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BRIEF PRESENTED BY
THE HONOURABLE JAMES RICHARDSON

NATIONAL CHAIRMAN
CANADIANS FOR ONE CANADA

ON THE
PROPOSED RESOLUTION FOR A JOINT ADDRESS TO
HER MAJESTY THE QUEEN RESPECTING
THE CONSTITUTION OF CANADA
TO THE
SPECIAL JOINT COMMITTEE OF
THE SENATE AND OF THE HOUSE OF COMMONS OF CANADA

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OTTAWA

DECEMBER 16, 1980

Mr. Chairman:

I welcome the opportunity to appear before your Committee on behalf of more than 30,000 members of Canadians for One Canada.

While I have been watching the proceedings of this Committee on television, I have heard one of your co-chairmen, M. Joyal, say that Canadian politics is made up of men and women with strong convictions and it is in that spirit that I appear before you today.

Time has passed quickly and it is hard to realize that it is more than four years since I resigned from the Federal Cabinet in fundamental disagreement with the plans for constitutional amendment that Prime Minister Trudeau was, at that time, planning to place before the Federal-Provincial conference on the Constitution in Ottawa on December 15, 1976.

In my letter of resignation from the Cabinet in October 1976, I said to Prime Minister Trudeau:

"I believe it is important that Canadians everywhere be made aware of the far-reaching implications for Canada contained in some of the proposals concerning the Constitution that will be considered at the forthcoming conference of First Ministers ...

"Although I believe that we should bring the Canadian Constitution to Canada, I want to speak about the danger to Canada's future that I see in some of the proposed additions to the Constitution at the time of patriation, and about my strong opposition to the 'single-province' veto in the amending procedure that has been proposed."

Very little has changed since 1976. I could have written those words yesterday -- not four years ago.

My deep concern about what is taking place has not diminished, except that today I am encouraged by the number of provincial premiers, and the increasing number of Canadians from all parts of Canada, who have serious doubts about the merits for Canada of Prime Minister Trudeau's constitutional proposals.

Even without the confirmation of the recent Gallop Poll, it has been apparent for some time that growing numbers of Canadians are opposed, not only to the unilateral process of constitutional change, but also deeply concerned about the content, and the substance, of the fundamental and far-reaching amendments which the government intends to ask the British Parliament to make to our Constitution.

Our tradition as Canadians has taught us to believe in the supremacy of democratically elected Parliaments and Legislatures, and not in the supremacy of written Constitutions.

We believe that in future years, Prime Minister Trudeau's proposed Constitution, with its rigid and inflexible amending procedure, could become a 'dictatorship of words' over-ruling the parliamentary system that has for centuries guaranteed our freedom.

The essential weakness of written constitutions is that they are inflexible. The courts that interpret a constitution must look at what the constitution says, and not at the political and social reality of the times in which the judgment is being made.

Your Committee, composed of Members of the House of Commons and Members of the Senate, knows better than anyone else that Parliament responds to social and political realities. Parliament responds to human needs in a way that a court can never do, because a court is not being directed by human needs but by the dead hand of a written constitution.

I ask you, why are we today trying to lock up Canada's future in a written constitution? Why do we in this generation, in this day, in this brief span of Canada's history, believe that we have the answer for all time?

With Canada's future generations in mind, my warning to all Canadians continues to be: Do not give up the flexibility of statutory law for the inflexibility of constitutional law. Do not give up the supremacy of a democratically elected Parliament in exchange for the supremacy of a written Constitution.

Mr. Chairman, your Committee has had many representations about the amending procedure so I will limit my remarks, except to say that I was opposed to the Victoria amending formula now set out in Section 41 of the proposed resolution, from the very first day I saw it, which was when it first came to Cabinet 10 years ago, before the Victoria Conference of 1971.

It wasn't until I had resigned from the Cabinet in October 1976 that I expressed my opposition publicly. In my letter of resignation to the Prime Minister, and in my statement issued the same day -- more than four years ago -- I said:

"I believe it is wrong for two provinces, Ontario and Quebec, to each be given a perpetual veto over changes in the Canadian Constitution. This is the most obvious kind of discrimination, because it creates for all time two classes of provinces -- 'first-class' provinces that have a veto, and 'second-class' provinces that do not have a veto.

"How can we say that we believe in equality when two provinces are each to have a veto in perpetuity, regardless of the size of their future population relative to the other provinces?"

"In Western Canada and in the Atlantic Provinces there is a widespread impression, whether true or not, that Ontario and Quebec 'run the country'. We must not confirm that impression for all time, not only to ourselves, but also to the whole world, by giving Ontario and Quebec each a perpetual veto over changes in the Canadian Constitution."

We hope that your Committee will recommend to Parliament that Section 41 of the proposed resolution be re-written to provide an amending procedure that treats all Canadians as equals, and that enables Canadians, when amending their Constitution, to express the national will.

Although we still have some reservations about the 'opting-out' provisions, we think that the Vancouver amending formula, requiring the approval of Parliament and seven provinces containing 50% of the population of Canada, is the best possible formula for amending our Constitution when it is finally here in Canada.

Throughout all that I wish to say today, I want to make it clear that I believe I am as aware as anyone of the very great contribution made to Canada by Canadians of French origin. My purpose and my hope is to recognize that contribution, together with the contributions made by all Canadians, to the building of a united Canada.

Mr. Chairman, we should all remember that the whole process of constitutional review was started because we were told that it was necessary in order to achieve national unity. We have to ask ourselves what we have been doing, or what we have been doing wrong, because the country is now much more deeply divided than when the constitutional process began.

