

Submission on
**CONSTITUTIONAL
REFORM**

Sept. 1980



THE CANADIAN CHAMBER OF COMMERCE

PREFACE

Quite apart from its role as Canada's general business association, the Canadian Chamber of Commerce is also a unique assembly of Canadians from many walks of life and from all parts of the nation.

The will to strengthen the understanding and co-operation between the citizens of various regions was a principal reason why representatives of a score of community Chambers met in Winnipeg in 1925 to form "the Dominion Board of Trade." Today, our organization comprises some 600 community Chambers of Commerce and Boards of Trade, over 3,000 companies and 70 trade and professional associations.

For more than a half-century, the strengthening of the economic and political union in Canada has been a principal preoccupation of the National Chamber.

The objectives of our organization, as enunciated in 1927, were predicated on the belief that "we exist because we believe that we can be useful in securing a more united and a more prosperous Canada." Furthermore, the Chamber has always endeavoured to take an objective view of the national interest. At one of its earliest meetings, the Chamber's President urged members "to think and talk in terms of Canada, putting aside all provincialism... if Canada as a whole is prosperous, then individually and provincially we will all share in that prosperity."

The Canadian Chamber has been in the vanguard of Canadian institutions working towards a greater sense of economic, political and social cohesiveness in the ensuing years. Through conferences, exchanges, publications, advertising and promotional campaigns, national programs, public pronouncements and other means, it has attempted to contribute positively to Canadians' understanding of their heritage, their common interest in a strong and progressive nation, and Canada's potential.

In the past decade, the Chamber has increased the priority (and the resources) accorded to this area of activity. The federal government, the Task Force on Canadian Unity, and the Council for Canadian Unity have all recognized the pre-eminent role played by the National Chamber during the "unity debate" throughout the seventies.

Consequently, in light of its composition as a broadly-based association, and its long record of involvement in matters related to national unity (both politically and economically), the Chamber is acutely aware of the diversity of viewpoints in Canada on the question of constitutional reform, and of the complexity and sensitivity of the task facing the nation's legislators.

We hope that this submission will be viewed as a thoughtful and constructive contribution to the present series of consultations concerning the options for Canada's future constitutional framework.

INTRODUCTION

The Chamber has taken note of the priority list of twelve items for a new Constitution designated for examination by federal and provincial officials during 1980, they being:

1. a new statement of basic principles
2. a charter of rights
3. language rights guarantees
4. revenue-sharing, or "equalization"
5. patriation of the Constitution
6. resource ownership and interprovincial trade
7. offshore resources
8. powers affecting the economy
9. communications
10. family law
11. the Senate
12. the Supreme Court

The Chamber is conscious of the many social and political dimensions of these and other constitutional issues. However, for the purposes of this presentation, it has chosen to provide commentary based on its principal area of expertise, namely the field of economics. Accordingly, this document presents a business viewpoint on several of the major economic questions related to constitutional reform.

In the months to come, the Chamber will be considering the development of further commentary touching on other fundamental issues less directly related to the economic field.

The comments expressed in the following pages represent the considered opinion of the Chamber resulting from discussion and debate. In the process of preparing this document, we have learned that business people in Canada clearly favour a brief set of basic rules by which Canadians are willing to abide, with pride and understanding, rather than a complicated and relatively incomprehensible example of constitutional penmanship.

As a result, our proposals are neither all-embracing nor detailed, since they are advanced as general principles rather than specific constitutional provisions. They deal with the following topics:

- The Process of Constitutional Reform
- Free Movement of Goods and Services, Labour and Capital
- Economic and Political Union
- Co-ordination of International Efforts
- Establishment of National Economic Goals
- Transfer Payments
- Provision of Basic Services to all Canadians
- Allocation of Powers
- Jurisdiction over Certain Natural Resources
- Assignment of Powers of Taxation
- Not a New but a Renewed Constitution

OBSERVATIONS AND RECOMMENDATIONS

A. THE PROCESS OF CONSTITUTIONAL REFORM

At a time when the world economy is plagued with growth and structural problems, it is a very delicate endeavour to reopen for discussion the trade-offs which have, for more than a century, made Canada a prosperous country. The uncertainties which always result from such an exercise may be very detrimental to our economy especially if discussions last for a number of years. Accordingly, it is vital that the planning and execution of the revision process be carried out as efficiently and expeditiously as possible, in order to best serve both the immediate and longer-term interests of Canadians.

