincial relations might also be dealt with in connection with 2(c). You will recall that was Procedure for Constitutional Review; in other words, what mechanisms go on from now on in on the Constitution. We have already set out some committees, some tax structure committees, some committees of Attorneys-General, and it would be a matter of finalizing that.

We would have to make sure at the end of the day we did have a little time to agree on 2(c) and if, hopefully, there is any slack anywhere we would go back to 3, The Objectives of Confederation. Perhaps this would be of lower priority than the other items I have mentioned.

I think the heads of governments will be having dinner with me and the other ministers will be having dinner with the Minister of Justice tonight, so we all wish you good appetite and adjourn the Conference until ten o'clock tomorrow morning.

FIFTH SESSION — WEDNESDAY MORNING
Ottawa — February 12, 1969

FIFTH SESSION : WEDNESDAY MORNING

THE RIGHT HONOURABLE P.E. TRUDEAU: I think we will come to order, gentlemen.

We have to continue and finish the item 4 (b) on Fundamental Rights, and then we will return to Regional Disparities. Hopefully we will at least be able to finish these two items this morning and begin consideration of some of the others. A few of the heads of delegations have asked to speak on the first item, and then I know that there are several others who want to speak on regional disparities, so we would all appreciate if the statements were fairly brief.

(TRANSLATION)

Mr. Prime Minister Bertrand, you asked to speak on this item?

HONOURABLE J.J. BERTRAND: Yes, thank you Mr. Chairman. Last year, in the brief submitted by its Prime Minister to this Federal-Provincial Conference, Quebec indicated at some length its views on this matter of fundamental and human rights.

These views, then, will be found in the brief submitted at that time by Quebec as well as in the proceedings of last year's meeting. In the English version these will be found at page 289 and in the French version at page 292.

I do not intend to repeat all that was stated at that time. This simply would be reiterating the position of Quebec which was well put last year. May I, however, add these words.

The discussions of the first Constitutional Conference and the work carried out since then in the Committee of Officials have indicated that we are all in agreement on the protection of fundamental rights but that there are differences of opinion on the means to be used to ensure this protection. Must these rights be guaranteed through constitutional provisions or do we feel that ordinary laws are adequate? That is the problem.

Quebec understands those who would hesitate to change our ordinary ways in this regard and who fear that

the Courts might one day be called upon to exercise functions which are not proper ones as far as they are concerned. But Quebec does believe that the advantages of constitutional guarantees more than make up for the shortcomings which I have just noted. In principle, then, we would support a constitutional declaration of human rights but on certain conditions. We should not forget that this is a Federal system. It is, therefore, important to act in such a way that this constitutional recognition of human rights does not alter the distribution of powers between the various governments. We would not feel, for instance, that the Federal Parliament should legislate in respect of contracts, wills or those matters which are provided for by the Civil Code of Quebec, simply because it is claimed that such action was necessary to apply the constitutional guarantee of human rights.

Any action in this field must be carried out by both levels of government, each within its own area of jurisdiction.

The question which the government of the Province of Quebec is putting is this: Will the declaration of rights to be entrenched in the Constitution of Canada apply to all levels of government or will it apply only at the Federal level, to be supplemented, of course, by constitutional declarations in each member state?

For the moment at least we would support this latter solution. Not too long ago we gave our own Parliamentary Committee on the Constitution, in Quebec, the responsibility of looking into this matter, of seeking those means which should be used to provide Quebec with a constitutional Charter of Human Rights.

As we stated last year, we believe that this matter of fundamental rights is only part of a whole. For instance it bears a very close relationship to the setting up of a true constitutional tribunal -- if it is included within the Constitution of the Country and within the provincial constitutions. It has been related to the reform of the Senate. It has also been stated that the adoption of the constitutional Declaration of Human Rights should be made as we adopt a new Constitution, not before.

We have stated on many occasions that we feel that the essence of the constitutional problem facing us at this time is much more the division of powers between the two orders of government than anything else. We do

recognize, however, along with the Prime Minister of Canada and others who share his views, that this problem of fundamental and human rights is also one of considerable importance.

In the meantime we would be ready to continue discussing this matter with all other governments, within the general framework of the terms of reference of this Conference, either through our Committee of Officials or through the setting up of a sub-committee. We are quite ready to co-operate with you.

I should add that over the last year, in regard to this matter of the protection of human rights and freedoms, we, in our own Parliament in Quebec, have passed legislation creating the position of "ombudsman" or protector of the people. It is now up to us to meet the requirement we have set up in this regard. This candidate can only be chosen by a mandatory vote of two-thirds of the members of our Parliament. Since the present government has only got 55 members, whoever will be chosen will also have to meet the requirements of the Opposition.

I might add also that over the last few weeks, and up to September, we will be receiving the report of the Prevost Commission which was entrusted with an examination of this very important matter of the administration of justice, in penal and criminal matters, with regard to the protection of the rights of the accused, with regard to an improvement in criminal proceedings before the Courts, and so on.

Mr. Chairman, these are some of the views, opinions or ideas which I wanted to put forward to complete the very excellent statement made last year by my predecessor, Mr. Johnson, on this problem of fundamental rights.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you Mr. Bertrand.

Premier Robichaud?

(ENGLISH)

HONOURABLE L.J. ROBICHAUD: Mr. Prime Minister, following the exposé of Mr. Wishart and that of Mr. Lyon of Manitoba, and that of Mr. Bertrand of Quebec, New Brunswick would like to say that the proposed Canadian Bill of Rights or the Charter of Human Rights as set out

in your federal proposition represents, we believe, an effort to put in fundamental constitutional terms the general concept of such a charter as set out in the presentation by the Government of Canada to the Constitutional Conference of February last year which was entitled the Canadian Charter of Human Rights.

It is evident that the Federal presentation in its propositions is not unlike in principle several of the points made in the proposition put forward by the Government of New Brunswick.

Broadly speaking the Federal attitude toward federal rights embraces the following: social and political rights, strictly so-called, dealing with such matters as free speech, assembly, right of fair trial, et cetera, as Mr. Bertrand has just said; the general principles with respect to non-discrimination and general principles with respect to language and school rights.

(TRANSLATION)

The Federal proposals differ from the proposals of New Brunswick only in two respects.

The first is that New Brunswick does not indicate in detail what its statement of fundamental rights would be, feeling as it does that the matter has not been looked at in sufficient detail and that, in consequence, it is impossible to indicate at this time what the provisions of a relevant Bill could be.

In this respect the attitude of New Brunswick is that even though the Charter proposed by the Federal Government does constitute a very valuable document, it should be looked at in detail by a working group or sub-committee, along the lines of those working groups or sub-committees suggested yesterday for a variety of purposes.

The second point which the Government of New Brunswick is ready to accept is that any guarantee of linguistic rights, in general or in particular, should be provided for in one form or in another, whereas it would appear that the Federal Government prefers such a guarantee of linguistic rights to be incorporated within its Charter.

(ENGLISH)

And finally in this connection it should be noted that the Federal proposals avoided creating a constitutional obligation on the matter of social and economic rights at this stage although the original presentation of last February suggested these as possibilities for some future decision.

There is no doubt that the most significant policy issue raised by the Federal propositions, and indirectly by the New Brunswick presentation, has to do with the extent to which a charter changes the theory and practices of parliamentary supremacy by placing a ceiling on what it is every legislature can do with respect to certain subjects or certain procedures. This is particularly true about the introduction of a due process clause which in fact raises very considerable issues of policy and requires deep study before all of its implications for substance, if not for procedure, can be comprehended.

New Brunswick's position very well has to be that we are in favour of such a charter with language rights entrenched, but the whole process needs study in depth by some appropriate sub-committee of the Continuing Committee.

(TRANSLATION)

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you Mr. Robichaud. With regard to what you have just said I would like to make one point clear. You have indicated your readiness to consider this matter of protection of language rights in a Charter or through some other means. I should say that we share that view. I recognize that in the volume we have submitted it does appear as being part of the Charter, but we are quite ready to reconsider...

HONOURABLE L.J. ROBICHAUD: Your position is still flexible?

THE RIGHT HONOURABLE P.E. TRUDEAU: Precisely.

Premier Campbell, Prince Edward Island.

HONOURABLE A.B. CAMPBELL: Prince Edward Island made its views known earlier to some extent. I appreciate the very excellent synopsis given by other provinces to the very extensive field which is covered by this subject.

Let me say at this time that we support the principle of entrenching the definition and protection of these rights within the Constitution, and would support the need for a sub-committee of this Conference, or a Committee of Attorneys General, for the purpose of finding ways by which this can most effectively be done.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Premier Campbell.

HONOURABLE D.G. STEUART: Mr. Heald, Minister of Justice, will present Saskatchewan's position.

THE RIGHT HONOURABLE P.E. TRUDEAU: Mr. Heald, Minister of Justice of Saskatchewan.

HONOURABLE D.V. HEALD: Mr. Prime Minister, Saskatchewan adopts and accepts the principle of the constitutionally entrenched Constitutional Bill of Rights.

We agree, as we said in our opening statement, that fundamental democratic rights be entrenched in the Constitution. And of course we would agree that freedom of religion, freedom of speech, freedom of assembly and association, freedom of the press, be included.

Other political rights, we think so; yes, we would agree. We have some concerns with (e), (f), and (g) in your No. 1 in your proposal; but we would like to talk about them further.

We think perhaps something can be worked out that would be acceptable to us. And we certainly endorse the idea of referring this matter to a committee, perhaps to the Ministers of Justice and the Attorneys General.

I would like to make the observation in passing that we think in our Province that in the past three years we have constructed a fully comprehensive umbrella of citizens' protection legislation. So we are not really very concerned about entrenching some of these things. I would remind you, Sir, that we have probably the most comprehensive system of providing compensation to the innocent victims of crimes of violence. This board -- it is a three-member board -- has been in operation now for a year, and they are hearing applications almost on a daily basis. And it is working very well.

The conference in Los Angeles a couple of months ago paid us the compliment of saying we had what they thought was a very comprehensive plan.

I should also like to make the observation that we have an Act called the Expropriation Procedures Act, which is sort of a limited ombudsman so far as protecting the rights of the individual against departments of government who may be expropriating land. And we look forward to this experiment with a great deal of interest. We passed the Act last year, and the Board is now in the process of being set up.

This Public and Private Rights Board, as we call it, will be acting in the capacity or the function of an ombudsman in this field.

We do have some reservations or some words of caution about too much entrenchment in a bill of rights. Our problem, or our concern, is that we feel that one cannot safely predict the constitutionality of legislation, of course, until it has been decided in the courts.

We feel it is important that the Provinces be free to undertake those steps necessary for the maintenance of law and order, of course. And, while human rights have to be protected, the entrenchment of these rights may lead to needless references and appeals to the courts leaving provincial authorities in a weak position to adequately safeguard our society.

I think another factor to be kept in mind is that in interpreting human rights legislation the courts necessarily become involved in policy choices that may be better made by a legislative body.

So we wonder about completely scrapping the present system, or going too far in entrenchment and substituting therefor in some parts a system that is like the American system, which maybe has not worked as well under the American Constitution.

We think that in the United States some constitutional provisions, which are similar to some of the proposals here, have made it very difficult -- and this is our advice -- made it very difficult to enforce the criminal law in some of their statutes in the United States.

We think the situation has become more difficult as a result of the United States Supreme Court giving entirely new interpretations to certain provisions in their constitution. And I think in the case (and I am sure everybody knows the facts of this case) where a policeman stopped an accused person leaving an apartment building with a pillow slip full of furs and other valuable articles, and, on checking the apartment building, found a breaking and entering and theft of the articles had taken place; the court held the policeman had no right to stop and search the accused. Therefore the fact the accused was found leaving the apartment building with the stolen articles could not be received in evidence. As a result the prosecution of him for the offence of breaking and entering and theft failed because of lack of evidence.

We are told also by Dr. Schmeiser -- and the Premier of British Columbia referred to Dr. Schmeiser yesterday -- he is an expert in our College of Law at the University of Saskatchewan, and he has studied the American system and American decisions; and he warns us against going too far in this regard. He tells me he has been advised that in the United States, for example, urban renewal has been rendered almost impossible by the due process clause of the American Constitution.

So these are some of our concerns, Mr. Prime Minister. We feel that any move to extend the so-called rights of individuals beyond fundamental democratic rights should be proceeded with the utmost caution.

If we allow ourselves to get into a situation similar to that of the United States, we think, we fear the result might be that the safety and well-being of the public may be subordinated to the so-called rights of individuals; whereas, of course, the great basis of law and order requires that the rights of individuals have to be curtailed for the common good. Sometimes I feel that it is overlooked that the Court in hearing a criminal charge is charged with the responsibility of determining whether or not an accused person is guilty, not whether ways can be found to prevent the real and truthful evidence of guilt being placed before the Court.

So these are some of our concerns, Sir. We endorse the principle with enthusiasm. We look forward with confidence to further negotiations and discussions to move forward in this area of the Constitutional Bill of Rights.

THE RIGHT HONOURABLE P.E. TRUDEAU: Premier Smallwood?

HONOURABLE J.R. SMALLWOOD: Mr. Prime Minister: I wonder if the Minister of Justice of Newfoundland, Mr. Hickman, could speak for me in this matter.

THE RIGHT HONOURABLE P.E. TRUDEAU: Mr. Hickman has the floor.

HONOURABLE T.A. HICKMAN: Thank you, Mr. Prime Minister.

The position of the Province of Newfoundland was made abundantly clear at last year's session, and I do not propose to spend too much time reiterating that position.

We concur with what appears to be the sentiment, or the consensus of opinion around this table, that there should be an entrenchment of the Charter of Human Rights.

We are somewhat disturbed when we hear the expression, "We favour this, but ..." and then we have to listen to an itemized statement, or account of various features which maybe should be left to the Provinces for implementation.

Our position is that it is vitally essential that the Charter be constitutionally entrenched. If this constitutes any invasion of our sacred rights, we will without hesitancy surrender them.

If on the other hand it becomes apparent that certain features of the Constitution can be more effectively implemented by the Provinces, or certain Provinces today have legislation, experience and commissions which seem to be competent, or more competent than having it through the courts, we can see no good reason why this should impede the early entrenchment of this basic principle.

I cannot for the life of me see anything wrong with this meeting accepting the principle and refusing to tie it down to complete implementation by the courts. If we accept this as the foundation of our principle; if we accept that we must provide all Canadians with this basic protection and this basic right, and then say to the Provinces, "If you want to go beyond this you have our blessing", I do not see how that could meet with any

disapproval from any Canadian.

My concern is that we not get bogged down into legalistic lectures on constitutional law and find ourselves back here two or three years from now still trying to find a formula. Once we accept the suggestion of constitutional entrenchment and then readily cooperate in having the details referred to a Committee of Attorneys General, or any other committee, for the detailed drafting, it is my opinion that, if we are going to do that, it will only be effective if we first have from this meeting a consensus and agreement that the Charter of Human Rights must be entrenched within the Constitution.

If as Attorneys General, we are instructed not to consider whether this should be done, but that the decision has now been made that it will be done and that we are simply carrying out instructions to implement this decision, then I suggest, Prime Minister, that within a matter of months we can come before this meeting with the final document -- and a document that will receive very quick and ready approval.

In our Provinces we are not over-burdened with human rights legislation. I suppose, if I subscribe to the view expressed by some of my colleagues around this table, this is proof positive that we don't need it. But whatever the reason is, it is not because of our lack of belief in this.

We, like Saskatchewan, have implemented a Crimes Compensation Act. In fact the legislation is just about identical. But again if your government, Sir, decided that it would like to assume this responsibility, it would not take too much time or negotiation for us to surrender that cherished right to your government.

On this principle of basic human rights one thing that is becoming more and more apparent in North America -- and the Minister of Justice Mr. Turner, I believe, has mentioned it on occasions lately -- that there is not much point in providing the machinery and giving the assurance of a free trial to an accused if at the same time we do not hand in hand with preserving that right and creating that right give him another right, and that is the basic right to counsel.

This, I believe, is somewhat of a new philosophy that is developing in North America, but surely it is one that we cannot allow to simmer on the shelf for too long. And what I would like to see in any Charter of Human

Rights that is entrenched in our Constitution is a provision that any accused person in Canada has an absolute right to counsel.

And then with this, obviously the Provinces and the law societies (and in most Provinces today we have some form of legal aid) would have to place themselves in a position where this is meaningful and where we are prepared to make the necessary financial contributions to assure that when we give this right we are prepared to furnish the tools to discharge the responsibility.

Once again, may I simply restate the position of Newfoundland, that without any conditions whatsoever we support the proposal that has been made by you, Prime Minister, that the Charter of Human Rights, if it is going to be meaningful and effective, must be entrenched in our Constitution.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Hickman.

Mr. Peterson?

HONOURABLE L.R. PETERSON: Mr. Prime Minister, the views of British Columbia were included in our opening statement, and I am not going to repeat the reservations that were included there as far as the entrenchment of the Charter of Human Rights in our Constitution is concerned.

I think perhaps a case can be made for a limited entrenchment, but I do have some important reservations over and above those that were expressed in our brief.

The first of those is that in my view any substantial entrenchment of a Charter of Human Rights, as other members have mentioned, would I think, lead to a degree of uncertainty in the law in the sense that when any legislature -- and we now have eleven of them, or ten of them provincially and one federal, enacting laws (we would like to see that reduced in number to five, but that is another point) -- but all enacting laws, and any law that affects any of the rights referred to in the Constitution could come before the courts.

Then it would be for the courts to decide whether or not this legislation was ultra vires the power of the Legislature because of the provisions in the Constitution. It would be a field day for the lawyers of the Country in

terms of increased litigation but I don't think it would be in the public interest to do so and certainly as far as human rights are concerned when you think back just a few years you will appreciate the tremendous progress that has been made.

Mention was made of human rights legislation in the Province of Ontario. We also have human rights legislation and there will be further refinement and greater protections afforded at this session of our provincial legislature. If you include some of these rights into a federal charter or into the Constitution then you are going to be missing that very important enforcement aspect we have provincially in terms of conciliation, education and eventual prohibition. Entrenchment of human rights, I would suggest, will lead to conflict between provincial jurisdictions as well.

For instance, if you take the subject of sex ... discrimination! I am hesitant to introduce the subject into these solemn deliberations! Many of us now are including discrimination on the grounds of sex. Provincially we can offer this where we add additional protection to the woman worker. For example, the weight they can lift, et cetera; and mining underground, this sort of thing. There is not any conflict; we can provide this by provincial legislation.

If you look at what happened in the United States where this was included by federal legislation it led to a great deal of litigation between the states and the Federal Government. This is the type of thing that I think should be avoided in our consideration of the subject of entrenchment.

The other thing that bothers me is this: once a provision is made in our Constitution it is very difficult to alter. We haven't even got around to this question yet of how to change our Constitution. Even if we arrive at a formula I suggest it will be extremely difficult to change the Constitution once it has been established.

The question in my mind is simply this: whether the transient political preferences of today should be enshrined for all time in our Constitution. If you look back, as I say, even 20 years ago at the legislation then protecting human rights and compare it with the great amount today if you think of the improvements as far as the trial of an accused person is concerned in that same

period of time, in less than 20 years; if we had been sitting down 20 years ago and discussing the question would we put in the Constitution the same rights we think people are entitled to today?

I would suggest that if we project our thinking into the future perhaps we could concede that there will be people more brilliant than ourselves, hence they may have a broader view of human rights. Rather than putting in these rights into our Constitution, and in effect putting a brake on important social development; or at the very most leaving it to the courts to determine the degree of social development, we should leave it to the Parliament of the day with the hope and expectation that they will further refine and extend human rights as our society progresses.

This, I suggest, should be taken into consideration by the Committee. Certainly I am agreeable, with some reluctance to the appointment of such a Committee. I am sure this will also land on the shoulders of the Attorneys General but I think it would be desirable to have the matter considered by a Committee. Speaking for the Province of British Columbia I would envisage a more limited entrenchment in the Constitution; certainly going as far as ensuring, which we don't do now, that our governments, however many there may be in the future in Canada, are elected democratically and are answerable to the people. There should be a maximum term of office and Governments should not be able to amend their own Constitution to provide longer terms.

I think this aspect has to be looked at in detail. Once you have a Parliament answerable to the people that, I suggest, is the greatest protection that citizens anywhere in the world can have as far as human rights or other rights are concerned.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Peterson. Mr. Smith?

HONOURABLE G.I. SMITH: Bearing in mind your admonition as to brevity I think I can best state our position by saying we believe very strongly in the absolute necessity of protecting those fundamental human rights. Instead of giving you our reasoning and taking up time which perhaps might better be used on some other subject I think we could associate ourselves with the view of Ontario as being about as close to ours as we can expect to find.

We of course concur in the view that a committee should examine the question and see if we can arrive at some acceptable solution.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Sir.

Mr. Gerhart, the Attorney General of Alberta.

HONOURABLE E.H. GERHART: Thank you, Mr. Prime Minister. Alberta has some reservations on the principle of entrenchment. I stress "on the principle of entrenchment" rather than on the principle of human rights. I state this because of our view of the unfettered jurisdiction of Parliament or legislature in its particular field. Then, of course, once we have created an entrenched Charter of Human Rights we then will have to sit back with our children and great-grandchildren to wait while the courts interpret what we have created. This may present some difficulties for some of us here and maybe even for our children.

Alberta has, we think, a responsible tradition in the field of human rights. We have had an ombudsman for some year and a half now in the Province; the first, I believe, in Canada. This works very well. We will be at the session commencing tomorrow bringing in legislation covering compensation for victims of crime and we will be prepared to write in a proviso that we would share part of the costs of this with the Federal authorities, as was indicated by the Attorney General from Newfoundland. We also have a comprehensive programme of legal aid that has been functioning. So while we have reservations in this field we are nevertheless prepared to have meaningful discussions on the principle of entrenchment in the committee that was referred to.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you very much, Mr. Gerhart.

Well, we have, I believe, exhausted this item and not ourselves yet. We have heard from every Province and the Minister of Justice has also stated our point of view. We can see that some agree completely with the idea of a constitutional charter; some agree in part; and someone has suggested perhaps we should begin by proceeding separately with a Federal charter and provincial charters which hopefully would permit us to consolidate them some day.

There has been some disagreement but I think it is quite obvious there has been a great deal of progress since our discussions last year. There has been a general suggestion that rather than argue out the disagreements or points of friction here that we should refer the matter to a Committee of Attorneys General. I would like to accept the Honourable Mr. Hickman's suggestion that we give instructions to come up with a charter but I am afraid this might be a bit too much. There has been some disagreement that I think we have to accept will be expressed at the Committee of Attorneys General. We will have to convince each other. I personally hope that the majority will convince the minority but we must be prepared to accept the contrary.