We started out on constitutional reform because it was said that Quebecers were not happy in Canada -- now no one seems happy in Canada!

Quebec is still unhappy,
The Native People are frustrated,
Newfoundland is enraged,
Ontario is bewildered,
Alberta is furious,
And the whole West is fighting mad!

Why are so many Canadians angry? I believe that one main reason is because the Government is planning to ask the

British Parliament to make fundamental and far-reaching amendments to the Canadian Constitution without adequate consultation, to say nothing about the approval, of the Canadian public.

Canadians are angry because these amendments could never be made in Canada using any of the proposed new amending procedures.

The fact that amendments contained in the proposed resolution could never be made in Canada was confirmed recently by Prime Minister Trudeau when he was speaking in Quebec City on October 22nd. On that occasion he said:

"Speaking to you ... as a Quebecer, I can safely say that if we do not today entrench fundamental language rights in education, and in other fields, in the Constitution, those rights will never become part of our Constitution. I know this because several provincial premiers have told me so, and have asked that these measures be imposed on the provinces because the necessary legislation could never be passed in provinces with small Francophone minorities ... "

On that same occasion the Prime Minister had other revealing things to say. At a time when this Committee, and the whole nation, are trying to determine the merits of

enshrining human rights in our Constitution, it is fascinating to learn from the Prime Minister why the whole package of fundamental rights was included in the proposed resolution in the first place. This is what Mr. Trudeau said to his Quebec City audience:

"I'll tell you something else; we also wanted to entrench language rights; unfortunately, I think it's true that, if we had done so, we would have seen certain people in the country fighting the project saying, 'there goes that French power government again, which only wants to help and protect Francophones'. It was to broaden the debate that we wanted to entrench fundamental rights.

"We knew that neither Mr. Levesque nor Mr. Ryan would oppose the substance of the move, and they didn't, and that the other provinces would be more likely to support the substance of bilingualism if they had fundamental rights protecting them in the fields of non-discrimination, democratic liberties and so on. That was our thinking on the subject."

It would appear from what Mr. Trudeau says that fundamental human rights were included in the proposed resolution as a kind of decoy to attract attention away from language rights, and to gain support for what the Prime Minister calls "the substance of bilingualism".

Again, on the same occasion, while speaking about entrenching the Official Languages Act in the Constitution, Mr. Trudeau asked his Quebec City audience this question:

"Do you know that the Bill before the House proposes entrenchment of the essential part of our Act on bilingualism?"

And he went on to say:

"We want to entrench in the Constitution, since Quebec will have a veto, the fact that this country will be bilingual from sea to sea."

After reading the Prime Minister's Quebec City speech it is necessary for all of us to ask -- Is the proposed Constitution trying to protect minority language rights, or is it trying to create a bilingual country from sea to sea?

If we are trying to protect minority language rights there will be general approval and, I would hope, very little opposition. But if we are trying to create, in Prime Minister Trudeau's words, "a bilingual country from sea to sea", reaction of most Canadians will be quite different.

In this respect I would like to ask the Committee and the Canadian public to consider carefully the wording of Section 16(1) of the proposed resolution. It says, as you know,

that French and English are to have "equality of status and equal rights and privileges as to their use in all institutions of the Parliament and Government of Canada."

When your Committee comes to Section 16(1) in your clause by clause examination of the resolution, I hope you will give full consideration to the meaning of the words "all institutions". There are more than 400 major Federal Government institutions operating in all parts of Canada and employing, when the Armed Forces are included, more than 600,000 men and women. When considering this matter it is vital for us to realize that a country expresses itself to the world and, in a very significant way, identifies itself at home, through its institutions. If Canada's institutions are bilingual under its Constitution, Canada is bilingual under its Constitution. This means there are serious questions that all Canadians must now be asked to answer.

Is Section 16(1) really what you wish to say in your new Constitution?

Have you really been consulted and informed about this most fundamental and far-reaching amendment to your Constitution?

Is there anything close to a consensus confirming that you want Canada to become a bilingual country under its fundamental law?

Until these questions have been thought about and answered in the affirmative by Canadians from coast to coast, Section 16(1) should not be entrenched in Canada's Constitution.

Mr. Chairman, my purpose in being here today is to add my voice and the voices of more than 30,000 members of Canadians for One Canada, to the countless numbers of Canadians who are asking your Committee to recommend to Parliament that the Canadian Constitution be patriated without amendment. I repeat - without amendment - other than the inclusion of an amending procedure that treats all Canadians equally, and which enables Canadians to express the national will.

When that is done, we can then continue, here in Canada, to negotiate the substance of our future together. I believe that we will continue to be one country, and that it will be a great country.

To conclude, let me describe the kind of Canada we believe in -- the kind of Canada that we are for.

- We are for the supremacy of Parliament.
- We are for One Canada, built on the Grand Design set out by the Fathers of Confederation.
- We are for a nation where minorities, large and small, are respected and their rights protected.
- We are for a nation that is united around its majority, and around the unifying symbol of its flag.
- We respect diversity and duality, but we know that if we enshrine diversity and duality in our nation's constitution, we do so at our nation's peril.

Our Constitution should be an inspiring document, reflecting the reality of Canada and expressing our pride in being Canadian.

Our Constitution must enshrine our unity.

It must enshrine our vision of a Great Northern Nation.

It must enshrine our vision of a Great Northern People, who call themselves The Canadians.