The Canadian Chamber of Commerce recommends that Canada's legislators do their utmost to ensure a speedy and efficient discussion aimed at identifying issues clearly before amending a constitution which, on the whole, has served the interests of the Canadian people very well.

B. FREE MOVEMENT OF GOODS AND SERVICES, LABOUR AND CAPITAL

The Chamber supports a federal authority vested with the necessary powers to avoid economic balkanization, and to remove limitations, imposed by provinces, to the free circulation of goods and services, labour and capital. Such restrictions should be a concern of the courts rather than becoming intergovernmental conflicts. While the Chamber is opposed to state planning of the economy, it does advocate a national economic and industrial strategy and a strong federal power on interprovincial and international economic and trade policies.

The Canadian Chamber of Commerce supports a federal power sufficient to ensure the free circulation of goods and services, labour and capital across the country, to the end that all Canadians will be dealt with and treated equitably wherever in Canada they may be.

C. ECONOMIC AND POLITICAL UNION

The constitutional review process should lead to the strengthening of economic and political union in Canada while allowing each province to ensure its cultural and social development, and economic growth. This requires a national authority entrusted with responsibilities and powers sufficient to maintain the economic and political union within Canada.

The Canadian Chamber of Commerce believes that the distribution of powers and the nature of our institutions should reflect the objective of the various governments to create a strong and fully integrated economic and political union.

D. CO-ORDINATION OF INTERNATIONAL EFFORTS

Emphasis must be placed on establishing and maintaining a competitive advantage abroad through the co-ordination of Canada's international sales and marketing efforts. The achievement of this objective will necessitate very close consultation between governments at all times, and should result in the reduction of confusion and cost flowing from the multiplicity of parallel efforts by both levels of government in various areas.

We believe that, through consultation, governments must better co-ordinate trade and other initiatives abroad while speaking with one voice in international affairs.

E. ESTABLISHMENT OF NATIONAL ECONOMIC GOALS

The Chamber acknowledges the primacy of the federal power in formulating economic policy for the nation. Nevertheless, we believe that economic goals for Canada should result from an ongoing consultative process that will bring into focus the perspectives of both the provinces and the federal administration.

The Canadian Chamber of Commerce supports a strong federal power that will allow the identification and pursuit of national economic goals through ongoing formal consultation with the provinces.

F. TRANSFER PAYMENTS

We believe that it should be a role of the federal government to ensure, through transfer payments, availability of basic services in all regions of Canada. Such redistribution should be accomplished through means which are identified and limited in scope to those necessary for the achievement of these objectives. This redistribution should not create economic polarization nor prevent or inhibit the movement of labour and resources towards opportunities. Conditional grants from federal to provincial authorities are unsatisfactory devices both from the point of view of the "practice of federalism" and as a means of seeking reduction of regional economic disparities. Cost-sharing programmes and conditional grants represent one of the principal areas where intrusion and overlap between activities of the two levels of government have been a source of intergovernmental antagonism.

The Canadian Chamber of Commerce recommends the maintenance of a system of transfer payments designed to ensure the availability of basic services in all regions, but to an extent which would not lead to artificial economic structures nor discourage the movement of people. Transfer payments should, on the other hand, be given to provinces in accordance with broad general objectives for their use, predetermined between the federal government and the recipient provinces.