The officials have worked on some drafts and perhaps it can shorten our debate this afternoon when we talk about the continuation of our work. I wonder if we can agree now on a draft which I think might express this morning's consensus. I will read the following and if there is much discussion I will refer it back to the officials who will be meeting over the lunch hour, but if we can agree on some text this morning it would be that much gain.

Let me read the following lines:

"The Conference of Prime Ministers and Premiers noting '...then we have a choice either...' general interest or general acceptance with certain reservations that have been expressed with regard to constitutional guarantees of human rights, agree that a Committee of Ministers be established to study all matters relating to constitutional Charter of Human Rights and in particular to the rights that should be included in the Charter and the methods by which the Charter should be entrenched in the Constitution".

Now, the debate, if any, I suppose would be as to whether we should note the various views or note the general interest or note the general acceptance with certain reservations. I, of course, would prefer the latter but if there is any -- is that agreed?

HONOURABLE G. EVANS: We, of course, would much prefer the words "general interest" be used and at the end of the statement of consensus the words "whether or

not such rights should be entrenched in the Constitution". That should be up for discussion by Attorneys General.

THE RIGHT HONOURABLE P.E. TRUDEAU: Yes. Then it would state all matters relating to and in particular the rights that should be included, whether or not they should be included.

HONOURABLE G. EVANS: Whether or not they should be included in an entrenched Constitution.

THE RIGHT HONOURABLE P.E. TRUDEAU: The rights that might be included in the Charter rather than "should".

HONOURABLE G. EVANS: Whether or not it should be entrenched in the Constitution.

THE RIGHT HONOURABLE P.E. TRUDEAU: And the method.

HONOURABLE L.R. PETERSON: And then we can agree.

THE RIGHT HONOURABLE P.E. TRUDEAU: The question of whether it should be entrenched and the methods of doing so ... something like that. I am trying to make it linguistically acceptable!

We agree a committee be established to study all matters relating to whether or not it should be entrenched and in particular what rights should be included and what methods by which it might be entrenched. All right.

HONOURABLE H.E. STROM: Mr. Prime Minister, do the words mean "including the question of entrenchment"?

THE RIGHT HONOURABLE P.E. TRUDEAU: The study of matters relating to constitutional charter. I am sorry, I thought you had copies of it.

HONOURABLE L.R. PETERSON: It is different from the copy I had when you read it.

THE RIGHT HONOURABLE P.E. TRUDEAU: Apparently you had one of the earlier versions. I am sorry; I had one of the earlier versions. I get up too early! I was reading: "The Conference of Prime Ministers and Premiers noting the general acceptance with certain reservations or the general interest..."

HONOURABLE L.R. PETERSON: The one I have, Mr. Prime Minister, reads: "The Conference of Prime Ministers and Premiers noting the various views that have been expressed with regard to guarantee of human rights, including those views brought before the Continuing Committee, agree a Committee of Ministers be established to study all matters relating to fundamental human rights, including the question of entrenchment of such rights in the constitutional charter". That would be much more acceptable.

THE RIGHT HONOURABLE P.E. TRUDEAU: We would accept it, too, of course. The only question is whether we could not improve the expression "various views" by indicating that there was more than views; there was general interest. And I don't mind saying there were reservations if you want to talk about general acceptance.

HONOURABLE L.R. PETERSON: "General interest" would be all right. "Various views and general interest". As long as you don't use the word "acceptance".

THE RIGHT HONOURABLE P.E. TRUDEAU: It is the word "acceptance" you don't accept; is that right? So then we will have "general interest" rather than "various views". Agreed?

--- Agreed.

THE RIGHT HONOURABLE P.E. TRUDEAU: "Various views and general interest". If we put "some acceptance" I feel we are damaging our case! At any rate, we will have a chance to look at the final draft over the noon hour, let us assume. Is it satisfactory in French?

HONOURABLE J.J. BERTRAND: Yes. We have the French version.

THE RIGHT HONOURABLE P.E. TRUDEAU: Perhaps we could help you translate it...

HONOURABLE J.J. BERTRAND: We can translate it, no doubt.

THE RIGHT HONOURABLE P.E. TRUDEAU: So we have now reached item 4 (e), Regional Disparities. And I believe it would be acceptable if we ask Premier Smith to lead off on this subject.

HONOURABLE G.I. SMITH: With your permission, Mr. Donahoe, Attorney General and Minister of Health, will deal with this subject on our behalf.

HONOURABLE R.A. DONAHOE: Mr. Prime Minister and gentlemen, I would like to make an opening observation and it is that if in order to deal with the Constitution of this Country we must work together for long hours around these tables, be subjected to lights of the intensity of those that are here and the heat which they generate in the course of a day, it seems to me it is a matter we might at least consider referring to the Society for the Prevention of Cruelty to Animals for its consideration and recommendations having regard to the conditions under which future conferences will be held.

Having said that, I would like to address myself to the topic for which purpose you gave me the floor.

In Nova Scotia's opening statement reference is made to our view of the national importance of finding solutions to the problem of regional disparity. We have expressed our strong belief that the question is one which should be dealt with in the Constitution, and that if a new or amended Constitution is to result from these meetings, that regional disparities and ways of dealing with them should be in the Constitution.

We are reinforced in that view by the fact that the previous Constitutional Conference, in determining the subject matter that should come before this session of the Constitutional Conference, under the heading of "Specific Constitutional Questions", included as Item (e), Regional Disparities, making it clear that we deal with this matter of regional disparity from the constitutional point of view and not merely from the economic or fiscal point of view.

We do not suggest that the regions have no responsibility for helping themselves. On the contrary, we believe that they have the duty to help themselves in every way they can, and just as far as their own resources will permit. But we do believe that the question of regional disparity and the manner of dealing with it falls into two parts: the first part is that if we are to avoid regional disparity we must arrange a system by which government is able to provide services to its people at the uniform level across the country. And the second part of the problem of regional disparity relates to economic

growth and development.

As to the first part we hold it to be the right of Canadians in every region of Canada to have a standard of public services equal to the national average without a burden of taxation greater than the national average burden, and this takes us, of course, into the area of equalization.

We believe that the principle of equalization and the formula for it should be set out in the Constitution. There should be no arguing and bargaining for equalization from time to time. It should not depend upon the attitude or the whim of any particular administration at any given moment.

A formula for full equalization should, in our opinion, be part of the Constitution, and the formula for full equalization should be agreed upon.

Full equalization should contain proper allowances for municipal tax-raising ability and expenditure responsibilities. Such municipal factors are not included in the present formula. The federal representatives at the time the present equalization formula was adopted did not dispute that the formula was in fact incomplete without taking into account municipal factors. Indeed the Minister of Finance at the time agreed -- categorically agreed -- that these factors were excluded only because it would cost more money to include them than he was prepared to say that the Federal Government would find at that time.

As to the second aspect of the disparity problem, economic development, we hold that Canadians in every region of Canada clearly should have opportunities for their own all-round development, and to attain a standard of living reasonably comparable with the opportunities and standards of the average Canadian.

We believe that this as a compulsory general objective of federal policies should be recognized by the Constitution. There should also be written in the Constitution a provision that the Federal Government must apply its fiscal monetary and economic policies -- and I say this in all seriousness -- with due regard for the probable effect of each policy upon each region, and in a manner as little detrimental to the growth of each region as is consistent with the overall objective of the policy.

Putting it another way, the Constitution should clearly recognize the principle that national policies can and should often be applied with regional differences suitable to the different circumstances in the different regions.

The Constitution should also provide that the central government has the responsibility for consultation with the regions concerned, and when I say "consultation", Mr. Prime Minister, I mean what I described it as yesterday, meaningful consultation, not merely discussion, not merely being called here to hear ultimatums, but meaningful discussion where the points of view of all the parties are considered, and where the decisions taken are in fact a consensus of the views thus arrived at -- in consultation then with the regions concerned to establish positive policies with a frankly regional approach designed to achieve a more balanced regional economic development.

We recognize with appreciation, Mr. Prime Minister, your statement in the House of Commons on December 10th, 1968, that there is a danger to the unity of this Country on a language basis, but there is also a danger on the basis of economic disparity, and it should be the intent of any Federal Government to seek justice in both fields, and that both are extremely and probably of equal importance.

We expect that the new federal department will follow this policy, and I am happy to see the Minister in charge of that department at your left hand this morning.

I should like to make it completely clear, however, that Nova Scotia believes that the matter of equalization and regional development should be provided for in the Constitution, and if there is to be a new or amended Constitution, it should so provide.

Mr. Chairman, Nova Scotia wants to emphasize once more that the two preceding Constitutional Conferences agreed that the matter of regional disparity is of prime importance in our constitutional discussions. We expect it to be dealt with by the Constitutional Conferences rather than by any subsidiary bodies.

In addition, we maintain that it is not necessary for the Government of Canada to wait for final constitutional amendments in order to undertake measures which will lessen these regional disparities.

It is most encouraging that the Federal Government has established a new department whose responsibility relates to regional development, and we hope most sincerely that this department will begin to operate effectively in the immediate future. Several governments in Canada have already undertaken measures respecting linguistic matters. The reasons for these governments taking action on linguistic matters are well known to the people of Canada. There are very sound reasons to support our view that a similar high priority should be given to regional disparity problems.

We are not here dealing with the detail of appropriate policies; we are concerned to develop and to include in the Constitution provisions which will make clear the kind of responsibility I have just mentioned.

We again point out that if the problem of disparity is to be attacked with any hope of success, the approach must be frankly regional in character, and massive in size. We do not need to argue now that the problem must be attacked; that was decided at the Conference of last February.

There are several obvious courses of action which might be taken by the Federal Government without awaiting constitutional changes which could assist in lessening regional disparities.

National policies relating to federal expenditure do not have to be applied with the same weight or vigour in all parts of the Country at the same time. During a period when it is desirable to restrain economic activity nationally, the opportunity could be used to increase government expenditures in those areas in which economic activity has been depressed. In other words, at a time when a cooling-off period is desired nationally, policies can be applied in less prosperous regions which would assist these regions in catching up economically with the more prosperous regions.

If during such a period of economic restraint national expenditure policies restrain less prosperous regions, these regions will be set back further economically, creating even greater problems than exist at present.

We do wish to point out that the regional approach is nothing new in Canada, and that it has been applied to

the best-developed region in Canada.

Last February we showed how the policy of encouraging the development of Canadian industry by tariff protections, whether or not it was so intended, in fact had a decidedly regional result in that it concentrated most of our industry in one region. We did not and we do not now complain about that policy. We merely point out its results. We agreed that it was good for Canada as a whole, even if it was much better for some regions than for others.

I should like to draw attention to another clearly regional policy of great magnitude which has resulted in great advantage to the most rapidly developing region. It is good for that region. It is no doubt good for Canada as a whole, but it has had a very serious adverse effect on other regions. And again we did not complain of it. We merely point it out as an example of regional policy. I am referring, of course, and I am sure you are way ahead of me, to the St. Lawrence Seaway.

It is one of the largest enterprises in a Country in which large enterprises abound. It was financed by money raised upon the credit of all Canadians; its deficits have been met from the money of all Canadians.

It has undoubtedly been of substantial benefit to some regions of Canada, to some Canadian ports, and to the Country. Equally clearly it has adversely affected ports in other regions of Canada. Once more I say we do not complain about it. Once more I also say that it is the result of a clear regional policy although for the good of Canada.

There are, of course, other regional policies, some of which have been clearly aimed to help the Atlantic region.

Three examples are the former Atlantic adjustments grants, the Cape Breton Development Corporation, and the Atlantic Development Board. We freely acknowledge their usefulness, and express appreciation for them. It is clearly beyond argument that this Country frequently followed policies which have been plainly regional in intent or result or both.

Now, we say simply that the principle must be recognized in any new or amended Constitution, and we further say that there is no subject in relation to

constitutional review which is more important.

Mr. Chairman, Nova Scotia submits that the Constitution must contain the following provisions which relate to problems of regional economic disparity.

We believe that the principle of equalization and the formula for it should be set out in the Constitution. There should be no arguing and bargaining about equalization from time to time. A formula for full equalization should be part of the Constitution.

There should also be written into the Constitution a provision that the Federal Government must apply its fiscal, monetary and economic policies with due regard for the probable effect of each policy upon each region and in a manner as little detrimental to the growth of each region as is consistent with the overall objective of the policy.

To put it another way, the Constitution should clearly recognize the principle that national policies can and should often be applied with regional differences suitable to the different circumstances in the regions.

The Constitution should also provide that the central government has the responsibility in consultation with the regions concerned to establish positive policies with a frankly regional approach designed to achieve a more balanced regional economic development.

We believe that this matter of regional disparities and the manner in which it should be dealt with in the Constitution is of such paramount importance that we believe it should be referred to a Committee which would consist of Ministers or perhaps preferably should be dealt with in a Committee composed of Heads of State and that we should not allow this matter to be delegated or relegated to a Committee of Officials who would perhaps regard it as merely one other item. In other words, we believe that the method of dealing with this question of regional disparities and how it should be dealt with in the Constitution is of such paramount importance that it should receive treatment in accordance with its importance.

Thank you.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you very much, Mr. Donahoe.

HONOURABLE L.J. ROBICHAUD: Prime Minister ---

THE RIGHT HONOURABLE P.E. TRUDEAU: Mr. Robichaud?

HONOURABLE L.J. ROBICHAUD: I have a text but perhaps in the interest of brevity I should dispense with it.

Perhaps I should thank you Prime Minister, and all the other Premiers, for the interest that they are showing in the economy of the Atlantic area for having allowed this item of regional disparities to be included on the agenda of this Conference.

Over the years you people from other parts of the Country have heard of this problem of economic disparity in our Country which affects us more perhaps than in any other part of Canada.

Over the years we argued that something dramatic should be done to alleviate the burden that the residents of the Atlantic area have to support.

Over the years successive governments and people in this Country have been listening to us with very sympathetic ears and over the years a lot of patch work, I should say, has been done.

It is most humiliating for us to appear before this august body and before the Canadian nation and appear like beggars. We are not beggars. We do not want to be beggars. We simply want our fair share of the national wealth.

I should say that over the years our argument was very eloquently submitted to various authorities. It was eloquently submitted yesterday by the Premier of Newfoundland, Mr. Smallwood, and we all know he is very eloquent and he can make a point when he wants to make it.

It was also very eloquently stated a few moments ago by Mr. Donahoe that we needed something dramatic.

Yesterday Premier Smallwood said that the per capita income in his Province is approximately half that of Ontario and that is true, but he didn't say everything he could have. He didn't say everything. The per capita income of the residents, the workers or everybody in the Atlantic Provinces is half that of Ontario, but our taxes

are double those of Ontario.

Now, we are Canadians and we want to remain Canadians, and over the years we have got this situation.

Perhaps there has never been a Prime Minister of Ontario as sympathetic as Prime Minister Robarts to our problems. He wants to do something about it. He wants to find a formula and we have found some sort of formula with the equalization formula, certain agencies such as FRED, ARDA, and the Hydro Development Programme.

This, I submit, is patchwork, but I would like to go back to what I was saying. Our taxes are double what they are in Ontario. In fact the municipal taxes and the provincial taxes are double. That is not all. We, for instance, buy a car in the Atlantic Provinces. Everybody has a car. It is no longer a luxury to have a car. It is a necessity of life. We buy a car which is manufactured in Ontario. We pay \$300 to \$400 more than the resident of Ontario has to pay for a car, just to buy it; and after that car is purchased then we have to pay much higher taxes than the resident of Ontario has to pay in taxes to operate his car.

Now, in so many areas we are -- let us put it bluntly -- somewhat discriminated against. Why -- because of transportation problems, of course, but I am wondering if something really dramatic should not be done and now. I do not think we can wait any longer.

I do not know what the solution is but let us think for a moment of the abolition of tariffs between the United States and Canada if that were feasible, along the Atlantic border with the United States not the rest of Canada, they don't need it. If that were feasible, do you know what it would mean? It would mean that every resident of the Atlantic Provinces would save approximately \$1,000 for the purchase of a car -- \$1,000 for the purchase of a car per citizen.

Now, there are some I would say, roughly in the Atlantic Provinces maybe three hundred to four hundred thousand cars purchased a year and ---

HONOURABLE J.R. SMALLWOOD: More

HONOURABLE L.J. ROBICHAUD: And even more.
Suppose you would say \$1,000 per car, that would be \$300

million or \$400 million saved by the residents of the Atlantic Provinces that we could inject into the economy of the area. I don't know if that is feasible. I don't know if that is feasible but this is one thing that possibly could be done to alleviate our situation.

In New Brunswick, for instance, and they are doing the same thing in Nova Scotia and Prince Edward Island and Newfoundland, with our limited resources we have to help industry establish within our own boundaries in our jurisdiction and in New Brunswick with a little better than six hundred thousand of a population, we had to guarantee to a mining company \$40 million so that they could establish in New Brunswick. We had to guarantee to a pulp and paper company I believe it is \$30 million to establish a 70-acre \$80 million pulp and paper mill. With our limited resources we did that.

Of course, we have a lot of other guarantees but so that these companies could establish and compete on the market and so that they would not have to pay an exorbitant rate of interest, the government with our limited resources had to come across and guarantee these loans.

Why doesn't the Industrial Development Bank of Canada do it at a fair rate of interest to companies that wish to establish in these "not depressed" but "have less" areas as Premier Smallwood put it yesterday.

There are so many things that could be done that would not be patchwork.

Premier Bennett would welcome anybody moving to his Province and I do not blame him.

HONOURABLE W.A.C. BENNETT: I left New Brunswick.

HONOURABLE L.J. ROBICHAUD: Of course he did. He left New Brunswick and he went to British Columbia and became extremely prosperous and a lot of people did that. They moved to ---.

HONOURABLE J.R. SMALLWOOD: Moved into Alberta on the way along.

HONOURABLE L.J. ROBICHAUD: That is right. He stopped off and made a few millions and then kept on going.

But you know our people leave because opportunities are better elsewhere and unless we can keep our young people and unless we can use their brains to better economic advantage at home, we are going to continue to lag behind the rest of the Country.

It was stated by Premier Smith on Monday, I believe, that we don't want to have higher or even equal standards of living as the people living in Central Canada because we are so happy with our climate and we are on the sea-board. There are so many advantages for us to live in the Atlantic Provinces but we should not be so far behind the national level; and, Mr. Prime Minister, as I said a lot of people have eloquently put this problem forward, I do not think anybody yet has put it as firmly and as eloquently as you did during the last campaign when you, over the whole of this Country, insisted on the irradiation of regional disparities. I know that you intend to do something about it. I know that you are very sincere in this.

You have created this Department of Economic Expansion; the Regional Economic Expansion with Mr. Marchand.

We have great hopes that this will really be a department that will help the Atlantic areas. But not only the Atlantic area for there are some other parts of Canada that need this Department of Regional Economic Expansion.

We would like to be consulted on everything that is done to help us reach the national or approach the national level.

Mr. Donahoe put it very, very clearly a few moments ago when he said that we must be consulted. We must not be given a blueprint and told accept it or leave it. I think your intentions are really good and I think that Mr. Marchand and the Prime Minister really want to do something about this problem.

I repeat this. It is very humiliating year after year to have to come before the Canadian people and repeat the same arguments over and over again.

I simply want to close by saying that something really dramatic has to be done for the people of Joey Smallwood, the people of Alex Campbell, the people of G.I. Smith and the people of Louis Robichaud. I know you

can do it. I have hopes.

Thank you very much.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you very much, Mr. Robichaud.

HONOURABLE A.B. CAMPBELL: I would like to join in and add to those eloquent words of my colleague from New Brunswick and the people of Canada.

Certainly it is a national issue. It is a national concern and to come to grips with the regional disparities of Canada, especially as they exist in the Atlantic Provinces, is surely one of the great concerns recognized by the Confederation of Tomorrow Conference at our first Constitutional Meeting. Let us not allow our minds to stray from the very great need to meet these disparities and the very real dangers of failing to come to grips with them.

May I, Mr. Chairman, at the outset recall the words of a very good friend of mine who represents the Province of Ontario, the Prime Minister of Ontario, when he suggested to you yesterday that you might forget everything that happened prior to June 25th.

Prince Edward Island, of course, takes great issue with that suggestion and at the outset of my remarks, Mr. Chairman, let me bring to your attention, and to the attention of the Government of Canada the terms of Union under which Prince Edward Island became a Province of this great Country of ours.

In 1873 the Government of Canada assured Prince Edward Island that henceforth the Federal Government would take full responsibility for continuous transportation between Prince Edward Island and the mainland. Since that time various efforts, some successful and most not, were made to assure Prince Edward Island a form of transportation and communication with the mainland.

Obviously, Mr. Prime Minister, I am referring now to the Prince Edward Island Causeway, which has been a much promised project for the Atlantic Provinces, and especially for the Province of Prince Edward Island.

My associate at this table today is a former Premier of Prince Edward Island who himself received the

assurance of the Government of Canada, and therefore the people of Canada, that this crossing would be undertaken. And I myself have received from your predecessors in office, Mr. Prime Minister, very positive and definite assurance that this long-promised and long-awaited project would in fact be undertaken.

It may be helpful to you, Prime Minister, in reaching your decision, if I were to underline the dangers of the short term approach which might save the Canadian people tax dollars. My latest information would indicate (and this has been well researched) that the cost of the Prince Edward Island Causeway, would be in the area of 160 millions of dollars. But let me remind you of the cost of continuing the ferry service between New Brunswick and Prince Edward Island over the next 60 years. It would be in the vicinity of one billion dollars.

I believe that the people of Canada deserve to be told what the long-term implications are, and that this is not, in fact, a handout to Prince Edward Island. It is not "boondoggle" to Canada's smallest Province, but a transportation link of great significance and importance to the Province of Prince Edward Island, and, in the long run, one which will save the taxpayers of Canada a great deal of money. The failure to provide such a work, and nothing short of providing such a work, would be regarded by the people of Prince Edward Island as highway robbery.

Mr. Chairman, I wish for a moment to turn to matters which have some relevance to regional disparities and which have evolved as a result of our discussions here during the last two days.

We noticed from the earlier newspaper releases that the Western Provinces propose to march on Ottawa and to demand better tax bills and more money to meet their ever-increasing expenditures.

It occurred to me, Mr. Prime Minister, that the Western Provinces have now reached the position which we in the Atlantic Provinces reached 25 years ago. The financial difficulties of the Western Provinces, indeed of the Central Provinces as well, have in recent years been the more difficult because of the swelling expenses of education and the social services which this country endeavours to extend to Canadians from coast to coast.

When we reached this position 25 years ago in the Atlantic Provinces we had but one recourse. We began to deficit finance. We taxed our people to the fullest extent possible. And we began those annual treks to the fiscal conferences where premier after premier, year after year, pounded the desks here in Ottawa for equalization, and received the reaction from the rest of Canada that the Atlantic Provinces were returning, once again with hat in hand, for additional handouts.

We see the real danger being faced by our Western friends. We see the very real dangers of both federal and provincial governments spending or financing too much money.

This, of course, has been the whole story in the East, in the Atlantic Provinces. And I might just outline my thoughts on regional disparities.

Certainly the Atlantic Provinces have been unable to improve their relative position in Canada. We have been making gains, as Premier Smallwood indicated yesterday, in narrowing the gap. But we have not done enough in closing the gap.

Secondly, disparity in the Atlantic Provinces has been consistent for generations, unlike the Western Provinces' present problems which are more recent.

During the thirties we recall the very severe problems that some of the Western Provinces experienced. We recall in 1934 having the opportunity to send relief supplies to Saskatchewan to help it out during the drought.

HONOURABLE D.G. STEUART: Dried apples!

HONOURABLE A.B. CAMPBELL: Saskatchewan was able to recover. Saskatchewan was able to find the investment capital. Saskatchewan was able to develop its resources. And Saskatchewan today is one of the great Provinces and one of the wealthy Provinces of Canada.

We hope for reciprocal arrangements through equalization and through other programmes, about which I will talk in a moment.

Throughout this period, Mr. Chairman, it is also appropriate for us to suggest that all governments at all levels have been in agreement that there was need to come to grips with the regional disparities in the Atlantic

Provinces. There was agreement between all governments at all levels that the gap must be closed, and various efforts and various endeavours were undertaken -- big projects, subsidies, mobility incentives. But none of these have been successful. And all of them together have failed to provide the answers to our problems.

I think we could add another incident as well, Mr. Prime Minister, of regional disparity. There has indeed been an element of alienation when we in the Atlantic Provinces see the priorities given to great national undertakings, and look at our own needs. Such have the tendency to produce some form of alienation, which this Country does not want, and cannot have, if we are to have a united Country. We do not want, and we do not need, distrust or suspicion.

In summary, then, Mr. Chairman, we conclude that Canada, and Confederation, has failed to answer the problem of regional disparities. Time is running out. Now time is running out especially for the Province which I have the honour to represent at this Conference.

Arising out of all that I have said and observed to this point, I keep coming back to your words, Mr. Prime Minister, expressed on an earlier occasion. And I quote: "If the underdevelopment of the Atlantic Provinces is not corrected, then the unity of the Country is almost surely destroyed".

Here is a statement which recognizes the very essence of our present difficulties in the Atlantic Provinces. But these are words -- words, granted, which recognize the vital importance of the issue; but the problem will not, of course, be resolved by words alone.

And I might suggest, Mr. Chairman, that in addition to those words and in addition to your recognition as the Prime Minister of all Canada, there must be joint action of determined governments at both levels. The government of Canada must be able to allocate substantial financial resources to resolve the problem of regional disparities.

It is equally important that in all matters of development, as well as in matters affecting the Provinces, and taxation, and various other programmes and social service programmes, there must be full and meaningful consultation. If there is any consensus at this Conference,

it is apparently for the need for full and meaningful consultation between the Federal Government and the Provinces such that federal fiscal strength does not force decisions on the Provinces.

I can think, for example, of the statement someone made to me. The Federal Government was negotiating with the Province of Alberta some form of development scheme for an area within that Province. I cannot vouch for the truth of this statement, but apparently the Federal Government, which would finance a good share of the programme, indicated that they would only do this and that certain strings would be attached.

Alberta is in a position to say to the Federal Government, "If that is the way you want it, we go it alone". Prince Edward Island is not in that position. And Prince Edward Island relies upon the fiscal resources which the Federal Government is able to bring to bear on our problems.

Furthermore, where decisions are being made in Ottawa affecting the Provinces of Canada, Prince Edward Island believes that the Government of Canada has a duty and an obligation to first seek the advice of, and to conduct consultation with the Provinces.

This leads us to the other emerging issue at this Conference. I believe, Mr. Prime Minister, that the Federal Government and the action of the Federal Government cannot become the subject of agreement of all Provinces. We cannot, as Prime Minister Robarts said to this Conference yesterday, place the Federal Government in a straitjacket and seriously jeopardize the initiative which the Federal Government will take in the common and general interest.

All of us should seek, and all of us should be prepared to propose the mechanisms, the methods by which, somewhere in between these two positions, we can effectively arrange meaningful discussion with the Federal Government. As Premier of Prince Edward Island, if I say nothing more to this Conference, I strongly urge you as Prime Minister to "plug in" the Premiers in this process. It may be, Mr. Prime Minister, a very effective way of "plugging in" the people.

Having suggested greater involvement in the decision-making process, may I make a suggestion, for what it may be worth? It seems to me, Mr. Prime Minister, that the

ongoing work of this Conference will require us, as First Ministers, to gather in the capital city on at least two or three more occasions this year, and the subcommittees on many more occasions. A great deal of travelling, a great deal of delay will be involved in arranging such meetings, freeing Ministers from their provincial responsibilities, which are already onerous.

Perhaps in each one of the capitals of Canada, including Ottawa, closed circuit TV might be arranged so that meetings between the Federal Government and the provincial representatives can be arranged almost instantaneously.

I make this as a suggestion, but I can think of its useful implications and significance not only for further and continuing meetings of this Conference, but for further meetings of provincial Ministers of Education, where they can go to a central room in their capital city and speak instantaneously with the Federal Government and Ministers responsible there.

In conclusion, Mr. Chairman, may I suggest that I am happy, however, that on the basis of my very recent discussions with your Minister of Forestry and Rural Development, the Honourable Jean Marchand, I am confident that Canada and the Province of Prince Edward Island will very soon, and after five years of research, study and negotiation, enter into a major and joint development programme for the Province of Prince Edward Island. I see this move, Mr. Prime Minister as a significant achievement in our joint efforts to come to grips with the problems of regional disparity as they apply to the Province of Prince Edward Island.

Thank you.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you,
Premier Campbell.

Premier Weir?

HONOURABLE W. WEIR: Mr. Prime Minister, I would like first of all to associate myself with the principles as they have been outlined by our counterparts in the Eastern Provinces.

I have cut down quite a bit on what I had intended to say, Mr. Prime Minister, because I know of the time

schedule and the work before us.

One thing I would like to say, though, is that we should, I would hope, approach this not from a depression psychology but from a developmental one because it is my view that in Canada we have wealth, that we have opportunity, and above all we have potential, and what our need is is the orderly development of it at a pace that we can afford to travel.

The current term that is in vogue of regional economic development in Canada is regional disparities. There is some confusion as to what we mean by "regional disparities".

This confusion I think exists in the minds of elected representatives, of citizens, and of public servants as well. There is confusion about the "term regional disparities" because the word has a negative rather than a positive connotation. We really mean regional economic development, and I would make a suggestion: let us start talking about regional economic development.

After having struggled with a definition, I have come to the conclusion there is really no effective way of defining regional disparity.

Regional economic development in a national context simply means to me that we are committed in Canada to an economic development programme.

There are national and provincial goals in regional economic development. National goals of economic development in Canada can only come about on the basis of a well-balanced approach to economic development in the ten regions of Canada, the ten Provinces of Canada.

There has been a strong tendency on the part of the Government of Canada to hold the view and carry out policies on the assumption that national economic development would take place at the fastest rate if most of the effort was concentrated in the Golden Horseshoe area of Central Canada, and, to a degree, in Montreal and Vancouver. If this has not been the belief, it has been the result, to a certain extent, as has been indicated.

The whole concept of economic development in Canada is not new. Indeed, Sir John A. MacDonald, one of the Fathers of Confederation, had regional economic development in mind when he pushed the railway across Canada. Indeed

he is quoted to have said, "Until the railway is built across Canada there is no hope for this Country of Canada".

In all deference, Sir, to Sir John A. MacDonald and the great contribution he made to building Canada, I would not be surprised if historians would agree that the prime motivation of the people behind the building of the railway at that time was to ensure that Central Canada had access to the rest of Canada as a hinterland for the development potential of Central Canada. I do not see anything wrong with the motives behind that thought.

The Province of Manitoba feels very strongly about the matter of regional economic development, and indeed we have made quite a few efforts toward that development within the Province of Manitoba.

We have addressed ourselves seriously to the proposition of sub-regional economic development in Manitoba as a measure to ensure maximum regional development.

If one is to sum up the philosophy of our regional economic development, it is a programme designed to ensure maximum income for the people of Manitoba and so allow them to make their maximum contribution to the economic growth of Canada.

An approach is under way in Manitoba under the federal-provincial FRED programme in the Interlake region. The Interlake programme is the most comprehensive approach yet taken in Manitoba, and maybe even in Canada, towards the matter of regional economic development in a subregion of a Province. Indeed in the days of difficulty in federal-provincial relations, it is really the one bright spot that I see in our relations with the Government of Canada.

We are seriously entered into a programme here of joint planning, joint programming and joint financing, culminating in a ten-year signed agreement between the two governments and a firm commitment to the citizens of the Interlake area to join with them to come to grips on this matter of economic development.

In regional economic development it is recognized that the creation of job opportunities to a large degree will come from industrial development, but it also recognizes that regional economic development has a much broader context. It includes the whole matter of roads, schools, primary resources, industry development, water supplies, sewage disposal, health and social service programmes.

What we do in road development can have a major impact on the economic development in a region, or in a Province.

My major concern at the present time is that if we are to carry out this kind of programme and obtain maximum regional economic development so necessary for achieving national economic goals in Canada, the Provinces must have the necessary fiscal capacity.

My alarm at the present time is with respect to our federal-provincial relations. In recent times with federal-provincial fiscal policy such as Medicare, the Provinces by national policy are being forced into programmes of a lower priority than what our provincial government would feel should be placed within the region at this time.

The Province recognizes major investments in roads, communications, education, training and manpower development should take a place in a region like Northern Manitoba, but we are left with not enough money in the cash register as a result of having federal fiscal policies forced on us.

The issue of regional development has been discussed at some length here. It is quite clear that until the time arrives some years hence when we do have a new or an amended Constitution, we must have fiscal resources to meet our present commitments under our present Constitution, and in this matter, I urgently requested yesterday that you advise the Canadian people that the leapfrog approach to costly shared programmes is over. I requested that you announce that your government will not increase taxes in the joint -- and I emphasize the word "joint" -- tax field; that your government will not introduce new shared-cost programmes; that your government will not abandon or reduce present shared-cost programmes without consulting the Provinces and without reaching some reasonable consensus within that framework.

I am a little bit afraid for the Canadian taxpayer and I would ask that you give the taxpayer this assurance and that you give it to him today.

THE RIGHT HONOURABLE P.E. TRUDEAU: Would you be prepared to give us the same assurance that you would not raise taxes in any area, too?

HONOURABLE W. WEIR: No, Mr. Prime Minister, I did not ask for that assurance.

THE RIGHT HONOURABLE P.E. TRUDEAU: You said we should not raise ---

HONOURABLE W. WEIR: In the joint tax field.

THE RIGHT HONOURABLE P.E. TRUDEAU: Well, what other ---

HONOURABLE W. WEIR: We are the only area of tax field that we have got.

THE RIGHT HONOURABLE P.E. TRUDEAU: Property taxes.

HONOURABLE W. WEIR: Well, that is within the municipalities, and it is really outside our jurisdiction unless we change our law.

THE RIGHT HONOURABLE P.E. TRUDEAU: Municipalities are hardly outside your jurisdiction, Premier Weir.

HONOURABLE W. WEIR: Well, within our law it is their sole responsibility to look after their services. We can take it away and administer it within our elected framework. We do not believe this is the answer.

Are you suggesting that the answer to the federal fiscal problem is to load the deficit on the municipalities?

THE RIGHT HONOURABLE P.E. TRUDEAU: No, Premier Weir. I am suggesting if you ask us not to increase our taxes in any area which are shared with you, I expect the Provinces would have to make the same promises that they would not raise any tax ---

HONOURABLE W. WEIR: Mr. Prime Minister, I did not ask you that at all. I asked you ---

THE RIGHT HONOURABLE P.E. TRUDEAU: It sounded very much like that to me.

HONOURABLE W. WEIR: I asked to consult us.

THE RIGHT HONOURABLE P.E. TRUDEAU: You don't consult us when you raise your property taxes or when the municipalities do.

HONOURABLE W. WEIR: Well, there is no point in us arguing it. I have made my request. I gather the people of Canada have received their answer.

THE RIGHT HONOURABLE P.E. TRUDEAU: I have made mine, and I would make it to all the Provinces. I think this can be done by consultation, and that was the sense of the item yesterday. I do not want it to emerge from this Conference that we are the villains every time we increase taxes.

The Provinces increase taxes. We heard from some of the poorer Provinces that have increased way beyond the richer Provinces. They have not consulted us each time they do it. So I do not think it is fair to ask us to give a promise that we won't change our budget without consulting the Provinces.

We are prepared to look at the basic question and the way in which we can help the Provinces, but if you argue, Premier Weir, on the one hand that the Interlake scheme is a good one because the federal spending power or the ability of the Federal Government to help you develop a less favoured part of your Province is a good thing, it is good for other Provinces, too. We have to tax the rich Provinces in order to help this kind of development in your Province.

HONOURABLE W. WEIR: You just really expressed the essence of my request. The right kind of programme in both fields. Because the FRED programme required the Province of Manitoba to change priorities in many of its fields to be able to fit in with the advancement that was coming from Ottawa on a ten-year commitment. Changes in priorities for road construction and water control and things like that have been advanced to be able to meet this joint impact as a result of the negotiation that has gone on between Canada and Manitoba.

With that kind of consultation and if the need and desire is there, I do not think you are going to have the Provinces arguing about you increasing the taxes if this is the place where the money should come from. But when it is done we should know that they have the ability to match it.

HONOURABLE J.R. SMALLWOOD: Prime Minister?

THE RIGHT HONOURABLE P.E. TRUDEAU: Premier Smallwood.

HONOURABLE J.R. SMALLWOOD: In talking about regional disparity, may I begin by paying tribute, as

Mr. Robichaud did, to the Premier of Ontario, Mr. Robarts. I do not forget that in the great conference he held in Toronto, or just around that time, he made a suggestion that what appeared to be a large sum, and was a large sum, a thousand million -- a billion dollars -- should be set aside for the development of the economy of the four Atlantic Provinces.

That was a generous thought. It was a civilized thought. It was not enough money, but it was a kindly thought. Coming from Canada's richest Province. I have not forgotten that, and with Premier Robichaud, I agree that Mr. Robarts is a friend to the idea -- or not unfriendly, I suppose, provided it does not cost Ontario too much -- friendly to the idea that Canada as Canada, the Parliament, the Government of Canada as such, doing something, something more than has been done to help these four Provinces to develop their own economy; not just to be poorhouses for Canada. Still less to be poor, dependent colonies of Canada.

Incidentally, we were a colony until just 20 years ago. Twenty years ago just before the stroke of midnight, March 31st coming, we will have ceased for 20 years to be a colony. We were a colony for nearly 500 years, and we know all about it. We don't like it. We don't want to go back to that status, even to be a Canadian colony. Still less perhaps, a Canadian poorhouse. So we do appreciate what Mr. Robarts said. That is a year or so ago.

Prime Minister, a few months ago I invited a high-ranking official of our Department of Finance to travel across Canada and meet the premiers and their ministers of economics or whatever was the local equivalent of a minister of trade, industry, commerce, economics, and bring back to me in St. John's a description of what each individual Province was doing, the government in each Province, to attract industry to its soil.

I got an eye-opener. The first eye-opener I got was the fact that virtually all Provinces across Canada are making strenuous efforts to attract industry to their shores or to their soil. And by "strenuous efforts" I mean financial efforts, loans, cash, subsidies, subsidies of land or cash or buildings or machinery. That was my first great surprise.

My second was that the Province that does most in that direction is the one that you would think least needed

to do it: the great industrial heartland of this nation, the Province of Ontario.

If you want to start an industry in Canada, go first to the Premier of Ontario because from him and his administration you will get more help, more encouragement of a practical character, than you can get in any other Province. That is known in Newfoundland as feeding the fat sow!

As a matter of fact, you know if you go back just a little bit, go back to the eve of the First World War -- that is not terribly long ago-- at that point there was not a great level of difference between Ontario on the one hand and the then remaining eight Provinces. Not a vast amount of difference. But that First World War put Ontario really on the industrial map in Canada.

She had got a flying start when the war ended and the Depression ended and then a new wave of growth started in Canada and then came the Second World War, and what that did for the industrial economy of Ontario was fantastic. It did it for some other parts of Canada at the same time, but not on the same scale, so today we have in North America here a great area and industrial empire, the empire of Ontario.

We should be proud of it in Canada. We should be very happy that it is there but they are not the only Province that does that. All of them except perhaps Prince Edward Island perhaps -- I don't know -- I think they have done a little there as well -- perhaps British Columbia.

I was asking the Premier yesterday. He said, "No, no. They line up" -- I am paraphrasing what he said to me.

HONOURABLE W.A.C. BENNETT: No, no.

HONOURABLE J.R. SMALLWOOD: I will use my words. I will use my words to describe the impression I got of his words. In effect, he said, "They are lining up. The line forms on the left, those that want to come in, but you take your turn and no pushing. We will deal with you in due course". And the industries are pouring into British Columbia and this does my heart good because I remember equalization. This makes me very happy to think of the vast development in these two great Provinces.

Now, I telephoned the British High Commissioner to Canada and to the Ambassador of France to Canada, the Ambassador of West Germany and a number of others -- Italy and several other European countries here in Ottawa. I phoned each one of them. I said, "Would you be kind enough if I asked a man to go along and see you to tell us what your countries do back home in Europe to attract industry to your shores"?

"Certainly".

So a man came and he brought me back a description of what is done in those various countries.

I sent a man down to Central America and to the Caribbean and I have now a written report of what those countries and colonies and islands are doing to attract industry to their shores.

Then I sent someone to the United States and I discovered that virtually every one of the forty-eight continental states in the United States goes to enormous effort and enormous expense to attract industries.

It is fantastic. There is a bank in Boston -- if I could remember the name I could tell you so you could write and get it -- there is a bank in Boston that publishes a monthly paper telling the latest developments in the United States of industries establishing in this and that or the other state attracted there by the industrial and tax incentive offered by these various states.

Then I heard since then -- I have written them but I haven't yet heard -- there is a commercial concern in New York that is like this firm in Canada that publishes the CCH -- there is a firm something of that nature in New York which described every development taking place anywhere in the free enterprise world, tells of the establishment of new industry and how they are, why they are and the means by which the various countries or parts of countries attract industries to their soil or to their shores.

In other words, Prime Minister, the fact of the matter is that there is not a country in the free enterprise world today and obviously in the Communist world -- it is commonplace -- it is the way it works. It is the way it is in those countries but in the free enterprise country there is not one that leaves the development of

its economy to the accidental or coincidental or haphazard play of the markets of free enterprise.

Everyone of them, without exception, is offering every kind of an inducement and help to bring industry or to help industry.

Let me give you an example. You know that in the United Kingdom every employer in the nation bar none, even the housewife who employs a housemaid -- every employer in the United Kingdom is required to pay a tax to the Government of England, the United Kingdom, known as the selective employment tax, for every employee. The housemaid, the industrial worker, every employee in the United Kingdom. The tax is I think about 20 shillings the ordinary employer must pay to the British Government for males; I think it is 12 shillings a week for females. This brings in many millions of pounds naturally and you know what they do with it? They pay it over as a gift to the industries established or establishing in the areas which they have in their -- the Atlantic Provinces -- in the areas which they have designated to be under-developed or undeveloped.

Now, millions of pounds -- I would say this is subject to checking -- this is subject to correction; but I sent an extraordinarily able man to England to talk to the British Government and find out what it is they did, and I myself sat in with the ECGD in London, the Export Credit Guarantee Department of the United Kingdom, where we discussed the matter of the United Kingdom Government guaranteeing export credits for famous English companies who manufactured this and that and the other kind of machinery, to guarantee ten years' or eight years' credit to help them to export their goods to Newfoundland, to Canada; to establish an industry in Newfoundland. And they did it for exports all over the world.

Do you know that France -- I negotiated in France with the French Government... Excuse me; I didn't negotiate. I accompanied someone who did the negotiations with the Department of Trade. I want to get this clear. I don't want this to be misunderstood.

There was an industrialist who wanted to establish an industry in Newfoundland with the help of the Newfoundland Government, and that the machinery and equipment for that industry would be made in France. So he went to France and we went along with him and we met this great corporation. Well, the corporation said, "Well, a certain

bank has to approve it," so we went and saw that bank and then they said, "The Export Department of the French Government will have to approve it." And so the bank went along and this man went along and I tagged along with him.

Do you know that the French Government agreed to guarantee for eight to ten years every dollar. That ran to something like eighty millions of dollars guaranteed for eight to ten years; the export credits needed by the exporter, the manufacturing concern, to help them to get the order, to help them provide jobs, to help them to provide wages and to help to stir and stimulate the French economy.

You will get the same in Western Germany. Right now I hope to have an industry in Newfoundland which the Governments of West Germany, Switzerland and Austria have agreed to guarantee. They have agreed to guarantee the export credits.

In short, every government in the world, in the free enterprise world, except relatively speaking the Government of Canada (and I say only relatively speaking, the Government of Canada) do something to help underdeveloped parts of the economy of the nation to get help.

Let me give you an example. In the State of Missouri there is a little town near the border separating that state from the next state, a little town called New Madrid. New Madrid, Missouri, population 2,800 -- twenty-eight hundred. They have just floated a bond issue of \$98,600,000 -- twenty-eight hundred population. This is a tax-free bond; exempted from taxes. Do not smile till you have heard the whole story and then you might look a little sad.

The American Government relieved that bond issue of federal taxes, meaning that anyone who bought those bonds would not pay tax on the income received from the bonds so they were able to float a bond issue of \$98,600,000. What for? To build a thermal plant to produce electricity. What for? To supply an aluminum plant. Whose aluminum plant? A Canadian company's aluminum plant.

The tax-free bond, free of taxes by the Government of the United States is made possible only because it is tax-free and that tax-free bond attracts to a little town of 2,800 in the State of Missouri a huge Canadian industrial corporation, which has decided to move in there to

manufacture the aluminum.

There is a case of industry which is created in the United States by the United States Government policy of exempting bonds that had to be sold to raise the capital to build a thermal plant to attract an aluminum industry.

Tax-free bonds could be just one way. If you would permit us for ten years or five years reviewable at the end of that time, permit industrial bonds to be sold in the Atlantic Provinces exempt from Canadian Government tax on the income from the bonds, this might be one way of attracting large blocks of new capital into the Atlantic Provinces. I don't know; it might be one way.

There are two million Canadians down there on the Atlantic Coast, Sir. Two million loyal Canadians. Nova Scotians, Prince Edward Islanders, Newfoundlanders, New Brunswickers. I just asked the Premier of Quebec a few moments ago what would be roughly the population. Now, he hadn't counted it up. He couldn't tell me instantly out of his memory. But what would be the population of the most easterly part of Quebec, the part that is snug cheek-to-jowl with Nova Scotia, New Brunswick, Newfoundland and Prince Edward Island -- the most easterly part of Quebec: at least a million Canadians.