G. PROVISION OF BASIC SERVICES TO ALL CANADIANS

As mentioned in the previous section, some basic services should be provided in all parts of Canada. While access can vary according to geographical location, volume of population, etc., it is the duty of the federal and provincial governments by consultation to set minimum standards and act to ensure they are observed. Those minimum standards should be established at a level which does not impede unduly the movement of people nor distort for individuals the consequences of their choice (i.e. to work or not to work, to move or not to move) or their sense of responsibility.

The Canadian Chamber of Commerce recommends that minimum norms and standards for such basic services be set through consultation between the federal government and the provinces for implementation in the provincial jurisdictions. Provision should be made for periodic review of such minimum norms and standards with a view to ensuring that they do not deny the exercise of individuals' responsibilities, nor eliminate consequences normally associated with the choices made.

H. ALLOCATION OF POWERS

The business community holds the view that powers should be allocated in accordance with functional criteria which, inter alia, would attribute responsibilities to the level of government best suited to exercise them. In general terms, provincial governments because they are closer to the people, can best provide services to individuals and regulate the relationships between citizens in society and, more specifically, with regard to their rights, duties and obligations. In all areas, a very critical assessment should be made of duplicate services and programs and of the most effective ways to eliminate duplication where it occurs.

The Canadian Chamber of Commerce recommends that, in general terms, powers relating to the provision of services to individuals, or to the relationships between individuals, be allocated, to the extent practicable, to provincial governments and that no areas should be consciously left to the concurrent intervention of two levels of government without a clear definition of the extent and nature of such intervention. Residual powers should be placed in the hands of the federal government; however, the renewed Constitution should contain appropriate safeguards judicial or otherwise, in order to protect designated provincial powers from federal encroachment.

I. JURISDICTION OVER CERTAIN NATURAL RESOURCES

The Canadian Chamber of Commerce believes that the natural resources of our country are part of the national heritage of all Canadians. While jurisdiction should continue to rest with the provinces, the control of these resources should be exercised for the good of the nation as a whole and, in determining conditions of export, should be subject to a national agency. The federal government, however, should possess the

ultimate authority, subject to certain safeguards, in cases of national emergency to assume temporarily all powers over natural resources. In any event, regardless of jurisdictional responsibility, the law of supply and demand should be a principal consideration in matters relating to pricing and distribution.

The Canadian Chamber of Commerce acknowledges that jurisdiction over natural resources should continue to be in the hands of the provinces which have responsibility for conserving and pricing such resources within, and for, the benefit of Canada. Conditions of export of critical natural resources should be subject to control by a national agency and, under special circumstances of national emergency, the federal government be empowered to assume temporarily provincial responsibilities in this field.

J. ASSIGNMENT OF POWERS OF TAXATION

Since 1867, a sizeable gap has emerged between the responsibilities of the senior levels of government and their ability or willingness to generate adequate revenues through their assigned powers of taxation. Above and beyond this development, certain provinces have experienced even greater difficulty due to their economic limitations (population, resources, industrial base). It seems appropriate that, at the time of constitutional reform, steps should be taken to bring into balance the new responsibilities accorded to the senior governments and their assigned powers of taxation.

The Canadian Chamber believes that, pursuant to the allocation of jurisdictions and responsibilities under a renewed constitution, powers of taxation be re-assigned in accordance therewith.

K. NOT A NEW BUT A RENEWED CONSTITUTION

The Canadian Chamber of Commerce believes that it is important for the repatriation and amending process that has already started to continue to its conclusion. The Canadian Constitution should not create a country based solely on rights, powers and privileges conferred by a benevolent government. It should provide for the simplest form of government, leaving as much as possible to the dynamism and personal effort of individual Canadians. In this respect, it is not necessary to create a new Constitution but to introduce amendments to the existing one. These amendments should curb the continuing growth of government presence in the everyday lives of individual citizens and businesses. They should also redress the concentration of power which has occurred in the past several decades into the hands of the cabinet and civil servants at the expense of the importance of the legislature.

The Canadian Chamber of Commerce recommends that the present Constitution serve as the basis for a renewed Constitution for Canada, subject to the amendments necessary to fulfill the objectives set out above.