HONOURABLE J.J. BERTRAND: Gaspé -- if you permit-- the Gaspé Peninsula; about three hundred thousand.

HONOURABLE J.R. SMALLWOOD: The Gaspé Peninsula is the most dramatic part of that section but east of a certain line that you can draw, north and south, in the Province of Quebec, east of that line would be about one million people.

Now one million out of six million leaves five. I do not suppose that the other five in the Province of Quebec are so prosperous or full of jobs or full of wages with a high standard of living that you can just forget those five million.

I would suspect that there would be another million anyhow, which would make two million in Quebec and two million in the four Atlantic Provinces. That is four million Canadians out of twenty who are today living on a standard of living away below.

They are not all as bad as we are. And I thank God for that. If they were all as bad as we are, we would

be worse. If Ontario, Alberta and British Columbia were as badly off as we are, there would not be any equalization. There would be nothing to equalize except Canada's poverty.

You have four million of the twenty million Canadians. That is twenty per cent, is it not, of Canada's population? Twenty per cent who are living on a sub-Canadian standard of family and personal living and of public services.

Our roads have to be inferior to those of other parts of Canada. There have to be fewer of them. The hospitals have to be inferior. We just cannot afford them.

And people have to live generally on a lower standard, which means to say, Prime Minister, that some little youngster that is going to be born tomorrow night, or tonight, or at daylight tomorrow morning, somewhere east of that line, north-south line in Quebec, or anywhere east of that in Quebec and in the four Atlantic Provinces -- some little baby is going to be born tomorrow morning of whom you may say that a Court has condemned that Canadian baby to an inferior existence, food not so good, home not so good; schools not so good, hospitals not so good, roads not so good, municipal services not so good. That child is condemned, as though a Court had done it, to an existence inferior to the Canadian average, certainly the Ontario average.

Now, is that just the responsibility of Premier Campbell? Is it just we four who have to worry about that? Isn't this something, Sir, for you and the great Parliament of our great nation? Isn't it something for you and your colleagues in the Government of Canada? Isn't this a concern of Ontario?

Let us look at that for a moment. Look, we can't have breakfast in the morning without paying profits to some firm in Ontario. When we get out of bed the very bed we get out of came from Ontario. The mattress and the spring came from Ontario. And the bedclothes on it came from Ontario. And when we step down on the floor the carpet, if we are rich enough, or the linoleum, or the old fashioned canvas, that came from Ontario.

And we go to the bathroom. The bathtub came from Ontario. And we go down, and we eat; and the food came from Ontario, from Manitoba, or somewhere. And everything

we eat and everything we wear ---

HONOURABLE J.P. ROBERTS: I am glad you are sharing this burden!

HONOURABLE J.R. SMALLWOOD: Sir, it is not a burden to Ontario. This is the secret of your prosperity -- the fact that we in Newfoundland and they in New Brunswick and the others in Prince Edward Island and Nova Scotia and other parts of Canada are consuming all kinds of goods that you produce. Thank God for that: you are producing them.

And the taxes that are paid on them the Prime Minister collects. He is not spending enough.

I will tell you, Prime Minister, you are not -- not you only, but you and your predecessors before you. It is too little. Always it is too little, too late.

The gap is widening. These four Provinces Premier Smith, you have the statistics. Would the gap between the four Atlantic Provinces taken collectively on the one hand -- and I know Newfoundland has to drag that average down, although we are coming up slowly -- wouldn't you say the four Atlantic Provinces, the gap between them and the rest of Canada, has widened and deepened in the last two years?

HONOURABLE G.I. SMITH: In terms of actual dollars, yes.

HONOURABLE J.R. SMALLWOOD: Well, in terms of pride and happiness at living in the Atlantic region we are higher than we ever were. But in terms of hard cash, Prime Minister, standard of living, public services, all the things that you usually use in economic terms -- in these terms we are behind the rest of Canada more now than we were ten years ago.

And ill fares the land, you know -- ill fares the land that is really two lands, a rich Canada and a Canada which, if not poor, is an awful lot less rich.

And what are you doing? You are practicing now a number of things: ARDA, ADA, FRED, ADB, Industrial Development Bank, National Housing, and a few other things. All of them in the aggregate are not even half enough, are they? Are they half enough?

Not half enough, the Prime Minister thinks.

Now, the Prime Minister, the reason I ask him is that he is conservative in more ways than one. Not half enough. I am afraid to ask Premier Campbell, because then it might look like a put-up job.

Another conspiracy. Or if it is, it is an open one and open conspiracies, openly arrived at, are the essence of democracy!

We do what we can; we really do, you know. We tax, and tax and tax, and we collect, and collect, and collect all we can from you and the two put together do not enable Newfoundland to go ahead as fast as she needs to go. Don't laugh, this is a fact.

Despite the fact that we have at one and the same time in our Province Canada's highest birth rate and lowest death rate, notwithstanding that fact between five and six thousand of the brightest young men and women of Newfoundland are leaving each year; between five and six thousand. Premier Robarts, they have accepted your invitation, they are pouring up to Ontario. The Newfoundland government and their parents have spent an average of \$20,000 to educate them and at the rate of five to six thousand a year they are leaving Newfoundland.

We are doing all in our power; we do much more than is in our power. We have gone into debt, we have borrowed; we have gone out and raised and borrowed and lent it and spent it. We spent some of it and lent some of it to fish plants and to industrial plants. We have gone out and we have guaranteed bond issues and indirect debt. We have piled it up.

You see, twenty years ago we became Canadians and the moment we did, that very moment, the danger for Newfoundland was a pretty serious one. The people might leave, all of them. If they did all leave perhaps economically and financially it would not have been so horrible. Perhaps what would have been horrible would be for a great many to leave and have so many left behind because the cost of governing a country whose population would be dropping all the time is a horrible task. It is an impossible task and must end finally in complete failure. Your population must grow; it must grow and it cannot stand still. It never has in the world; it goes up or goes down.

We have striven mightily in Newfoundland to develop our economy. Look at the Churchill Falls. The Canadian Government helped, they helped on tax concessions, but the Newfoundland government by its efforts have brought to Canada (to Newfoundland, but that is Canada) we have brought the world's biggest and history's biggest single hydro-electric development.

I argued about that with Mr. Kosygin when he was in Newfoundland last year. I was asked to meet him officially and I went to meet him and told him about Churchill Falls. He said "How many kilowatts?" I said "I don't know, but I know how many horsepower, between 10 and 11 million horsepower on the Churchill River." He turned around and talked in Russian, or something, and they did some figuring and he said "We beat you". This discouraged me because I am proud that we have in our Province the world's biggest single hydro development. It turned out that I was right. He was talking about half a dozen put together.

We brought that to Canada, Newfoundland did.

Premier Robarts, when you give a thought to the equalization payments going to the Newfoundland government give a thought also to the fact that a thousand million dollars, a billion dollars, has been brought into Canada or is being brought in from outside Canada by this Newfoundland government to get the Churchill Falls going. That thousand million is only a part because the further development on the same river will require another thousand million. That is when you include the great transmission lines in Quebec and in Labrador. Two thousand million -- this is a fair contribution to the upbuilding of Canada's industrial and economic strength. Nova Scotia does the same thing, New Brunswick does the same thing. We are making what is an important contribution to the upbuilding of the Canadian economy but it is too little and too slow, spread over too long a period of time. Meanwhile our population drops. Meanwhile the gap -- in spite of our efforts, our own efforts, our own efforts and we don't spare them -- in spite of these the gap widens between the four Atlantic Provinces and the big section in Quebec and the rest of Canada. This is not just our headache of us four men and our Cabinet colleagues, Surely it is your headache, Prime Minister, and the headache of your colleagues. Surely it is the concern of the whole Parliament of Canada and surely it is the concern of Canada's twenty million people that twenty per cent, one-fifth of the Canadian people, good loyal Canadians, are -- not

deliberately, not consciously, not purposely, or anything like that -- but by lack of purpose perhaps, lack of policy, lack of programme are left almost (I don't want to exaggerate) left almost to stew in their own juices while other parts of Canada leap ahead. They do, they are leaping ahead and this is a good thing, but could we get a little leap too? Could we get a conscious deliberate acceleration of your own policy, Prime Minister? You will go down in Canadian history, I believe, for two great things. One is your noble attempt to get Canadian people all across this lovely land to agree to do the things that must be done constitutionally to create and strengthen Canadian unity and harmony and greatness. There cannot be greatness without unity and harmony. You will go down in history, as your predecessor Mr. Pearson will too, and I think the thing that distinguishes you more than anything is your policy of having one Canada not only constitutionally but economically; not a rich Canada and a poor Canada. Not a number of "have" Provinces and some "the less you talk about the better" when you talk about wealth; and if not to end that, to reduce and to diminish it.

I have only one other thing to say and that is I happen to know that you have not got as much, you are a little short of cash and the Canadian government has not got as much money as it used to have. All the governments in Canada, the Federal Government and the ten Provincial Governments and a couple of thousand municipalities, school boards, and all kinds of public bodies in the last ten or twelve years in the aggregate have been taking simply too much money out of the Canadian economy. This is my fear. I believe they have got to hesitate and they have got to pause now for a year or so. They have reached a plateau now of public spending and from that plateau, which is a pretty high one, the highest there ever was in Canada, from that plateau these governments are looking down over the edge at the economy. I suggest we stay at that plateau or drop down a little and let the economy catch up.

It is hard to say you will put two or three hundred million into the Atlantic Provinces... Could we use two or three hundred million! We will use it alone if you don't want it. If you don't want it we will use it. In Newfoundland we desperately need it.

Prime Minister, having been fair let me be something else! Your budget this year is \$13.6 billions, thirteen billion, six hundred million. When you get to

that size it is like when I worked in New York one time in a thirty storey building. I worked on the top floor and if you lifted your feet off the floor you would find yourself swinging. With your feet on the floor you didn't notice that. The building used to sway three or four inches and there was a total sway of six to eight inches. If you kept your feet up it soon got ahead of you. Now when you have a budget of thirteen billion six hundred million, a little creek, a little creeking of that is a couple of hundred million. If you know what I mean. Let it creek a little in our direction this year, then next year creek a little bit, then the year after that ...

What I am saying is I know that this is no year, I know this is not the year to look for the full implementation of the just society. It turns my stomach, really it does, to hear such a desperate violation of common sense, when you hear people say the just society has not arrived in the last six months. This is sickening. I know this year you are trying to balance the budget and stabilize Canada's economy. I know it is not the year to look for the big haul, but let us have a little haul, a little implementation of your great policy of reducing regional disparity and we will all be very happy.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Premier Smallwood.

Well, I think we will probably have to stick to the timetable and adjourn now. We will have the Minister of Regional Development of Canada (he will be that in a few days because our Bill will be introduced in the House) speak for Canada after lunch. Will there be others? Quebec may have something to say and Ontario may have something to say; the three rich Provinces.

Would you like to come back at two o'clock? No, two thirty. It will give the officials time to prepare our decisions.

Thank you very much. We will adjourn now until two thirty.

SIXTH SESSION — WEDNESDAY AFTERNOON
Ottawa — February 12, 1969

SIXTH SESSION : WEDNESDAY AFTERNOON

THE RIGHT HONOURABLE P.E. TRUDEAU: When the meeting comes to order we will be continuing discussion of the item on regional disparities. Several of the delegations have asked to make statements. We will all be watching the clock.

(TRANSLATION)

I believe the Quebec delegation wished to speak on this matter. Premier Bertrand?

HONOURABLE J.J. BERTRAND: Mr. Chairman, I would ask my colleague, the Honourable Mr. Dozois, Minister of Finance, to say a few words on regional disparities and on some related problems.

HONOURABLE P. DOZOIS: Mr. Prime Minister, gentlemen. We of Quebec do not have much to add to what has already been said on regional disparities. Suffice it is to say that we accept the principle according to which account must be taken in taxation matters and in the equalization payments of the disparities which exist between the various parts of the Country.

There would be no point, in my view, Mr. Chairman, in extending this debate. We would only be reiterating what was stated here last year by the Quebec delegation and more particularly by the then Premier, Mr. Johnson. However, I could read again part of that statement which contains, according to me, the very essence of Quebec's attitude. Here is what Mr. Johnson said, in part: "It is obvious however that Quebec is by no means indifferent to the problem of inequalities in the various areas of this Country since, to a large extent, she is herself a victim of these disparities."

I might say that this morning the Premier of Newfoundland, Mr. Smallwood, mentioned the fact that there might be in the Province of Quebec two million victims of these disparities. However, having checked the figures produced for us by our Planning Office we can state that this figure is approximately five hundred thousand. Since we have approximately six million people it can therefore be seen that only 8 or 9 per cent of our people are involved. The fact remains

that it is a proportion which is high enough for us to concern ourselves with the problem and to attempt to find a solution.

I continue with Mr. Johnson's statement. He said: "For this reason and also because we believe that such a situation is intolerable in a Country as rich as Canada, we are entirely ready to investigate the implementation of any new ideas in this regard. We are quite ready to cooperate with other governments in any large scale effort in this connection as long as this is done with proper regard for constitutional jurisdictions. Constitutional discussions have become necessary for our survival.

"The fact remains that the welfare of the citizens of the Country remains a necessity to which the Government of Quebec entirely subscribes. It is ready to acquit itself of its responsibilities in this regard. It offers its cooperation and accepts that of other governments since this is a human problem of the first magnitude. All Canadian citizens are entitled to an acceptable standard of living, whatever area of the Country they live in." Here, then, is what was said last February by the then Premier, Mr. Johnson. I believe that this paragraph sums up the attitude of the Government of the Province of Quebec on this important matter.

When we draw conclusions from our examination of this matter, I might have a suggestion to offer which takes into account a suggestion made this morning by Premier Weir of Manitoba with regard to what we may expect from the Federal Government on its spending priorities. However, I will make that proposal later.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Dozois. The Ontario delegation also asked to be heard. Mr. Robarts?

(ENGLISH)

HONOURABLE J.P. ROBARTS: Thank you, Prime Minister. I noted your admonition concerning the time, and I am aware of the limitations. Nonetheless, I would not want the impression to get abroad that because Ontario did not say anything that Ontario is not interested in the full economic development of the entire Country.

Reference has been made to the programmes that we have in our Province, and certainly I do not come here to

make any apologies for the energy that we apply in developing industry in our own Province. We are faced with the problem of creating in our work force 100 thousand new jobs every year if we are to look after our own people as well as those who come into Ontario not only from Newfoundland but from all parts of the world.

We have an active programme. We know a good deal about economic disparity because we have economic disparity in our own Province. Our plans are devised to rectify that disparity within provincial boundaries.

For instance, the incentives we may offer to industry are not available to any industry locating, for instance, in the Metropolitan Toronto area. But we do offer incentives to industry to locate in certain parts of Eastern Ontario and Northern Ontario where we think the economic development is slow, and where we want to encourage them.

I think we are reasonably meticulous in not trying to lure an industry into Ontario from another Province. We are much more interested in bringing industry into Ontario from the United States. We want to replace imports coming into our Province with factories which build these things in the Province itself.

One other thing I would like to say concerns taxes. It can be very tricky when you start using statistics to prove points. We, for instance, charge a premium for hospital insurance in our Province. We charge a premium for medical services. This may not appear on the tax roll but I want to point out to you that it cost the people of Ontario well over 300 million dollars for these two items alone last year. It is part of that 500 million, Mr. Smallwood, that you say we might raise by increasing our taxes to the level that they are in Newfoundland.

I just point this out because one can get into difficulty in using statistics if your basis of comparison is not completely sound.

I recall making the statement about the billion-dollar fund. I do not think the precise figure has significance. I simply wanted to leave the impression it would take a good deal of money. But we think that there is a national need to rectify economic disparity in different parts of the Country. We think that it should be done by developing the assets that there may be in the parts of the Country in question.

There is no point in creating hothouse flowers that are going to need constant artificial stimulation and hoping that we will solve our problem in that way. What we need to do in my opinion is to survey our Country and find where the undeveloped assets are. I personally think it is a national problem and that it requires national programmes.

Mr. Bennett, you were referring to that type of thing yesterday. I was in full agreement with what you were pointing out about the development of your own Province and some surrounding areas that need such development.

There is a great deal that can be done. But I think we have to follow some fairly fundamental principles. I do not pretend to have all the answers. Nor do I pretend to be able to put forward solutions today. But there are certain principles involved here.

I would like to make it very clear that Ontario has always supported the principle of equalization in our Country. I did not realize all the beds in Newfoundland were made in Ontario, nor that all the breakfast food that is eaten there is manufactured in Ontario, but we do realize and understand full well that Ontario's prosperity is based on a whole range of factors. Some of them are just the luck of geography, some of them are the gift of God, and some just the fact that we happen to be part of that great Country called Canada.

We recognize this and we are at all times prepared to do our part in ensuring that we have something at least approaching minimum standards across Canada. There must be some meaning to being a Canadian regardless of where you live, regardless of the economic circumstances of the particular area in which you live. This is a very fundamental and a very basic problem.

I think it was most vividly brought to my mind at the Confederation of Tomorrow Conference in Toronto. I became aware then that there were some areas of the Country that attached just as much significance to this problem as they did to the problem of constitutional reform. I see no reason why we cannot run these things along in tandem or parallel so that we can solve all our problems at once.

I do not propose to say anything more about this beyond the fact that we have a very deep interest in it. We think we have a certain amount of expertise to offer

because we are very busy in a programme of developing our own Province. Self-help programmes would be an example. We have developed some expertise in this area which we would be happy to share with any group that might be studying this on a national basis.

We did welcome Mr. Smallwood's emissary when he came and saw us in Toronto and we gave him all the assistance we could. These few remarks conclude my contribution to this particular item on the agenda.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you.

Premier Strom indicated he would like to intervene on behalf of Alberta.

HONOURABLE H.E. STROM: I just have a few words to say, and I will not be too long.

First of all, replying to a couple of statements that were made this morning, first in regard to the one made by my friend Mr. Campbell from Prince Edward Island of the Province of Alberta saying to the Federal Government that we were not interested in your programme. We were going to go it ourselves.

It had reference to the Federal parks programme, and I just want to point out to this group here that Alberta has more land area in Federal parks than all the rest of Canada put together. And it was in this context, of course, we were not interested in that particular programme.

Secondly, I want to say, too, as far as our Province is concerned I am sure members who have been gathering here for some time and have been meeting in the past recognize Alberta has already supported the principle of equalization payments, and we still do.

With regard to the point that Mr. Smallwood made in regard to subsidization of industry, we in Alberta do not have a programme of subsidization, and we believe that the economics of the industry should be the factor dictating location - that if we follow that we are not very likely to get into difficulty down the road.

It is true that we have lost the odd one because of the policy that we pursue, but I rather suspect that maybe the odd one we have lost that left us because of a subsidi-

zation factor could very well end up being in difficulty by choosing another location because of the incentives provided.

Now, I think in our brief that we presented on opening day, we made our position quite clear. I am not going to read it except to make a reference to where it can be found again so that anyone wishing to check may read it for themselves. It starts on page 21 and goes on to page 22 of our brief. In there the main point that we are making is that the Federal Government should give consideration to the areas that are not considered as regional disparity areas, because, I believe that if you do not have a balance between the two, then you are going to in fact apply a double penalty because if by a programme that you are carrying out you in fact take an industry away from the economic area and place it somewhere else, you may not in fact do as much for the disparity region as you would hope, and you would be in fact taking away from the one that did not get it.

And I think that this is something that has to be reviewed very carefully. And I am thinking particularly in the overall programme of FRED, ARDA and so on; that even within Provinces we have to review the programme itself very carefully, that we do not by support payments perpetuate a problem that we are trying to solve. And I think that this, we feel, would be very true, too, when looking at the federal programme.

So therefore what we are trying to say is that we would like to see consideration for investment in high-potential areas given equal consideration with the disparity regions. If we do that, then I think that the total Country will benefit, and we will all be better for it.

Now, I do not think, Mr. Prime Minister, that there is anything else we from Alberta would like to say at this time except one last point. I think it is very difficult to define regional disparity.

Are we looking at a certain size of area? Are we looking at pockets within the areas? What is it that we are actually looking at?

I am sure that even the "have" Provinces will be able to point to a number of areas that need a considerable amount of help. If there is a federal programme operating for this type of assistance, then I think that

we want to be very careful that we do not exclude some of these areas that would qualify as to conditions but maybe not as to geographic size.

Thank you.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Premier Strom.

I believe of the Saskatchewan delegation the leader, Mr. Steuart, has asked to make some remarks.

HONOURABLE D.G. STEUART: Mr. Prime Minister, I just want to say first we favour any programme that will help bring about more economic equity in this Country. And lately, thanks to hard work and a little bit of arithmetic by the Federal Government, we have become a "have" Province. And for this we are thankful.

So I do not say, "We are in favour of this but..." But I want to say, "We are in favour of this and we just want to make sure we are all dealt with fairly."

I just want to take one moment on this point: Premier Campbell mentioned the great help we got from Eastern Canada during the thirties during the Depression. I have heard this once or twice over the years from Eastern Canada. I just want to set the record straight that we in Saskatchewan in the thirties did get some help from Eastern Canada. And I would like to settle it right now at this Conference.

I want to thank the people of Eastern Canada for the ten carloads of codfish that we were sent in the Depression. I am told we boiled them for three days and threw away the fish and drank the water! But I am willing to make an offer right now that if the East will forget it so will we, if you will accept twenty carloads of damp grain.

Seriously, Mr. Prime Minister, I want to say that I listened to the Atlantic Provinces, and we are impressed. But I want to point out that twenty-five or thirty years ago we had 160,000 farmers in Saskatchewan. Today we have about 80,000 farmers. And there were very few tears shed across Canada when those 80,000 farmers, because of the cost-price squeeze, were getting about the same price for wheat they got back in the twenties, and went out of business and had to relocate themselves and find new careers and new places.

And our agriculture industry is still in trouble.

All I want to say is we are willing to help. We want to see equity in this Country. But we want all factors taken into consideration.

I have with me Mr. Estey, our Minister of Municipal Affairs and the now Minister of the Indian and Metis branch of our government. He will highlight some of these things we have been doing to help not just Saskatchewan farmers but Western farmers, who are in trouble right now.

HONOURABLE C.L.B. ESTEY: Mr. Prime Minister, as Mr. Steuart has intimated, we have disparities within the boundaries of our Province.

Probably the greatest disparity we have is in connection with our Indian and Metis, where we have approximately 70,000 Metis (mind you, some of those are on reserves) who unfortunately are in a very substandard position.

But we with our provincial revenues are attempting this year to give great assistance to the Metis in order to assist them educationally and to find positions.

But we think that, if a conference or committee be subsequently assembled to deal with this question of disparities, the question of the Indian and Metis, which certainly affects all of Western Canada, should be high on the agenda of that committee.

Then we have disparities which are age-old in connection with freight rates. We are faced with building a very lengthy highway system in Saskatchewan in order to develop our Province and, at the same time, trying to compete with other Provinces in attracting industrial development.

We would think at the appropriate time consideration should be given to incorporating this question of regional disparities in, for example, the preamble to our Constitution.

The other area in which we allege a disparity is that of the distribution of the corporation tax. As has been intimated, we are in this position where we have large companies operating in our Province with head office out of the Province. And it is our position that under the present distribution of corporation tax in Canada we are not receiving our fair share.

I think that is all I have to say.

THE RIGHT HONOURABLE P.E. TRUDEAU: Fair enough, Mr. Estey.

HONOURABLE W.A.C. BENNETT: Mr. Prime Minister?

THE RIGHT HONOURABLE P.E. TRUDEAU: Are you asking for the floor, Premier Bennett?

HONOURABLE W.A.C. BENNETT: If I may?

THE RIGHT HONOURABLE P.E. TRUDEAU: You may have it.

HONOURABLE W.A.C. BENNETT: Mr. Prime Minister, as we come to the closing hours of our Conference I am very happy that all through these three days this terrible word used so much a year ago, this word "crisis," is not in our vocabulary at all.

When I said that last year I was ridiculed in the Conference, I was ridiculed by the press services everywhere, that the Premier of British Columbia was not taking the matter seriously.

The opposite is true. I realized as a boy back on the farm in New Brunswick that you can never do anything, not only with men but with horses, too - if you got them all scared with "crisis" you would never get them in the barn.

And I am glad in this one year the statesmen of Canada have matured greatly in one year and, instead of dealing with the position of crisis they are dealing with solid facts and a solid basis. And that is the reason why these three days of Conference, in my humble opinion, have been so successful - because we have got down to dealing with things not on emotion but on a sound business approach for the benefit of Canadians everywhere.

I am sure there is not one person around this table or anywhere in the Country who is not Canadian first, last and all the time. And, while we may have a different emphasis on certain things, we all stand for unity. But in a half continent like ours, like I said yesterday, it would not be a good thing to have uniformity. Because that is our strength, that we do think differently, and we make different contributions.

And the reason why British Columbia is growing so fast - twice as fast in population as the rest of Canada - is because good Canadians are coming from every Province to British Columbia. We have very little direct immigration from outside Canada, but they are coming from every Province in Canada.

If you really want to help, Mr. Prime Minister, the Canadians from every Province, you can help them in British Columbia, because that is where they are coming to - British Columbia.

I noticed with great interest the eloquence of my friends the Premiers from the Maritime and Atlantic Provinces, from which I originally come. Their eloquence would almost bring you to tears. Because one thing which they produce in the Atlantic Provinces is eloquent politicians. And I am glad I left early, before I got that habit.

I was brought almost to tears when I heard my good friend, whom I admire greatly, the Premier of Newfoundland, say that there are two million people in the Maritimes and then went on from that premise to say that they are all poor.

Oh, yes. He added that two million, and another million, and made them up until he got four million. And he said that is 20 per cent.

As a former Maritimer I repudiate that statement, in a friendly way, because I know many people in St. John's, Moncton and Halifax who are far from poor.

HONOURABLE J.R. SMALLWOOD: I know several, too.

HONOURABLE W.A.C. BENNETT: Yes, that is the point I am trying to make in my remarks this afternoon.

I was greatly interested in the very - and I say it very seriously - the serious submission made (and every one was serious) by Nova Scotia, and especially No. 6 on their plan. And I am quoting now:

"As to the first part, we hold it to be the right of Canadians in every region of Canada to have a standard of public services equal to the national average without a burden of taxation greater than the national average burden."

All British Columbia would do is change two or three words: "As to the first part, we hold it to be the right of Canadians in every region of Canada to have..." instead of putting the next two or three words - "to have a standard of living equal to the national average without a burden of taxation greater than the national average burden."

Now, my point is there, Mr. Prime Minister, that we have been equalizing the wrong things - equalizing provincial governments. And you have heard from all the Atlantic Provinces, and every one of them says it has not brought the standard of living up for the individual citizen.

Call it the negative income tax. Call it what you like. You must get that purchasing power in the hands of the individual, because there are poor people all across our Nation and, if we want to really have equity on at least the basic things it must be every place in our Nation, and all Canadians are entitled to the same treatment.

And further I would say this, that in the great central Provinces of Manitoba and Quebec, who are in the central part of our Canada, who have all the national advantages of their great resources - and they both have great resources in the central position, great benefits under the so-called national policy of tariffs - I am sure they could work out their destiny and not need equalization payments as governments. But their people might need some.

And that would come, because I am sure that is something that can be worked out, because in those areas there are great natural resources.

The Atlantic Provinces are in a different position. That I recognize: they are in a different position. And the original Fathers of Confederation, though it is not politic perhaps to condemn them, I do say this - that they did a great thing for Canada as a whole when they made Confederation, but when they went down to Charlottetown in 1864 who was meeting there when they arrived uninvited? Who was meeting then? It was a representative of the Maritime Provinces. And for what purpose? To unite those Provinces.

And why did they go down to those Provinces? Because they had lost their trade preferences in the United States

and the Maritime Provinces were extremely prosperous with their trade with the New England States and Central Canada wanted the "common market of the Maritimes"; and they made Canada, which was a good thing. But they destroyed the prosperity of the Maritimes.

So the Maritimes are in a different position, and are entitled to special consideration by all Canadians to rectify that situation. And in the early Conferences I think three or four prime ministers ago, Mr. Prime Minister, I was the first premier to advocate that there should be special grants, Atlantic grants, given to the Atlantic Provinces. And the records will show that to be true.

Now you are never going to help the Maritime Provinces back by a little grant here or there, or a little subsidized industry, because it is building industry that cannot compete once they are there because they are not in a central position and cannot get into the market.

We in British Columbia go all the way we can to buy everything we can in those Provinces. Last week we placed an order for millions of dollars for steel rails in Nova Scotia for our railroad extension because we do think as Canadians. We are never going to build prosperity in the Maritimes subsidizing industries that may not be sound. I suggest the only way to restore the Maritimes to prosperity is to restore the markets in New England States. First the Maritime Provinces must complete something they started in 1864. I can say it because I still claim to be a Maritimer. You never forget the land of your birth even though you love the Country of adoption. I say that they should complete the job they started in 1864 and unite those Provinces into one viable economic unit and then as we try out new ideas in our second century we should let that area have free trade with the New England States. While you might lose custom tariff for Canada you would more than benefit by the increased tourist business. There is no more beautiful country in the world and that is a pretty good thing for a person from British Columbia to say. There is wonderful scenery, wonderful fishing, trout fishing. I remember it as a boy. I remember the salmon and boating and everything else. Coming from these hot cities of New England States, New York and so forth, up to that cool and beautiful atmosphere of the Maritime Provinces in the summer is a story that has been told but in a too weak a way, not boldly enough or often enough. There is where Canada is losing foreign exchange it should earn. We can have a common market with the New England States

and only let into the rest of Canada those products manufactured within the Atlantic Provinces. I would not let commodities from the free trade area from the American states come into the rest of Canada free of duty. They would have to say the merchandise originated within the area itself.

HONOURABLE J.R. SMALLWOOD: You would take the Customs Officers away between the Maritimes and the United States and put them between the Maritimes and Canada?

HONOURABLE W.A.C. BENNETT: The answer is no. You had your speech Mr. Smallwood. It was a good liberal keynote speech and you used the time before lunch and I give you full credit for that!

The point I want to make, Mr. Prime Minister, is this: that after saying all these things we say that you make real prosperity in your Country by using the fertile acres to the best use. That is the way you get revenue coming to the Federal Treasury. That is the way you can spread the benefits everywhere. The Premier of Newfoundland said that if it were not for those prosperous areas of Canada the conditions would be worse in some of these other Provinces. Don't hold back on these policies, don't have one policy such as ARDA for one part of Canada and not for others. In the last analysis you will hurt the so-called "have less" Provinces. Treat all Canadians the same no matter where they are because if you don't you will break down the whole economic life and structure so you can finance this Country.

The other point I would like to make, Mr. Prime Minister, is this: Areas that are growth areas have problems that need capital. There are growth areas where the population is coming in by the thousands and the population needs new schools. It is not an area that is losing population that needs new hospitals. It is not an area that is losing population that needs new homes for its people and all these other kinds of services. For instance, British Columbia is growing twice as fast as the rest of Canada and we need twice as much social capital to carry out these things.

I would not plead with the Federal Government but I would ask the Federal Government to study well before they come and bring down policies that are only going to be for certain areas and not be open to Canadians everywhere. If we do that we will stop great progress and

development of our great Country. I think that is so important and that the growth areas are so vital that they should not be dealt with differently than other areas because that is where the great problems arise.

Now this idea of subsidizing industry I agree with none of it, Mr. Prime Minister. Out in British Columbia we don't get the benefit of a national tariff. We are not in a central position to get the benefit of Massey Harris tractors, and so forth, Mr. Saskatchewan! We depend completely on world trade. We buy our products on the open market and have to sell on a competitive world market. We don't want any industries in our Province that are not natural to our location and to our resources. If they have these hothouse industries that the Premier of Ontario so clearly condemned, and to which I agree, your last situation is going to be worse than your first. Once you start to subsidize there is no end to that sort of thing. I have heard quoted today certain information about the South American republics, the Banana Republics. They subsidize prosperity at the top and the average worker has no prosperity. They have a group of people who pay no taxes and it helps the rich but hurts the poor. I didn't know what "over the hill" meant until I went to Nassau and saw the Canadian millionaires and others and then I went over the hill and saw the poor people there. Special concessions to industry and special concessions to people on tax-free bonds is no way to build a solid foundation at all; it is the opposite way.

I go around the world every year, everywhere (always, Mr. Prime Minister, with the full co-operation of your Minister for External Affairs). I talked to the Minister on the street going down today and we were talking about certain trips this coming year. It is always for the good of Canada and always approved through the federal representatives. A few years ago we took from our Province, in co-operation with the Federal Government, six British Columbian Cabinet Ministers to Japan. For the first couple of days they treated us with great respect, great dignity, and on the third day the Palace was ours and everything was ours because we built up confidence and good will. We not only built up Japan to be our second greatest trade customer but because of that good will we created a lot of good will for the rest of Canada from that mission. When we go to other countries in Europe we see and feel the good will which is for Canada as well.

We tell the Federal Ministers that they kept you talking so busily in the House that they don't get a chance

to see these countries and it is the job of the provincial Premiers to go around and spread the good will!

British Columbia does not give concession to industry. We make sure all our resources are all owned by the people of British Columbia. We welcome investment from all over the world. Nobody can own that part of Canada which is British Columbia but the people because they own it and they will own it forever. Anybody can produce goods but can they sell them? We go to England and we go to Germany and Sweden and Finland and Japan. We tie their investment with their market. There is a heavy penalty for undercutting and a heavy penalty for overcutting. We tie the resources to the good jobs. We think that is the way to build a lasting prosperity.

As this Conference comes to a close I want to thank the Prime Minister for inviting British Columbia to this Conference. I am happy to be here as a Canadian and we have enjoyed it. I think the Canadian citizens from Newfoundland to Vancouver Island seeing this Conference will be prouder than ever to be Canadians, not hyphenated Canadians but Canadians.

Thank you.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Premier Bennett.

(TRANSLATION)

I now give the floor to the Minister of Forestry and Rural Development, Mr. Marchand.

HONOURABLE J. MARCHAND: Mr. Prime Minister, the problem of regional disparities in Canada is, in my view, a fundamental problem related to the very extent of this Canadian Federation of ours and this is not an election speech. The people - and we know that communities come together as states not only because their citizens love one another but because, by uniting, they seek to achieve certain purposes, and in particular economic purposes. In other words, if cultural or language ties may, on occasion, give rise to states, these linguistic or cultural groups may also unite with other groups of different culture or language, so that all may live better. If we have come together as a Federation, as is the case in a great many other countries, it is not necessarily because all citizens speak the same language or partake of the same culture,

but because Canadians thought that by uniting it would be possible for them to achieve some economic aims which it would have been impossible for them to achieve had they remained divided.

That is why, in spite of the relationships between, say, Scotchmen and Englishmen in Great Britain, there are still Scotchmen who dream of a separate Scottish state. It also explains why, in spite of a common language, some Bretons would like to see their old country separated from France. This is a general tendency. But, in point of fact, this fundamental need to live, to live better, is one to which a greater importance is attached than to other values. This is not a theoretical view, this is a factual statement.

For instance, if we examine the case of French-Canadians. Even if we all attach considerable importance to our cultural and language values, and if we live better in Quebec than elsewhere - and I fully subscribe to the views of those who have claimed as much - the fact is that more than one million, possibly two million, French-Canadians have left the Province of Quebec to live in other Provinces or in the United States. Why? Because at that time they did not find in their own Province what they required to live properly, they did not find the standard of living which they desired.

This then is one of the fundamental purposes of the Canadian Federation. By that I mean that all those within this Federation should be able to find, in our form of political organization, the best possible living conditions. A Country like ours would be impossible if it maintained on a permanent basis the disparities which exist at this time. The case might have been overstated in certain instances but the fact remains that inequalities do exist.

That is why we feel that the Constitution of this Canadian Federation should reflect this basic objective, common to all Canada, i.e. that our development should be carried on in as balanced a way as possible, even though we do not believe, and I suppose that is a view shared by everyone here, that it would ever be possible to achieve absolute equality. Nevertheless, there should be a way of removing to a considerable extent these disparities which exist.

(ENGLISH)

I think we have made in Canada many efforts to get

rid of these disparities or to alleviate these disparities but we have not been successful. Probably what we have been successful in doing is to prevent the widening of the gap between say the "have not Provinces" and the "have Provinces".

Probably. I don't know because this cannot be proven because we would have had to make both experiments at the same time, which is impossible; but we have made efforts and while we have still inequalities which are not acceptable to Canadians, we have, as you said, our ARDA plans, FRED plans, we had the PFR in the West. We had the DOFCO in Nova Scotia and the Atlantic Development Board.

I think we have spent since 1962 about one billion dollars in regional development and half of this billion dollars was spent in the Maritimes, but it was not enough because there still are some disparities and inequalities.

So, we want to correct that. That means that our plans, our programmes are not adequate so we intend to change and to have new programmes and to have a new philosophy behind these programmes.

I think that Mr. Bennett is right when he says that we have to take into account natural economic forces and this is right because I think that really the designated area programme even the ADA programme often we spend money uselessly and often we spread money too thinly over too large a territory. It would have been preferable to concentrate our effort on certain growth centres, natural growth centres, so that really this action or these programmes would have been beneficial to all Canadians or to all of those Canadians interested or involved.

So this we intend to change. We intend to change. We would like to develop many growth centres in Canada. We hope that everybody will not have to move to Montreal or to Toronto or Vancouver or Calgary in order to live. Maybe Halifax will be developed more than others. Maybe St. John's, Newfoundland, will be developed more than others. Maybe Quebec can be developed more because in your figure of five hundred thousand people, I don't know if you had added Quebec but personally I think we can add the City of Quebec as a slow growth area. There is no doubt about it. The population of Quebec has not increased for ten or twelve years so I think we should try to develop a growth centre so that people can go within their own region or their Province and find jobs and find employment

and find a good standard of living.

This will be a new philosophy and we will need your help because if the people of Canada believe we can develop each small village and each small settlement, if each of them want to have industry and want to have a harbour in every port, this is impossible. We cannot afford that so that means we will need the political strength to resist a certain amount of pressures.

We think it would be preferable to develop a certain number of centres in each Province so that people can move there and have a decent living because as I say, it has been my experience up to now in my department that all villages or small towns in Canada want to have industry and they want to have the government spend something in construction or public services, and so forth. I do not think we can achieve anything with this so we are going to have to change the philosophy of our programme.

I cannot tell you particularly what we have in mind because I think that the House is entitled to know first whatever the Department intends to do because outside the Prime Minister and the Ministers of the Province there is an institution which is called the House of Commons and I think we have to respect its prerogative and that is why I intend to present first the Bill setting up the Department and I hope it will be done early next week if possible, and after that we will have a new law or maybe several laws in order to fight inequalities in Canada.

HONOURABLE W.A.C. BENNETT: In any one Province?

HONOURABLE J. MARCHAND: Any Province. I don't think we can deal the same way with all the Provinces or all of the regions. I think we have a very serious problem in Canada but to say well a line maybe five or ten miles starting from Three Rivers, Quebec, to St. John's, Newfoundland, this whole region needs to be developed more.

HONOURABLE W.A.C. BENNETT: Would you recognize the movement of population that is springing up?

HONOURABLE J. MARCHAND: Yes, we will recognize that. I think there are other areas. There is northwest Quebec. There is Northern Ontario, Northern Manitoba, Northern Saskatchewan, and a few - a very few spots in British Columbia.

HONOURABLE W.A.C. BENNETT: Northern British Columbia.

HONOURABLE J. MARCHAND: Yes. This is what we have in mind.

(TRANSLATION)

But, as I said, we need the co-operation of all Provinces. I am not speaking here merely of verbal co-operation but of true co-operation. When I speak of Provinces, I have municipalities and voluntary organizations in mind also. I hardly believe that any coherent regional development is possible in Canada if these various organizations do not co-operate. Otherwise, the actions of one government would negate the actions of another government and we would have achieved nothing.

We therefore have every intention of consulting the Provinces, not only in respect of those programmes which we will try to apply but even in respect of the general principles which should provide a basis for the various Bills to be submitted to the House of Commons so that we know that we are in agreement on the purposes we have in mind.

If I may, Mr. Chairman, there is a point which I should like to make at this time. I do not think the Canadian people have any right to expect that we carry out development in those areas where the rate of growth is lowest at the expense of natural growth centres, large natural growth centres, that is to say...

(ENGLISH)

I think, Mr. Chairman, that Canada needs large cities like Montreal and Toronto and many others because I don't think that we can live in North America if we do not have large communities where you have a certain type of activity that you cannot have if you don't have cities of that size.

So, we have a vital interest in those. I think we should not try to say, well, Montreal has too much, Toronto has too much, Vancouver has too much and Calgary has too much. I think we need to have those strong growth centres in Canada and it is not our intention to weaken those centres and if it is possible to strengthen them, I think we should do it.

I do not think it would be of benefit to anybody if we weaken those large cities that we have and that can compete with certain American cities.

(TRANSLATION)

This is the point. This, generally, is what we intend doing. The Bill to which I referred to will be introduced, I hope, as early as next week. I mean by that the Bill setting up the Department. After that, probably next Spring, we will have a Bill to replace the Industrial Incentives Act since that particular piece of legislation has not operated in the way we had hoped.

Some industries have really taken advantage...

(ENGLISH)

...what you call in English "windfalls," industries that may have been developed even if ADA had not been in existence.

I think that is not right. I think certain industries over-expanded under this law and that was not the purpose of the law. Now, I think we want to correct what needs to be corrected and we want your help in this and we are going to co-operate and we are going to discuss with you not only for the pleasure of discussing or for the sake of discussing with you, but in order to have your ideas, but I hope that if sometimes we do not share your opinions on a certain number of things that this would not mean we do not dialogue and we do not co-operate with you, but we will do it seriously because we are sure that we cannot correct these things if we do not have the co-operation of all those concerned, and that means the provincial governments, municipalities, voluntary organizations and the people themselves.

So this new department, I do not know if it will be much better than what we have been doing up to now, but let us try and in a few years I am sure you will be through to tell us exactly if we have been successful or not.

THE RIGHT HONOURABLE P.E. TRUDEAU: Yes, Premier Smith.

HONOURABLE G.I. SMITH: I have just a few words. I certainly welcome the interest of the Federal Government in this matter and I am glad to note that it is considering

some fresh approach is required.

On the question of co-operation I am sure I can say at once without any reservation that you will find us as willing to co-operate as people can be. I do not know that we can promise that we will always agree precisely with everything that is suggested, but you will find us co-operative.

I agree with you probably the growth centre concept is one which may cause a certain amount of difficulty. However, in Nova Scotia we have accepted that principle some time back and while I wouldn't say that everyone in the Province thinks it is the right thing, I believe you will find a substantial basis of feeling there on which we can work together to follow that course of action.

I am delighted to hear you talk about consultation in the terms on which you did and which I think you meant; that before policies are planned and final decisions are taken there will be an opportunity to exchange views in an effort to see what the thing is all about and whether after all what you are thinking of doing is the best thing to do. We don't always expect you will accept our views. It would be a strange world if that always happened. So I want to say we will certainly do our best to co-operate.

There are just one or two other things that I want to say. I want to thank all the Premiers as well as the Federal Government for the way in which they have dealt with this problem and the way in which they are willing to see that what is a very, very pressing problem for some of us in Canada and for all Canada is dealt with.

I want to express our appreciation for their attitude today and for the attitude of that nature which has been so evident in the past.

I would like to confirm Mr. Bennett's assertion that he was one of the first to advocate the Atlantic adjustment grants. It so happens I was present on the occasion when he did and I feel that his assertion in this respect ought to be accepted by all as something that was very helpful at the time. We think it might still be helpful if it had not faded away.

The suggestion of a free trade area with New England is I think something which ought not to be lightly dismissed. We know the difficulties involved, or I think we do. We

also know that was our natural market and we would like to see this possibility exploited.

The suggestion has been made a number of times in this Conference and elsewhere that the Maritime Provinces ought to be one Province. Now, whether or not that is so; whether that view is justified by the facts I do not know, but I would like to repeat as I said on other occasions that the three Maritime Provinces are taking this matter very seriously. They have engaged the services of one of Canada's most distinguished economists to make a study of the possibilities of either further co-operation between the three Maritime Provinces or complete political union.

This study is being carried on seriously, and indeed we had an interim report from this distinguished Canadian when the Atlantic Premiers met on Sunday last, so let me close these few sentences by saying we appreciate the attitude of the Federal Government and we appreciate the attitude of all of those who have spoken today and we will do our best to be co-operative.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you very much, sir.

I think it would be useful if you could agree now on the way in which we can wind up this item. There has been a very good general discussion of the problems of regional inequalities. There have been some suggestions for constitutional amendment. There was some mentioned this morning. We ourselves in our booklet on the "Constitution and the People of Canada" have indicated that the Constitution should provide equality of opportunity for all Canadians, but perhaps here it would be useful rather than trying to amend the Constitution today, if we could agree on a certain number of principles.

I understand that the officials of the Federal and Provincial Governments have been working on a draft inclusion for agenda item 4(e).

If you have it before you we will see if we can reach an agreement on that now. I will read it.

"The Conference agrees that:

- (a) the promotion of the full development of all parts of Canada is an essential objective of Confederation;

- (b) a Committee of Ministers should, taking into account the views and proposals of the various governments, consider the administrative, financial and consultative arrangements for policies and programmes required immediately to reduce regional disparity;
- (c) the Continuing Committee of Officials should give special attention to the constitutional aspects of regional disparities."

In that way we would state objectives. We would state immediate steps we would want to take and we would give attention to the on-going constitutional aspects.

HONOURABLE L.J. ROBICHAUD: What is meant, Mr. Prime Minister, in (b) where it says, "a Committee of Ministers"? Would that be Federal Ministers or some Provincial Ministers?

THE RIGHT HONOURABLE P.E. TRUDEAU: We were thinking of Federal and Provincial Ministers. In a committee of this Conference we would want to delegate Mr. Marchand as that minister, but each Province might choose economic ministers of sorts.

HONOURABLE G.I. SMITH: I would be very loathe to be at all difficult after we have gotten along well so far. (c) seems to relegate discussion to a position of lesser importance than some others by referring it to the Continuing Committee - that is, the Constitution aspect of it - rather than a committee of ministers. And I am wondering if there would be any objection to it at all really to cutting out (c) and including in (b) that part of (c) which says "should give special attention to the constitutional aspects of regional disparities."

THE RIGHT HONOURABLE P.E. TRUDEAU: I believe the principle we tried to follow was that in any case where the Committee of Officials had been working for a year on a subject and had reported to this Conference as under Item 2(b) then we did make progress and went on to the next stage, the Committee of Ministers, but in areas where there had been no preparatory work by the Continuing Committee, we have in every other case suggested that the preparatory work be done by them.

HONOURABLE G.I. SMITH: I appreciate that. Could we perhaps then amend (c) slightly by adding at the end of it "with the object of informing the Committee of Ministers

to be appointed at a later stage to consider this aspect"?

I don't want it to get shuffled off to one side. That is all that is in my mind at the moment.

THE RIGHT HONOURABLE P.E. TRUDEAU: This would certainly be acceptable to us, but I wonder if when we deal with Item (f) and (g) on the next step of the Conference if we won't want to provide - I believe our officials have already discussed this with you: we were thinking of quarterly reports of this Continuing Committee of Officials to the Conference which would permit us at least every three months to see what was going on, and in an open meeting such as this, or in another committee of this Conference, have this meeting to which officials would report.

We are certainly anxious, as much as you are, to see that the reports come in soon. Whether we want to do it in here or in a general provision...

HONOURABLE G.I. SMITH: As I say, I don't want to be difficult. I just want to make sure this question retains its parity with the others in the way we deal with it. So long as that is done, it is not a matter of importance to us how it is done, but that is of fundamental importance to us.

THE RIGHT HONOURABLE P.E. TRUDEAU: Let's put it in brackets here, and if it is covered somewhere else we will delete the brackets. And if not, there is no harm in repeating it. Then (c) would be amended by adding the words "with the view to reporting to a committee"...

HONOURABLE G.I. SMITH: Committee of Ministers at a later stage.

THE RIGHT HONOURABLE P.E. TRUDEAU: At a later stage - that is not soon enough.

HONOURABLE G.I. SMITH: As soon as possible. As soon as may be reasonable.

THE RIGHT HONOURABLE P.E. TRUDEAU: All right. Well, it is all agreeable.

If that is agreed, we can go on to the rest of the agenda. Looking at the clock - almost quarter to four - I think we might perhaps plan ahead a little bit and leave sufficient time at the end of the Conference to return to

2(c), Procedure for Constitutional Review.

It will be under that item that I think we will have a chance to draw together all the various resolutions which will have been reached on the various items, some in a final way and some in a semi-final way.

Would the Conference be agreed to aim at, say four-thirty to deal with Item 2(c) which would be the conclusion? It would give us now forty-five minutes to deal with Item 4(d), Reform of Institutions linked with Federalism, 4(f), Amending Procedure, 4(g), Mechanisms of Federal-Provincial Relations, 3, Objectives of Confederation - we will let the other questions drop.

I think if we could deal with 4(d) now, Reform of Institutions linked with Federalism, we might be able to deal very quickly - if I can use that verb - with the Senate because there has been a great deal of agreement in the various submissions of the Provinces through the Committee of Officials.

We might ask the Minister of Justice if there is time to say a word on the Supreme Court. And Ontario and Quebec and the Federal Government would like to get agreement from this Conference of some steps we would like to take concerning the capital of Canada.

We have had a tripartite committee going for a year now and a great deal of progress has been made, progress involving the two provincial governments and the Federal Government, but which would call now for some kind of involvement by all the Canadian Provinces, and involvement by the people themselves of the Hull and Ottawa regions. So if we could perhaps deal with those first.

It will take but a few minutes. It is a matter I think of reporting to this Conference on an agreement which we reached between the three parties and which we would like to have Provinces consider because we realize that although the Government of Canada speaks for all Canadians, the subject of the capital of Canada is of important concern to the Provinces, too.

Let me then read this resolution and see if there is general agreement on it:

1. The Constitutional Conference is agreed that the Cities of Ottawa and Hull are the core of

the Canadian capital area.
Copies might be given. Have they been distributed?

2. No changes be made to provincial boundaries or to the constitutional responsibilities of the governments concerned.

3. The boundaries of the Canadian capital area are to be established by agreement of the governments concerned.

4. In line with the aforementioned objectives, steps must be taken so that the two official language and the cultural values common to all Canadians are recognized by all governments concerned in these two cities and in the capital region in general so that all Canadians may have a feeling of pride of and participation in and attachment to their capital.

5. That the Study Committee on the Canadian capital -
which is the tripartite committee composed of Ontario, Quebec, and federal officials and ministers -

That the Study Committee on the Canadian capital continue its work giving particular importance to the following:

(a) the definition of suburban areas which would eventually constitute, along with the Cities of Ottawa and Hull, the Canadian capital regions;

(b) a study of the administration and the financing of the tripartite organization.

If there could be fairly rapid agreement to this we would go on. If the Provinces feel that they are being asked to agree to something which they have not studied, we could leave it in their hands until we go on with the other subject under this item.

We would hope, though, that we would be able to report progress to this Conference and to the Canadian people because of the importance of the capital area as one of the very vital institutions of federalism.

Are there any comments on this?

...Agreed.

HONOURABLE J.P. ROBARTS: There were a couple of amendments that perhaps did not get into the resolution - "The Cities of Ottawa and Hull and their surrounding areas." That phrase was in draft No. 1. That was added there.

THE RIGHT HONOURABLE P.E. TRUDEAU: "With their surrounding areas."

HONOURABLE J.P. ROBARTS: And under 5(a), "definition of suburban areas" should be I believe "adjacent areas." And after "Ottawa and Hull" would be included "and their surrounding areas."

The reason for this, gentlemen, is that the Province has recently created a regional form of government in this area. It includes Ottawa and the various municipalities in the County of Carleton, and that level of government can in effect speak for the people of this area who will be (as individuals, of course) concerned in this.

HONOURABLE W. WEIR: Mr. Prime Minister, if I might just say a word?

THE RIGHT HONOURABLE P.E. TRUDEAU: Premier Weir.

HONOURABLE W. WEIR: I have no real objection to the three governments doing the work and coming to whatever organizational structure is required in this area. But if I was asked to give my agreement to it in terms of Manitoba, I would want the same privilege of study that the other three governments have had. I just think it is difficult to ask me on behalf of all Manitobans to pass a judgment on this this afternoon. With all the thought and consideration that I am sure has gone into it, I do not think it is possible for me to grasp it this afternoon. So that in terms of it being dealt with, I have no objection; but in terms of making me a party to it, I think it is being just a little difficult to put me in that position.

THE RIGHT HONOURABLE P.E. TRUDEAU: Are there any other remarks?

The Minister of Justice.

HONOURABLE J.N. TURNER: I just want to intervene for thirty seconds if I may, Prime Minister.

I feel sure that the people of Ottawa and Hull and surrounding areas would welcome, you know, the continued improvement of the national capital along the lines of the resolution, but I also believe that it is essential - and that is why I understand the resolution is presented here to provincial premiers - essential that all Canadians from all parts of Canada in either language feel at home in our national capital because the entire Country has a stake in this area.

I want to say also that I interpret the resolution as implying the consent of the people who live here in Ottawa, in Hull, in the surrounding areas, to any structural or administrative changes that are implied in the resolution.

With the consent of the people who live here, and prior consultation, you will have the necessary co-operation which will make it possible I believe to fulfil the intent of the resolution.

THE RIGHT HONOURABLE P.E. TRUDEAU: Any other remarks?

HONOURABLE J. MARCHAND: Well, the only thing, Mr. Prime Minister, is, I think, the way Mr. Robarts wants to modify the resolution, Ottawa, Hull, and surrounding cities. This is the national capital; not the core.

HONOURABLE J.P. ROBARTS: And their surrounding cities.

THE RIGHT HONOURABLE P.E. TRUDEAU: These are the two cities.

HONOURABLE J. MARCHAND: We may add another paragraph to state that the surrounding cities are part of the National Capital Commission or the Canadian capital area, but you cannot say that the core of this area is Ottawa, Hull, and all the surrounding cities.

HONOURABLE J.P. ROBARTS: It is a matter of wording. As far as Ontario is concerned, we have taken part in these discussions, and as I say, we have created a form of government which covers this whole area.

HONOURABLE J. MARCHAND: Yes, I understand that.

HONOURABLE J.P. ROBARTS: So that the people here will have direct representation, and as you are saying,

they will have direct representation in what is going to happen to them. That was the only point. It is only a matter of wording.

HONOURABLE J. MARCHAND: We can revamp that I think.

THE RIGHT HONOURABLE P.E. TRUDEAU: We remain in the position that we have not met Mr. Weir's objection.

HONOURABLE W. WEIR: I have that reservation that is on the record now. As far as I am concerned it is limited study. I do not propose to stand in the way of it or make a fuss about it, but I just think in terms of leaving an impression that there has been acceptance by us on the matter, of having something read that I have no idea what it entails, or have had no study, for the record I have made my point, and really, it is the judgment of the three organizations, but in spite of what I might say from time to time I have a fair bit of faith in them.

THE RIGHT HONOURABLE P.E. TRUDEAU: Well, I do not think it would prevent the work from advancing and we could perhaps use some diplomatic formula to the effect that the Constitutional Conference have noted with interest the following resolution submitted to it.

HONOURABLE W. WEIR: That is fine. I don't want it to be said I have given a lot of study to something I have just glanced at.

HONOURABLE J.P. ROBERTS: This whole matter will be before this Conference some time in the future, because this is only an on-going situation in which we have reached no final decision. But, on the other hand, we have done what we have done, and this is really a matter of reporting that to the Conference.

(TRANSLATION)

HONOURABLE J.J. BERTRAND: Mr. Chairman. If I may speak on behalf of the Province of Quebec of the exchange of correspondence we have had with you and the Prime Minister of Ontario in respect of this tripartite organization which it is proposed to set up for the cities of Ottawa, Hull and surrounding areas which are to be made the heart of the National Capital area. We have set up a ministerial committee chaired by the Minister of Municipal Affairs which keeps in touch with representatives of the Federal Government, as well as with representatives of the Ontario

Government. The purpose is within the framework provided by this resolution which has been submitted to the Conference of Premiers and Prime Ministers, and in order to achieve the aim we have in mind, to organize the cities of Ottawa and Hull as a National Capital area.

For the moment this is not only a matter of principle. The three governments involved are trying to find a formula in order to move for an answer to demands of various economic groups who live in what we call "l'Outaouais québécois", that is the city of Hull and the other cities which are to become the surroundings of the Capital of Canada on the Quebec side.

I agree that these problems might sound new to the ears of the Premier of Manitoba. However, they are not new to me because we have been talking about them for several months.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Bertrand.

Speaking on behalf of the Federal Government I would like to thank the Quebec and the Ontario governments for their co-operation. The Federal Government is obviously anxious to develop the Hull region as quickly as possible in order to integrate it to the Capital area. It would like to hasten its development. I am sure that it will be very useful to obtain the agreement of this Conference to this common effort of ours.

(ENGLISH)

And perhaps we could either agree to this item with perhaps some modified wording that we could discuss....

Can we just say the Conference is agreed subject to further study and consideration that - and so on?

Good. And that will permit it to come back. All right.

Perhaps we could deal, at least in a preliminary way, with the question of the Senate. I have a summary of positions and, if I just go through it, it will perhaps save me from making a speech, or Senator Martin from making a speech, and perhaps most of us. I believe the officials here again have put in our hands a draft resolution, which might permit us to make progress.

If we start with the federal proposition, that it wishes to retain the Senate, we find that all Provinces in their submissions are in favour of that providing the Senate is reformed.

The federal position concerning the purpose of the Senate would be to ensure that it represents also provincial and regional interests. On this all Provinces are in favour.

The federal position would also be to ensure that appointment of Senators would be partly by federal and partly by provincial governments. From the Provinces' point of view there is no objection in principle from nine of the Provinces, subject, of course, to some agreement on the proportion of the appointments. And in Quebec's case they would favour total provincial appointment.

So rather than argue that out we will just note the difference, and it does not appear in our conclusion.

The federal position on the distribution of Senate seats is that that distribution should be re-examined; and all Provinces are in favour of this.

Some have suggested ways in which greater weight might be given to certain regions or to the population itself, but the idea of re-examining the distribution of Senate seats is unanimously supported.

The federal position as to limiting the term of office for the Senators, there is general agreement amongst the Provinces on the principle of limiting the term of office, though here again there are various proposals for the way in which that limitation should intervene.

The federal position on legislative powers is that it should be limited to a suspensive veto; that the powers be as at present but that they be limited by the fact that the Senate would not have absolute veto but merely a suspensive one. And there is general agreement from the Provinces on that.

The Federal Government proposes that there be additional powers given to the Senate on the subject of appointments to certain functions, language rights and fundamental rights. There is qualified provincial approval for this depending, of course, on the proportion of provincial appointees.

I must add that Ontario and New Brunswick and Nova Scotia also expressed some misgiving regarding encroachment on the authority of the federal executive. We are very much aware, of course, of this danger, and in a reformed Senate we would have to make sure that we are not departing from this system of parliamentary government and Cabinet responsibility to the elected House.

The federal position would be that the government would be responsible only to the House of Commons. And there is general approval of this.

Now, one Province suggested additional powers for the Senate in the field of Federal-Provincial relations. Therefore, there is a very general area of consensus on the idea of reforming the Senate to ensure that it reflect in a better way the federative nature of our Country. And we are very happy to see that progress can be made along these lines.

It might be well, however, for the Federal Government to remind the Provinces and the people of Canada that its position, its propositions for a reformed Senate were made by part of an overall review of the Constitution, and our desire is not to weaken the institutions of the Federal Government; it is to strengthen them. And we believe this can be done by ensuring that the Senate, which is part of the Federal Government apparatus, does in fact express in a more precise way regional or provincial interests.

But here again we consider these reforms as part of the full constitutional review. And we hope that it will be considered once again in that light.

I think we should make as much progress as we can on this item, but it would be, I think, useless for Provinces to submit tomorrow morning names of new Senators to me. I already have enough suggestions.

We would once again want to make sure that the Senators as they presently exist in their functions are protected in their acquired rights; that they are not phased out without their consent. But especially we want to make sure that any reformed Senate be considered as part of the package of the whole constitutional reform.

(TRANSLATION)

I feel we should agree on that particular point.

It is very encouraging to note that we can make progress with regard to several Federal institutions, including the National Capital area and the Senate. However, I repeat, such progress must be considered as part of a general review of the whole Constitution and, as we were reminded this morning by the Quebec delegation on the question of a Charter of Human Rights. I remind the Conference that this is the spirit in which we are suggesting a reform of the Senate.

Do we have the text on which there has been discussion?

(ENGLISH)

There is then a possible consensus on item 4(d), if I may read it:

"The Conference of Prime Ministers and Premiers, while recognizing that reform of the Senate must be considered in the context of other matters related to the basic principles, structure and powers of Government in Canada agree that a Committee of Ministers should study possible constitutional provisions relating to the reform of the Senate and should take into account in particular the following considerations:

- (1) The Senate could represent, more directly and efficiently than at present, the interests of the Provinces and areas in Canada;
- (2) One of the ways in which this could be achieved is through appropriate changes in the method of selecting Senators, and another could be by altering the tenure of office of Senators;
- (3) It might be appropriate for the Senate to be provided with certain special powers in order to make it a more effective instrument of federalism, while at the same time adjusting its role in relation to legislation generally;
- (4) The distribution of membership should reflect in an equitable manner the Provinces and regions of Canada;

(TRANSLATION)

- (5) Lastly, the Government of Canada should continue to be responsible - when I say responsible I am speaking of responsible government - to the House of Commons only."

(ENGLISH)

If there is agreement along those general lines.... They are not very specific, as will be noted. They do have the advantage that they would permit us now to go on to a Committee of Ministers.

We think that perhaps the Continuing Committee of Officials has done as much as they could to state the various points of view. And there is a great deal of agreement. But only, I think, at the ministerial level can we make the political decisions which will entail further detailed propositions which might be submitted to the next Conference of Prime Ministers and Premiers.

Agreed?

Thank you very much.

(TRANSLATION)

And now we have got within twenty minutes of the last item. Perhaps we might now deal with this matter of the instruments of justice.

I would ask the Federal Minister of Justice to open the discussion.

(ENGLISH)

HONOURABLE J.N. TURNER: Prime Minister and gentlemen: I think I ought to state the federal position as briefly and clearly as I can. It is obvious from the various position papers that there is fundamental disagreement in the attitude taken by the Federal Government with the attitude advanced by some of the Provinces, particularly the Province of Quebec. We believe that the final court in a federation has a role beyond that usually assigned to a court, a unitary state, because the Supreme Court of a federation becomes the interpreter of the powers of the various jurisdictions involved and the people living in those jurisdictions; becomes the interpreter in Canada of

the powers of the federal and provincial governments.

We believe that as a court the Supreme Court of Canada must be composed of judges who are free from influence from any source whatsoever; that the judiciary at all levels must be independent of the executive and must be independent of the component parts of the federation.

Now the principle of independence of the judiciary is the cornerstone of that judiciary and carries with it, Mr. Prime Minister, the idea that disputes must be resolved in a court on a judicial basis by judges looking at the law as they interpret the law and not as judges representing any point of view or any jurisdiction.

We recognize that the men, and I hope women, who are appointed to our benches across the Country by reason of where they come from, how they were brought up, the circumstances in life, may have a certain inclination towards one view or another. We have always relied on them, once they were sworn to the bench, to interpret the law as in their good judgment they see fit.

We have given long and serious consideration to a number of alternatives. We have concluded that no scheme whereby the Provinces would appoint judges to the Supreme Court could retain the judicial determination of disputes. We feel that if some of the judges to the Supreme Court were to be appointed by the Province or Provinces and some by the Federal Government there would be a tendency for a representative character to be attached to those judges; they would tend to feel they would exercise a mandate one way or the other. We feel that would impinge on their ability to view the law in a judicial way.

It is obvious if judges are to be appointed from the jurisdictions, so that jurisdiction might be better represented on the court, and decisions were unfavourable to that jurisdiction then the argument probably would be continued to increase the representation until there was equal representation and I think then we would be in a position of a board of arbitration and not a court of law.

What we have proposed also is a court provided for specifically in the Constitution. The Supreme Court of Canada is now a creature of federal statute. We admit it should now be enshrined in the Constitution and that those items in the Constitution should give stature to the court and outline the main lines of its jurisdiction and of the

method and process of appointment. If the Senate were reconstituted along the lines suggested in the federal resolution there could be a system of approval of nominations of the members of that body, thereby recognizing a provincial voice in the appointment procedure, but the Federal Government retaining its authority as actual appointing jurisdiction.

We believe also the court should not be compartmentalized. The jurisdiction of the court should be integral or entire and it should not be a specialized body merely hearing constitutional issues. In the adversary process a case of law is a case between two individual litigants and it may involve questions of the civil law and question of the federal statutes and items of a constitutional nature all wrapped up together in the same selection of facts and involving the whole panorama of the law.

We believe that since most legal issues cannot be isolated, if we were to compartmentalize the Supreme Court into a constitutional chamber and a civil law chamber and a common law chamber we would be depriving that court of the essential overall panorama of the law under the judicial process as we know it.

We would however propose to provide in the Constitution for the minimum civil law representation that now exists and indeed provide for the appointment of ad hoc civil law judges where that is required to ensure sufficient number of judges for the hearing of all cases involving civil law.

Now these proposals we believe are founded on a thorough study and our experience and our history of the judicial process in Canada. We would be glad to examine other alternatives, but we feel that there must not be abandoned the two fundamental principles of independence of the judiciary and judicial resolution of disputes.

(TRANSLATION)

At the outset, Mr. Prime Minister, I would like to address myself very briefly to two fundamental points. I will do so in French. I do recognize that the Prime Minister of Quebec would probably like to answer but I believe something should be said on that at this stage. The first point at issue is the organization of our final Court of Appeal within the Federation. The second is the nomination of Judges to that Court.

I should first like to say that I am in favour of a Court having full jurisdiction, that is a jurisdiction not restricted merely to constitutional matters nor divided into several chambers.

Those of us who, like me, have been in private practice, will be particularly aware of the correlation of problems of law in any litigation. There are very few cases where only one point of law is in issue. As often as not we are dealing with matters involving federal legislation, provincial legislation and constitutional rights. Any attempt to abstract any of these matters would tend to confuse the issue. These matters would then be resolved in a somewhat artificial light bearing little or no relationship with the entire issues of law and with the facts of the case.

As far as the matter of appointment of judges is concerned, Mr. Chairman, we feel that a final Court of Appeal in a Federation must remain a judicial body. This implies the recognition of the principle of equality in the judicial process.

While it cannot be denied that the background and experience of a judge might influence his particular philosophy of the law, we do have in Canada a tradition of judicial freedom which, more than any text, ensures that cases are heard and judged in an impartial way. It has been proposed that certain judges be appointed by the Provinces. I would fear that if this were done the Supreme Court would become a body of agents or representatives, an organization where the decisions would be dependent upon the majority interests of such agents. Such an arbitration proceeding would tend to curb the real issues by making them political. We would have to take into account considerations of influence which, indeed, would be a determining factor in the disposition of constitutional matters according to the particular body who had appointed the judge in question.

In a system such as this, the principle of equality, as we know it, would disappear and be replaced by opportunism and compromise. That, Mr. Chairman, is our position. I do realize that our views are not shared by the Province of Québec, or, in certain respects, by other Provinces.

HONOURABLE J.J. BERTRAND: Mr. Chairman, if I may?

THE RIGHT HONOURABLE P.E. TRUDEAU: Mr. Bertrand?

HONOURABLE J.J. BERTRAND: We certainly do not have enough time to deal with each and every one of the propositions elaborated by the Committee of Officials of the Constitutional Conference. The Quebec working paper does not, as it has been stated, necessarily represent the firm views of the Government of the Province of Quebec. Indeed, I do not think the views which have just been put forward by my colleague, the Minister of Justice of Canada, represent the firm views of the Federal Government on this matter. These are proposals. He was right in indicating that his views and ours differ. For instance, with regard to the judicial system we had suggested the creation of a Constitutional Court. We feel, and we have said as much, that the Constitution should provide for the establishment of a Constitutional Court as well as for its composition and its jurisdiction. Two-thirds, at least, of the judges sitting on this Court should be appointed by the governments of the component states.

I have just heard the Minister of Justice say: "But if they are appointed by the state governments will they not be tempted to represent the interests of those states on the court?" But I could answer to that: "If they are appointed by the central government, as they are at this time, we should therefore conclude that with regard to any matter of litigation they represent more closely the views, opinions and ideas of the central government?"

HONOURABLE J.N. TURNER: There is an answer to that.

HONOURABLE J.J. BERTRAND: If we want to understand each other we should have a Constitutional Court within our federal system, competent in matters of constitutional interpretation. And that is why we attach such importance, I refer to that again in passing, to a Constitution where fields of action, powers and responsibilities are clearly delineated. That is why, since the beginning of this Conference and on more than one occasion, we have returned to the matter of the essence of federalism which is the sharing of powers between two orders of government.

In this instance, the Constitution is the fundamental law. The Court charged with the interpretation of this fundamental law, in our humble opinion, must be the Constitutional Court. I will go no further by comments because, no doubt, we will have further opportunity within a committee of Ministers representing the various governments to add to what I am saying at this time.

Second, in the area of the judicial system there should also be a Federal Court of Appeal. The central Parliament should be authorized to set up a Federal Court of Appeal which would be the Court of last resort in respect of all matters of federal jurisdiction. Those states which so desire could confer upon that Court the authority to deal, in the last instance, with the interpretation of their own statutes.

I have in mind at this point the Quebec Civil Code. The matter, indeed, is already dealt with in the present Canadian Constitution. The British North America Act included a section where reference is made to unifying the legislation throughout the Country, in all Provinces except the Province of Quebec, because of its Civil Code and other particular provisions.

Third, with regard to other Courts, generally speaking, it is the federated states, the Provinces, which would set up the other Courts and appoint their judges, both for the administration of federal legislation and for the administration of their own legislation. However, the federal Parliament should retain its present right to establish Federal Courts for the administration of its own laws.

As far as the independence of the judges is concerned, Mr. Chairman, I feel we are in perfect agreement. Much criticism may be voiced here or there, with regard to the administration of justice in Canada or within our own Provinces, but I believe it can be said of this Country that we enjoy a judicial system which, particularly in regard to the independence of judges, is one of the best in the world.

I should not forget either, as I refer to the proposals you will find in our working document, to remind the Conference of the work at present being performed by the Prevost Commission, which has been asked to look into the matter of possible reform of penal and criminal proceedings before our Courts.

Secondly, I should also remind the Conference that we have already begun speaking of establishing Family Courts in Quebec.

Thirdly, we have spoken on more than one occasion of total repatriation of jurisdiction in respect of marriage and divorce. We have already gone part of the way, following the adoption by the Government of Canada of legislation

which has made it possible for us to invest the Superior Court of the Province which has responsibility in matters of divorce. We would however like to go further. We would like this entire matter of marriage and divorce to come entirely under provincial authority and, in particular, in the Province of Quebec. What we would have in mind, in that regard, would be creation of Family Courts. We do have at the present time what we call Welfare Courts. These Courts would eventually be called upon to become true Family Courts, looking into all family problems, i.e. marriage together with the unfortunate consequences following there from on occasion, such as divorces and the like.

For example, at the present time, federal divorce legislation goes as far as alimony, custody of children, and matters such as those. We have in Quebec our Civil Code which provides that the Superior Court of the Province is competent on matters of alimony or custody of children. This is a source of conflict; this is why we will ask for a repatriation of all matters concerning marriage, divorce, the setting up of Family Courts competent to deal with these problems exclusively.

These are the few remarks I had to offer at this stage of the discussion.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Mr. Bertrand.

(ENGLISH)

I think it is quite obvious on this item we will not have time to go all the way around the table. There has been a resolution drafted which doesn't commit us to too much but if one or two other delegates want to make very brief remarks, I would go over our deadline of four-thirty. Do you wish to?

HONOURABLE D.V. HEALD: Yes, very brief.

THE RIGHT HONOURABLE P.E. TRUDEAU: Mr. Heald of Saskatchewan.

HONOURABLE D.V. HEALD: We accept the proposals of the Minister of Justice in the sense outlined by him. As far as we are concerned we don't really see the need for this matter to be referred to a committee.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you very much, Mr. Heald.

Any other constructive, short remarks like this?

HONOURABLE L.R. PETERSON: Mr. Prime Minister, British Columbia would also endorse the position taken by the Minister of Justice in this case as far as the Supreme Court of Canada is concerned.

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you very much.

HONOURABLE A.A. WISHART: Mr. Prime Minister, generally we can endorse the principles and ideas set forth by the Minister of Justice. I think this subject is another that needs considerable further study, if we are to consider it in the light of the proposal from the Province of Quebec that there should be a distinctive constitutional court; certainly we cannot do this half way. I think that we certainly need a lot more study. There is the question of the powers, the rights of appeal, what subjects should come up, whether just constitutional matters or matters where human rights are at stake, whether we can cut down the work of the courts by some system of leave. All of these things must come up when we study this, but I think the general approach meets with our approval.

THE RIGHT HONOURABLE P.E. TRUDEAU: I think then we might be able to draw some general conclusions for continuing work in the way that the Minister, Mr. Wishart, suggests. It would be, if we agree, one on the general principle of (a) the Constitution should provide for the independence of the judiciary.

I am sure there is unanimous agreement on that.

(b) A committee of ministers should, taking into account the views and proposals of the various governments, consider further provisions concerning the Supreme Court and the judiciary.

By a committee of ministers we would have to decide which of our ministers will be selected. There are certain categories getting very overloaded but we will work this out somehow.

Is there agreement on this? I believe there is.

Here we are back to Item 2(c), Procedure for Constitutional Review, which is really a catch-all item permitting us to wind up the various items on which we have not as yet agreed on specific resolutions.

I wonder if all the delegations have this draft set of resolutions which have been prepared by the officials, several of which we have dealt with already in detail and some of which we have only dealt with in substance.

I think if we can read them in order and if we can improve them by amendments, that will be fine, but if there is going to be much more discussion we will see that a solution is referred to the officials or the Committee of Ministers.

Let us begin then with agenda Item 2(a), General Objectives of the Constitutional Conference.

It is really the general objectives of the Constitutional Conference:

"The continuing Constitutional Conference reaffirms its intent to complete a comprehensive review of the Constitution of Canada, to assess its adequacy for present and future requirements, and to determine the extent to which constitutional change is desirable either through amendment of the existing Constitution or through promulgation of an entirely new Constitution."

Does that meet with general agreement?

I believe it is repetition of what we decided last year we should do and what we are doing in effect, we are not pre-judging whether we will or not have a new Constitution or just a modification of the existing one.

(TRANSLATION)

However, the important thing is that we are committed to an examination of all subjects, all aspects of Confederation and of its Constitution.

(ENGLISH)

Have we agreement on this?

Agreed.

Agenda 2(c) really deals with the procedure for constitutional review. Rather than have a debate at this time we might read the resolutions. They are drafted so as to cover all the points on which guidance is needed and has been asked by the officials in their yellow book, and they do take into account the decisions to set up Committees of Ministers on special subjects as we agreed to in past days, and finally they do establish closer liaison between the Continuing Committee and the various premiers and prime ministers which, I believe, was the point which you insisted upon formally, Premier Weir.

I think it does cover all those aspects and if we read it we will see if we want to agree.

"(a) The Conference expresses its intent that the review should proceed at an accelerated pace, now that the basic organizational and background work has been carried out. In this connection, the First Ministers will endeavour to hold more frequent sessions of the Constitutional Conference and, in addition, to have informal working sessions with the Continuing Committee of Officials, to provide more continuous direction to the process of constitutional review.

"(b) In order to maintain effective co-ordination of the constitutional review, the Conference agrees that:

"(I) all special committees of ministers set up by the Constitutional Conference should report to the Constitutional Conference;

"(II) the Continuing Committee of Officials should assist other ministerial committees, as required;

"(III) all special committees of officials should be constituted as sub-committees of the Continuing Committee of Officials;

"(IV) the Continuing Committee of Officials is authorized to establish such sub-committees, working groups or task forces as seem to be required for its purpose;

"(V) the Secretariat of the Conference should also serve all such ministerial committees and committees of officials."

Are there any remarks on the resolution covering Procedure for Constitutional Reform?

The attempt here, I repeat, is to co-ordinate all the work to make sure that this Committee of Prime Ministers and Premiers has the ultimate authority, that it does meet more often and that the Committees of Ministers and the Committees of Officials and their sub-committees all be tied in in a functional way to this Continuing Conference.

HONOURABLE W. WEIR: It covers the objections I had, Mr. Prime Minister.

THE RIGHT HONOURABLE P.E. TRUDEAU: Is everybody in agreement? Mr. Robichaud?

HONOURABLE L.J. ROBICHAUD: Agreed.

THE RIGHT HONOURABLE P.E. TRUDEAU: We can go on to Item 4(a) of the agenda, Official Languages.

We had reached, I believe, a consensus on this but we didn't have the text paper so we should read it and see if it seeks modifications.

"The Conference recognizes that important steps have been taken by governments in the past year to encourage a fuller role for the French language throughout Canada, and it affirms that study of linguistic matters should be continued. In particular, the First Ministers agree that:

"(a) The recommendations of the Royal Commission on Bilingualism and Biculturalism, together with reports on linguistic matters from the Continuing Committee of Officials and the Sub-Committee on Official Languages, should be referred to a Committee of Ministers which should consider both the constitutional aspects of linguistic matters and the methods of implementation of language policies, including the nature of possible federal assistance for this purpose.

"(b) The Royal Commission's reports, together with other aspects of the subject of official languages, should receive such further consideration by the Continuing Committee of Officials and its Sub-Committee on Official Languages as may be required to assist the Committee of Ministers in its task."

It will be noted that we mentioned the Committee of Ministers rather than the Committee of Attorneys-General. It can be the ministers designated by governments. We had thought that a Committee of Attorneys-General would be best to ensure progress on the legal and constitutional point of view but apparently some Provinces wanted to feel free to designate other ministers and I am sure this could very easily be agreed to by us; subject, of course, to the proviso that we do not talk about the Federal Language Bill in this and that this will be dealt with as a distinct matter by the Attorney-General of Canada in consultation with the Attorneys-General of the Provinces.

HONOURABLE J.N. TURNER: As was suggested.

THE RIGHT HONOURABLE P.E. TRUDEAU: As suggested here and agreed to, I believe.

HONOURABLE W. WEIR: That is not incorporated in the papers. I was presuming that C-120 might be included in that, paragraph (a), Constitutional Aspects and Linguistic Matters, but so long as we are clear that this is a separate ad hoc committee that will meet separately...

THE RIGHT HONOURABLE P.E. TRUDEAU: We assume that. I think it would be perhaps an error for us to put a federal bill in a resolution of this Conference because it might lead to other consequences of at times provincial bills being brought before here and I think that the principle of the United Nations of non-interference in the affairs of other states might be applied here insofar as possible; but there is agreement off the record of this Conference and on the record between ourselves that we will proceed on the Official Languages Bill in the way that we intended; that is to say, the Minister of Justice for Canada would be in contact with all the provincial ministers of justice or Attorneys-General who desire to express views on the constitutionality and legality of the Bill.

HONOURABLE J.J. BERTRAND: And also on the different modalities of the Bill as we mentioned, concerning especially bilingual districts. We referred to that yesterday I think when we discussed this problem.

So this particular problem, if I understand well, would not be referred to this Committee.

THE RIGHT HONOURABLE P.E. TRUDEAU: It would not be referred.

HONOURABLE J.J. BERTRAND: No.

THE RIGHT HONOURABLE P.E. TRUDEAU: If the Bill should pass, as we hope it will, Mr. Turner, then of course we have provided that we will consult with the Provinces before setting up bilingual districts, and on that point we would of course be discussing this with your government, Premier Bertrand, and with all the other governments where bilingual districts apply.

Of course this does not apply to our friend from British Columbia. He has not the advantage of a bilingual district. If he feels let out, of course we can let him in.

HONOURABLE J.N. TURNER: I think then it is clear we are open to hearing your views on the constitutional aspects, and you may have some views on some of the sections. Again, as Mr. Heald and I made clear, I think, without prejudice to the right of the Federal Government to proceed after such consultation with the Bill and without prejudice to the right of any Province if that Province is not satisfied, to challenge it. If it is challenged...

HONOURABLE H.E. STROM: For clarity for myself, and perhaps others that are interested, do I take it from this that this will be an approach to the Minister of Justice by each of the interested Attorneys-General on an individual basis or are we going to have a committee?

HONOURABLE J.N. TURNER: We may meet in Regina.

(TRANSLATION)

THE RIGHT HONOURABLE P.E. TRUDEAU: You have a question, Mr. Bertrand?

HONOURABLE J.J. BERTRAND: Yes. The problem I raised yesterday had reference only to the principle of bilingual districts. I understand that as one of the modalities of your Bill. A Sub-Committee on languages was formed within the Constitutional Conference. This was a Committee of Officials. At this Committee, our representatives were opposed to the very idea of bilingual districts.

Should I understand that, according to the terms of this resolution now before us, we could not discuss that matter within the Committee because you have incorporated that within your Bill C-120?

Still it will be possible for us to discuss the heart of the matter with the Minister of Justice when we meet.

THE RIGHT HONOURABLE P.E. TRUDEAU: I believe we should be clear on the subject. The Minister of Justice, in the days which will follow, will be discussing the constitutionality of the federal Bill.

I hardly think you would discuss federal policy because it comes neither under the responsibility of the Province of Quebec nor of any other Province. We intend promoting Official Languages throughout Canada. We are doing so in a manner which appears sound as far as we are concerned. If this is constitutional, you might be opposed to us politically speaking, but you could not say that you do not like Federal legislation.

This being said, the implementation of this legislation in the Provinces through the setting up of bilingual districts does give rise to a certain number of administrative problems. It is these that we wish to discuss with the Provinces. To this end, you will probably be dealing with our Secretary of State, Mr. Pelletier, who is charged with the implementation of this Act. He will be meeting with provincial authorities in those Provinces where bilingual districts are to be set up. We would certainly not want to set up bilingual districts in a way which provincial authorities would find unacceptable without first having provided them with an opportunity to make their views known. That is why, at that stage, there will be considerable consultation. But I do not think you want us to have long discussions with all the Provinces before passing a Federal Act within our constitutional area of jurisdiction.

HONOURABLE J.J. BERTRAND: No. We had expressed reservations precisely on that point, that is on the principle of the bilingual districts as such. I thought I had understood yesterday, discussing this matter with my colleague, the Minister of Justice, that before this Act was adopted in Parliament there were two problems left to discuss; one has already been raised by certain Provinces, that is the problem of constitutionality, the other having to do with certain aspects of the legislation, especially one which has already been examined fairly completely by our representatives on the Sub-Committee of Official Languages, i.e. the bilingual districts as such.

That is the conclusion I had drawn from the answer that the Minister of Justice had given me.

THE RIGHT HONOURABLE P.E. TRUDEAU: I believe that what we can agree on is this, indeed, we have indicated as much with regard to other Provinces. In respect to certain sections, among which may be found those dealing with the setting up of bilingual districts, there will be a discussion with you. These discussions will be carried out by the Minister of Justice. We have invited proposals to improve, if required, these particular sections. We have even indicated that if this appeared to be necessary, we would be ready to amend our own Act in the House so that it may better meet provincial wishes. That is why we have called upon you, as we have called upon every other Province, to make representations and concrete proposals if you feel that our Act could be improved.

HONOURABLE J.N. TURNER: I understood the word modalities to mean as much.

THE RIGHT HONOURABLE P.E. TRUDEAU: Are we agreed?

(ENGLISH)

I believe there is agreement on that. And is this a vote? If Mr. Stanfield stays I think I will stay. Do you want to pair with me?

HONOURABLE R. STANFIELD: I don't pair with Prime Ministers!

THE RIGHT HONOURABLE P.E. TRUDEAU: Well, I am sure if you pair with Mr. Marchand, that will be fine. Thank you very much.

We might ask Mr. Lewis if he wants to pair with one of our...

A DELEGATE: Mr. Lewis will pair with me.

(Inaudible remark)

THE RIGHT HONOURABLE P.E. TRUDEAU: It didn't always work that way!

Then we can go on to item 4(b), Fundamental Rights. We did reach agreement on this this morning and we have used the words "noting the various views and the general

interest that has been expressed", and so on.

Distribution of powers: We had better read these because we did reach a consensus yesterday but we do not have any specific resolution:

- (a) The Conference recognizes as a matter of priority a study of the distribution of powers, in particular the taxing and spending power, and directs the Continuing Committee of Officials to give its immediate attention to this aspect of the Constitution;
- (b) the Constitutional Conference agrees that the Tax Structure Committee should be convened for the purpose of examining and reporting to the first Ministers on
 - 1) the occupancy of available tax fields by each of the provincial governments and the Government of Canada; and
 - 2) Federal-Provincial shared-cost programme arrangements.

To this end the Committee would consider the aggregate of government expenditures and rate of growth, tax source available for financing these expenditures, and the potential of the total tax system, the level of borrowing by government and its effect on the Canadian economy and the balance of fiscal responsibilities and resources within each of the Provinces and the Government of Canada.

I believe this has been discussed, and I hope it meets the consensus that we had reached.

(TRANSLATION)

You have asked for the floor, Mr. Prime Minister?

HONOURABLE J.J. BERTRAND: Yes. Mr. Dozois would have a proposal at this time.

HONOURABLE P. DOZOIS: The proposal I would make would possibly be added as a new resolution, No. 5(a). Five might be adopted as such, but this would be added on to it...

THE RIGHT HONOURABLE P.E. TRUDEAU: Have you distributed that? Could you read it, Mr. Dozois?

HONOURABLE P. DOZOIS: I would then move that the following resolution be added as 5(a):

"The Conference expresses the wish that pending the discussion of the taxing and spending powers the Federal Government abstain from making new expenditures in fields within provincial jurisdiction and from reducing its contribution to existing joint programmes without prior consultation with all the Provinces and the agreement of the Provinces concerned."

(ENGLISH)

THE RIGHT HONOURABLE P.E. TRUDEAU: Well, I expect I might want to comment a little bit on this amendment.

I did begin by saying I could not agree to it. It would have the effect, of course, of amending the Constitution here and now.

(TRANSLATION)

If we were to accept this proposal we would be agreeing, this afternoon, in what way the spending power is to be limited; we would be deciding that the ten provincial governments rather than the Government of Canada would be called upon to decide how this power is to be used when we are seeking to exercise our right to spend our money either to reduce regional disparities or to have joint programmes of the ARDA or FRED type, or for other joint programmes.

I hardly think you expect that the government will be ready to accept this limitation on its spending power.

(ENGLISH)

We have said yesterday that the spending power is something which we would want to welcome further discussion on; that we would recognize the possibility of defining the use of the federal spending power. This is one suggestion that limits this power of the Federal Government to tax Canadians in order to redistribute the wealth from the rich regions to the poor, and from the richer Canadians to the less rich Canadians.

This is one limitation on this power, and as I read it, it has the effect of asking the Parliament of Canada (which, after all, is elected by all the Canadian people and responsible to it) to abdicate this responsibility and turn over the whole matter to the provincial governments, and that you should tell us how we should use the spending power.

If may be that Mr. Smallwood does not agree with the way in which you would want to use it, and you would not agree with the way in which Premier Weir might want to use it, and that would mean the Federal Government could not exercise its function, which is vital to Canada, of redistributing opportunity across the Nation.

I don't expect we would have a long discussion on this. If you want to state your point of view, and if you can convince all the Premiers, I might want to make another speech. But I doubt whether it would be wise to attempt to amend the Constitution here and now in this way.

The spending power is obviously the most difficult of all the subjects which we have discussed in the past few days, and here at the last minute we have a suggestion for amending the Constitution, to withdraw from the Federal Government this essential function of a central government, the function of redistributing opportunity across Canada.

HONOURABLE W.A.C. BENNETT: We find ourselves in this case supporting the federal view for perhaps different reasons than the Prime Minister stated. We believe until there is a surrender, a withdrawal from the direct taxation field, then we should not release the Federal Government from responsibilities for programmes. You see we think we should do it in the Constitution change. Not now. Because we would hope they would have more programmes as long as they hold this terrific percentage of the only real progressive taxation field we have in Canada.

But what we object to - and I could not object more strongly to it if I talked for three hours - what we object to is not the Federal Government entering into new programmes and then the Provinces have an option, a choice whether they go in them with them as partners or not, but what we object strongly, very strongly, to is the Federal Government once entering programmes with the Provinces and you have got the programmes going, the Provinces cannot get out of them and then we have to pick up the federal share as well. We don't think that is fair at all, Mr. Prime Minister.

I said it yesterday and I say it again for emphasis, I hope from this Conference we will have that much more co-operation in that respect, and you will instruct your ministers to desist from withdrawing from programmes that they have already announced withdrawal from, because that is no way to build up this co-operative field we are developing in this Conference.

HONOURABLE J.J. BERTRAND: Mr. Chairman, simply to expand on what my colleague has just said, I might add that the first part of this resolution simply states that the Federal Government should abstain from making new expenditures in areas of provincial jurisdiction.

THE RIGHT HONOURABLE P.E. TRUDEAU: But that is precisely the point that should be defined. Does equalization come under the Provinces or does it come under the Federal Government? Do family allowances come under the Federal Government? Would you like us to abstain from continuing family allowances, from putting money into the Gaspé area under the ARDA plan? Would you like us to abstain from all these things?

HONOURABLE J.J. BERTRAND: No. We add "and from reducing its contribution to existing joint programmes without prior consultation with all the Provinces and the agreement of the Provinces concerned."

I believe that the proposal is in itself a definition. We all agree that education, for instance, is a matter for provincial jurisdiction. The same is true of health.

THE RIGHT HONOURABLE P.E. TRUDEAU: That is just the point. We are asking you to reduce your expenditures.

HONOURABLE J.J. BERTRAND: But we will be paying our own way at Niamey. The Federal Government has not paid for that.

THE RIGHT HONOURABLE P.E. TRUDEAU: Are these areas of provincial jurisdiction? You say yes.

HONOURABLE J.J. BERTRAND: Education comes entirely under the Provinces. I hardly see what the Federal Government has to do with education.

What authority in Canada can speak in matters of education? I would put that question to all my colleagues of the other Provinces who are sitting here with me. The

proper authority, as far as education is concerned, is the provincial authority. And when there are meetings outside of Canada dealing with matters of education, I fail to see how Mr. Sharp or any other federal minister, be they both intelligent and competent, can go there to discuss problems of education. For the moment, we look at that...

THE RIGHT HONOURABLE P.E. TRUDEAU: If I may, Mr. Bertrand. Let us say, for instance, that you should not be going to Niamey because we feel that this is a matter of international relations, that you should not concern yourself with satellites because that comes under federal jurisdiction. You will say that these matters can be discussed.

HONOURABLE J.J. BERTRAND: Mr. Prime Minister, you have raised two problems which have been in the public eye in this Country for some time. You will agree with me, I think, that both of us have attempted to show goodwill and understanding so that the Federal Government's policy, what is called foreign policy, according to the orthodox rules which have long applied in international law, and which is a matter of prime federal responsibility, may be reconciled with the role that Provinces play within their own jurisdiction. An example of that is education...

THE RIGHT HONOURABLE P.E. TRUDEAU: Well, that is not my point, Mr. Bertrand...

HONOURABLE J.J. BERTRAND: We paid our own expenses in Kinshasa. The Government of the Province of Quebec paid those.

We are therefore asking the Federal Government to abstain from making new expenditures in areas of provincial jurisdiction. I have given two examples. The Prime Minister says: Yes, but what about equalization, what about assistance to under-developed areas?

We have answered that we are willing to see assistance given to under-developed areas in order to correct disparities. We subscribed to the principle of equalization. But we have added that if we want to do that let us at least consult the Provinces and obtain the agreement of those directly involved.

This is simply a type of machinery. A great deal has been said of co-operative machinery, of co-ordinating machinery, of consultative machinery...

Temporarily, through this choice which would be expressed at this Conference of Premiers and Prime Ministers, we would be taking a first step on the way to a new Canadian Constitution.

THE RIGHT HONOURABLE P.E. TRUDEAU: Let us assume, Mr. Bertrand, that the proposition would be reversed; let us say that the Conference would express the wish that provincial governments should abstain from undertaking new expenditures in areas of federal jurisdiction.

HONOURABLE J.J. BERTRAND: You have attempted to steer our discussion in that direction. We will have an opportunity at the end of this Conference...

THE RIGHT HONOURABLE P.E. TRUDEAU: Mr. Bertrand...

HONOURABLE J.J. BERTRAND: If I may, Mr. Chairman, just one word more.

We will have the opportunity to table a working paper on foreign relations. This is a working paper which I believe all our other colleagues, the Prime Ministers or Premiers of the other Provinces, should read. In particular, the Prime Minister of Canada should read it. At a subsequent meeting it would be possible to deal in greater depth with a problem which is of considerable interest to us in Quebec.

THE RIGHT HONOURABLE P.E. TRUDEAU: So much the better, since this discussion has made it possible for you to table this document. I am gratified.

HONOURABLE J.J. BERTRAND: I would have tabled it anyway but since you provide me with an opportunity, I will do so now.

(ENGLISH)

THE RIGHT HONOURABLE P.E. TRUDEAU: So this little interchange has permitted us to receive the tabling of a document by Premier Bertrand on external relations.

I think the Conference will be happy to take note of it, and it will be the subject of discussion at further meetings of officials.

If I could return to this item...

(TRANSLATION)

I would like to assure the Conference that I did not mean by that to say that you had no jurisdiction but merely to indicate that that is precisely the point in issue. The definition of areas of provincial jurisdiction has obviously become a matter for discussion amongst ourselves. It is impossible for us to accept or adopt this resolution for the simple reason that those areas which are supposed to be of provincial jurisdiction and, in the event, those which are of federal jurisdiction, are not defined in the resolution.

Premier Weir?

HONOURABLE W. WEIR: Mr. Prime Minister, we do not arrive at decisions here unless we have a consensus, and I recognize we are not likely to get it today. And I have no reason to extend the discussion, because I have had an opportunity to have my say. We have agreed to disagree on a few things. And I would just hope as a result of the discussions we have had, notwithstanding the fact that we do not have a resolution, that the attitude between our departments and our ministers would be better in the future as a result of it, and we might have further discussions than we have had in the past.

THE RIGHT HONOURABLE P.E. TRUDEAU: Premier Robarts?

HONOURABLE J.P. ROBARTS: I must admit that I recognize that this Conference cannot ask the Federal Government to cease functioning until we settle some constitutional difficulties. But as I read back through this particular resolution, I notice we deal, for instance, with the occupancy of available tax fields by each of the provincial governments and the Government of Canada. We ask that this be reported back to the first ministers.

Now, if we could possibly go back to my opening statement, I said I thought that the major element in achieving what we are after here is one of attitude. And expressed in this resolution we are considering now an obvious attitude that we must re-examine spending responsibilities and revenue sources to meet those responsibilities. This is self-evident from the resolution itself.

I am not being facetious when I say that I recognize that we cannot ask for any suspension of the function of the Federal Government; no more than I could agree that my own government would refrain from certain actions, because this

is liable to take some time. The point I am making is simply this: let us approach this in the right attitude.

If we are really honest in our belief that we are to review these matters to see if we can get a better working arrangement in Canada, then there will be restraint automatically exercised by both and all levels of government as we go through the day-to-day process of running our various jurisdictions.

So without expressing these things formally, and I do not like not to support a fellow provincial premier, but I do not see how we can really say that the Federal Government cannot exercise any of its sovereign powers, because it can, of course, and it must have that power.

But I would just make a further point. We in the Province of Ontario would be very disappointed if all of a sudden there was a whole new range of tax proposals from the Federal Government put before Canada, while we are trying to straighten out some of the matters that are implicit in this resolution.

If we are in earnest about what we are discussing, we should be able to work some of these things out on a practical basis.

HONOURABLE P. DOZOIS: Mr. Chairman, I might point out that this proposal does not prevent the Federal Government from involving itself in expenditures in areas of provincial jurisdiction; it simply prevents them doing so without provincial consent.

In a nutshell, I wouldn't like to have another Medicare.

THE RIGHT HONOURABLE P.E. TRUDEAU: Mr. Gerhart?

HONOURABLE E.H. GERHART: Mr. Prime Minister, Alberta is somewhat in sympathy with the proposal put forward, but we do appreciate the difficulty that you face in giving a commitment as to future expenditures of the Federal Government, or anything in this matter.

However, we did use one device earlier this afternoon that I am sure Mr. Weir of Manitoba would be pleased to utilize. For the record, we did nothing about the Languages Bill, and we had an off-the-record assurance that we would have a get-together with the Minister of Justice.

So I think probably we would be just as happy with an off-the-record assurance that we will not have the rug yanked out from under us unilaterally without prior consultation, without putting it in this resolution.

THE RIGHT HONOURABLE P.E. TRUDEAU: Well, we as federal representatives take note of these remarks and those of Premier Bertrand and Mr. Dozois' remarks, and we do realize that co-operative federalism, as Premier Robarts said yesterday, is a word in the past; but it really has to be built into the future. And all of us, the Provinces as well as the Federal Government, are only now on the verge of an era when we will have to co-operate a great deal. And I believe the Provinces as well as ourselves are setting up sections of their government to ensure co-operation and co-ordination with the Federal Government.

We only in the past few years are beginning to have a service, a department, a section dealing with Federal-Provincial co-operation, because until now it was the habit for governments in Canada to operate by the Health Ministers meeting among themselves and the Finance Ministers and Ministers dealing with Natural Resources. This has not been co-ordinated sufficiently in the past and there were no administrative arrangements; probably because in earlier times the job and work of government has not been as all-inclusive as it tends to be now. We are prepared to avoid recommitting the same sins.

Mr. Dozois, you will never have another medicare, I promise you that. I hope you will have this one though!

This is why we meet and this is why perhaps we should meet more frequently rather than to try and settle in a conference of three days the beefs that have been accumulating for a hundred years on both sides of the Federal-Provincial fence. I think we should meet more frequently and have more occasion to correct these errors of interpretation of the situation as they develop and before they become hardened.

I can say at this point we are resolved to amend our ways to be great co-operators insofar as you remind us often enough of it in the future. I am reminded by the Minister of Justice it would be well to state that participatory democracy works in the other way too and that we would appreciate it if the Provinces consulted with us at times when they are embarking on things that would be considered of at least joint jurisdictions.

Is there agreement on item number 5? Item 4(c) Distribution of Powers.

HONOURABLE W. WEIR: It really doesn't make any reference there to the short term.

THE RIGHT HONOURABLE P.E. TRUDEAU: I believe the Tax Structure Committee under 5(b) is intended to cover that.

HONOURABLE W. WEIR: Oh, I see. I thought maybe you were including all of 5 when you were asking if we were satisfied. There is no reference here to the short term.

THE RIGHT HONOURABLE P.E. TRUDEAU: Whenever we meet; whenever we decide we can meet, maybe the month of April of June.

HONOURABLE W. WEIR: I wonder if we should give the Tax Structure Committee some guidance.

THE RIGHT HONOURABLE P.E. TRUDEAU: They have guidance under I and II.

HONOURABLE W. WEIR: In terms of date.

THE RIGHT HONOURABLE P.E. TRUDEAU: I would be unable to suggest offhand how quickly this Tax Structure Committee could usefully report to us. Its last report, I believe, was the result of two years work. We would have to have a report.

HONOURABLE W. WEIR: I was hoping we could separate the two things. I thought we were trying to get this separation of the short term. While we are getting a department we have between us now the work of the Continuing Committee which is really long term. Generally speaking, while I would normally object to that I am not objecting to that. It is a Continuing Committee and because of the other changes you have made I am acceptable; the other changes being reasonable and giving directions to the Continuing Committee. The Tax Structure Committee was specifically used because of the short term condition we have. I don't want anyone to think that I am interested in coming back with the same problems in two years time.

THE RIGHT HONOURABLE P.E. TRUDEAU: Your officials will be members of that committee and so will ours and we should instruct them not to be delayed by the slowness of their Premiers.

HONOURABLE W. WEIR: I would like a consensus of what this Committee is doing. That is what I am trying to get across.

HONOURABLE J.P. ROBERTS: I think we could say the earliest opportunity...

HONOURABLE W. WEIR: I don't want to be difficult.

THE RIGHT HONOURABLE P.E. TRUDEAU: Let us take Mr. Robert's suggestion.... "Recognizing the urgency of the matter agrees the Tax Structure Committee should be convened for the purpose of examining and co-ordinating at the earliest opportunity...."

HONOURABLE W. WEIR: In the last paragraph in 5, Mr. Prime Minister, it is not clear to me that it is the Tax Structure Committee. The last paragraph refers to the Committee. I am sure that is what it means but I am wondering if we should put "Tax Structure Committee".

THE RIGHT HONOURABLE P.E. TRUDEAU: In reading it it should say "Tax Structure Committee". Is it agreed to spell out "Tax Structure Committee" in the last paragraph?

...Agreed.

Item 4(e) Regional Disparities, we covered that earlier this afternoon. Item 4(d) on the Senate we took earlier. Item 8 on the Judiciary we did earlier.

(TRANSLATION)

Item 9 Institutions related to Federalism, The National Capital, we did obtain some agreement on that, but with a somewhat modified draft. You do agree however, do you not?

HONOURABLE J.J. BERTRAND: We are in agreement on the wording.

(ENGLISH)

THE RIGHT HONOURABLE P.E. TRUDEAU: That brings us to the end of the items we have dealt with. We have not had time to deal with item 3, The Objectives of Confederation, nor item (f) Amending Procedure and Provisional Arrangements; item (g) Mechanisms of Federal-Provincial Relations.

I guess that is all the more reason to try to reconvene fairly soon and not wait for another year to elapse before meeting again.

Mr. Robarts, I believe you had asked that these items be introduced and if you wanted to say a few words we are not yet at 5.30.

HONOURABLE J.P. ROBARTS: We have really come a long way in three days, Prime Minister, and anything we do on these items between now and the end of this Conference would be so superficial as not to be really meaningful. It is obvious we are going to meet here with some frequency, I would suggest to you, Sir, that these might not just be put in abeyance but left on the agenda.

I might have just one comment for the agenda when we meet again. Perhaps we could assess the work that has been done by the various subcommittees. We are obviously going to convene here and we might start with a somewhat shorter agenda; not with the idea that what is not on the agenda is never going to be considered but just so we can devote more time to what is. I have a feeling we are rushing pretty quickly over some pretty important matters. If this is going to be a continuing process it might be easier to limit the agenda of each meeting to fewer topics, thereby allowing ourselves an opportunity to go into the topics a little more deeply and have a little more homework done on the topics when we come to the Conference.

THE RIGHT HONOURABLE P.E. TRUDEAU: We might skip Item 1 which takes a whole day. That is the Opening Statements. We don't need to go on television that badly each one in turn. I think we might skip that item.

HONOURABLE G.I. SMITH: It seems to me we could get along without that.

THE RIGHT HONOURABLE P.E. TRUDEAU: You wanted to make an announcement, Premier Smith?

HONOURABLE G.I. SMITH: It is a matter of national interest, I think, and relates to the fact that the first Canadian Summer Games are going to be held in August in Halifax, and Dartmouth, in Nova Scotia. This is a national event and we hope that we can provide it with a consistency of interest and efficient despatch of events and all that goes with it to the standard set by Quebec in the first Winter Games a couple of years ago. In particular we would

be very glad if as many premiers as could do so would come to Nova Scotia for this occasion from the 16th to the 25th of August or any day between that. You, Mr. Prime Minister, have been kind enough to consent to attend the opening ceremonies on the 16th of August and that is much appreciated.

THE RIGHT HONOURABLE P.E. TRUDEAU: Don't ask me to kick a football!

HONOURABLE G.I. SMITH: We extend the very warmest invitation to all to come and help us make this a national event and one which we will all remember.

(TRANSLATION)

HONOURABLE J.J. BERTRAND: Mr. Prime Minister, I would simply like to add a word to those spoken, particularly those spoken by the Prime Minister of Ontario. There is no objection at all from our quarters to doing away with opening statements at our subsequent conferences.

Secondly, I believe I should return once more to a very important point which I have already made. At a subsequent conference we should be looking in much greater depth at the division of powers. The work performed by the Committee of Officials has made it clear that there are considerable and basic differences between the point of view of Quebec and that of most other Provinces.

Such being the case, I would urge once again that since this matter is of the very essence of federalism, we should avail ourselves of the opportunity to be offered by the next Federal-Provincial Conference, within the general framework of this continuing Constitutional Conference, to deal frankly with the problem of the division of powers between the two levels of government. Thank you.

(ENGLISH)

HONOURABLE J.R. SMALLWOOD: Prime Minister, I don't know how long we have to go.... I just wanted to say I didn't want to see us go without there being said what is in the minds, I think, of all of us and that is the feeling of congratulation to you on your work as Chairman of the first Federal-Provincial Conference under the chairmanship; we would congratulate you on your great skill and good humour and patience and urbanity with which you have conducted this meeting. This was one of the great tests of your life, I think, and you have come through.

By the way, I promised Premier Smith that I will do down to this thing in Halifax if you get a prime minister to engage with you in ju-jitsu wrestling match... Or is that judo? Any of these prime ministers with Premier Smith!

THE RIGHT HONOURABLE P.E. TRUDEAU: Thank you, Premier Smallwood. I want to thank all of you as Chairman for your co-operation and having made my task an easy one. It is sometimes difficult and unpleasant to have to restrain participants in a meeting and as Chairman I think the only person I had to exercise restraint upon, and perhaps not enough, is myself.

I want to thank you very much for having made this a very useful meeting and a very pleasant one to chair.

(TRANSLATION)

But more importantly this was a very useful meeting. We have made considerable progress in certain constitutional areas. I do feel that this three-day conference has demonstrated that all provincial governments and the Federal Government - and, in consequence, the people of Canada as well, have taken considerable interest in this process of constitutional review. I should also add that the Federal Government desires to participate and to contribute in every possible way to the furthering of these discussions.

(ENGLISH)

In the past three days we have had a great variety of points of view. We have heard about settlements in Newfoundland and we have heard about railways in Northern British Columbia and about a great deal in between. I think that we have been made conscious not only of the great diversity of our views, a diversity which is a reflection of the Canadian people, the Canadian image, the various parts of our Country; but we have also made ourselves even more conscious of the fact that this diversity does add up to a very important unity, a unity of Country, which we are very proud to serve, and a Country which we want to see progressing ever more rapidly on the roads of prosperity and peace and happiness.

We all come away with a feeling that our tasks are important, that we are all answerable to Provinces or in our case to the electors of Canada and that it is our duty to proceed with this review of the Constitution as with our other tasks with as great urgency as we can muster and

because there is much to do and because planes are waiting,
I think I will call this Conference adjourned.

CONSTITUTIONAL CONFERENCE

SECOND MEETING

OTTAWA

FEBRUARY 1969

CONCLUSIONS OF THE MEETING1. General objectives of the Constitutional Conference
(Agenda item 2(a))

The Constitutional Conference reaffirms its intent to complete a comprehensive review of the Constitution of Canada, to assess its adequacy for present and future requirements, and to determine the extent to which constitutional change is desirable either through amendment of the existing Constitution or through promulgation of an entirely new Constitution.

2. Procedure for constitutional review
(Agenda item 2(c))

- (a) The Constitutional Conference expresses its intent that the review should proceed at an accelerated pace, now that the basic organizational and background work has been carried out. In this connection, the First Ministers will endeavour to hold more frequent sessions of the Constitutional Conference and, in addition, to have informal working sessions with the Continuing Committee of Officials, to provide more continuous direction to the process of constitutional review.
- (b) In order to maintain effective co-ordination of the constitutional review, the Conference agrees that:
- (i) all special committees of ministers set up by the Constitutional Conference should report to the Constitutional Conference;
 - (ii) the Continuing Committee of Officials should assist other ministerial committees, as required;

- (iii) all special committees of officials should be constituted as sub-committees of the Continuing Committee of Officials;
- (iv) the Continuing Committee of Officials is authorized to establish such sub-committees, working groups or task forces as seem to be required for its purpose;
- (v) the Secretariat of the Conference should also serve all such ministerial committees and committees of officials.

3. Official Languages
(Agenda item 4(a))

The Constitutional Conference recognizes that important steps have been taken by governments in the past year to encourage a fuller role for the French language throughout Canada, and it affirms that study of linguistic matters should be continued. In particular, the First Ministers agree that:

- (a) The recommendations of the Royal Commission on Bilingualism and Biculturalism, together with reports on linguistic matters from the Continuing Committee of Officials and the Sub-Committee on Official Languages, should be referred to a Committee of Ministers which should consider both the constitutional aspects of linguistic matters and the methods of implementation of language policies, including the nature of possible federal assistance for this purpose.
- (b) The Royal Commission's reports, together with other aspects of the subject of official languages, should receive such further consideration by the Continuing Committee of Officials and its Sub-Committee on Official Languages as may be required to assist the Committee of Ministers in its task.

4. Fundamental Rights
(Agenda item 4(b))

The Constitutional Conference noting the various views and the general interest that have been expressed with regard to guarantees of human rights, including those views brought before the Continuing Committee of Officials, agrees that a Committee of Ministers should be established to study all matters relating to fundamental rights, including the question of entrenchment of such rights in a constitutional charter.

5. Distribution of Powers
(Agenda item 4(c))

- (a) The Constitutional Conference recognizes as a matter of priority the study of the distribution of powers, in particular the taxing and spending powers, and directs the Continuing Committee of Officials to give its immediate attention to this aspect of the Constitution.
- (b) The Constitutional Conference, recognizing the urgency of the matter, agrees that the Tax Structure Committee should be convened for the purpose of examining, and reporting at the earliest opportunity to First Ministers, on:
- (i) the occupancy of available tax fields by each of the provincial governments and the Government of Canada, and
 - (ii) federal-provincial shared-cost programme arrangements.

To this end the Tax Structure Committee would consider the aggregate of government expenditures and their rate of growth; the tax sources available for financing these expenditures and the potential of the total tax system; the level of borrowing by governments and its effect upon the Canadian economy; and the balance of fiscal responsibilities and resources within each of the provinces and the Government of Canada.

6. Regional Disparities
(Agenda item 4(e))

The Constitutional Conference agrees that:

- (a) the promotion of the full development of all parts of Canada is an essential objective of Confederation;
- (b) a Committee of Ministers should, taking into account the views and proposals of the various governments, consider the administrative, financial and consultative arrangements for policies and programmes required immediately to reduce regional disparities;
- (c) the Continuing Committee of Officials should give special attention to the constitutional aspects of regional disparities, with a view to reporting to a Committee of Ministers as soon as possible.

7. Reform of institutions linked with federalism -
The Senate
(Agenda item 4(d))

The Constitutional Conference while recognizing that the reform of the Senate must be considered in the context of other matters related to the basic principles, structure and powers of Government in Canada agrees that a Committee of Ministers should study possible constitutional provisions relating to the reform of the Senate and should take account in particular of the following considerations:

- (a) The Senate could represent in a more direct and effective manner than at present, the interests of the provinces and regions of Canada;
- (b) One of the ways in which this could be achieved is through appropriate changes in the method of selecting Senators, and another could be by altering the tenure of office of Senators;
- (c) It might be appropriate for the Senate to be provided with certain special powers in order to make it a more effective instrument of federalism, while at the same time adjusting its role in relation to legislation generally;

- (d) The distribution of membership should reflect in an equitable manner the provinces and regions of Canada;
 - (e) The Government of Canada should continue to be responsible only to the House of Commons.
8. Reform of institutions linked with federalism -
The Judiciary
(Agenda item 4(d))

The Constitutional Conference agrees that:

- (a) The Constitution should provide for the independence of the Judiciary;
 - (b) A Committee of Ministers should, taking into account the views and proposals of the various governments, consider further provisions concerning the Supreme Court and the Judiciary.
9. Reform of institutions linked with federalism -
The National Capital
(Agenda item 4(d))
- The Constitutional Conference, subject to any comments that may be submitted, agrees that:
- (a) The cities of Ottawa and Hull and their surrounding areas shall be the Canadian Capital area;
 - (b) No changes be made to provincial boundaries or to the constitutional responsibilities of the governments concerned.
 - (c) The boundaries of the Canadian Capital area are to be established by agreement of the governments concerned;
 - (d) In line with the aforementioned objectives, steps must be taken so that the two official languages and the cultural values common to all Canadians are recognized by all governments concerned in these two cities and in the Capital Region in general, so that all Canadians may have a feeling

of pride and participation in, and attachment to their Capital.

- (e) That the study committee on the Canadian Capital continue its work, giving particular importance to the following:
 - (i) the definition of adjacent areas which would eventually constitute, along with the cities of Ottawa and Hull, and their surrounding areas, the Canadian Capital Region.
 - (ii) the study of the administration and the financing of a tripartite organization.

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