

BRIEF

SUBMITTED BY
THE EMPLOYERS' COUNCIL OF BRITISH COLUMBIA, VANCOUVER, B. C.

TO
THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND OF THE HOUSE OF COMMONS APPOINTED TO

CONSIDER

"THE PROPOSED RESOLUTION FOR A JOINT ADDRESS TO HER MAJESTY
THE QUEEN RESPECTING THE CONSTITUTION OF CANADA"

NOVEMBER 1980

The Employers' Council of British Columbia is an organization composed of small and large businesses as well as industrial associations. No organization can ever hope to achieve unanimity among its members on important issues, because of the great diversity of their views. However, this document was approved by the majority of the members of the Board of Directors and is an adequate summary of the various view points submitted. However, some members objected strongly to the position adopted in this document.

However, there is one point on which we all agree. Indeed, we feel that it would be a parody of the very essence of our democratic system if the House of Commons or the Senate were forced to make a decision at any stage of the constitutional debate.

Since the proposals on the Constitution submitted to Parliament constitute the very basis of all relations between the various levels of government and concern every Canadian, they go beyond party politics. Therefore, it would be most desirable if every Member of Parliament were allowed to vote freely on this issue, that is solely according to his conscience and irrespective of his political affiliation.

The unilateral action of the Federal government which tabled the resolution in the House of Commons without the unanimous support of the provinces is obviously not the best way of settling an issue that is as determining for the future of our country as its Constitution. However, we are of the opinion that the federal government has adopted the most practical way of looking for a solution to a very ticklish problem that successive governments have been grappling with for 53 years. Therefore,

it is with great reluctance that we recognize that, if this issue is not to be postponed indefinitely, there is no other solution but to patriate the Constitution unilaterally.

Indeed, it would be unacceptable to go on postponing this issue indefinitely, because Canadians in general, and Canadian businessmen in particular, want to have the Constitution patriated. In that regard, there is not much dissent. The Employers' Council of British Columbia supports the resolution for patriation.

Any resolution submitted to the Parliament of Great Britain for the patriation of our Constitution should contain a minimum of points on which the provinces and the federal government do not agree. Any unessential point on which there is a difference of opinion should be excluded from the resolution. The Charter of Human Rights is a case in point.

We think that it will eventually become necessary to consider the integration of a Charter of Human Rights in the Canadian Constitution, but that is not up to the Parliament of Great Britain to determine the nature of that Charter and especially not at a time when, obviously, there is still no consensus on its content in Canada. Therefore, we recommend that this section of the resolution be dropped for the time being.

In its present written form, the Charter of Human Rights guarantees Canadians their right to unimpeded mobility. But we should also obtain the necessary guarantees with regard to the capital owned by Canadians and the services and goods they produce. A charter which does not provide the necessary rights ensuring free movement of capital, goods and services as

well as individuals, would not receive our support. Indeed, were it only for reasons of health and security, capital, goods, services and individuals must be allowed to move freely within the country and not be subjected to any duties, restrictions on volume or any other such measures.

A resolution for the patriation of the Constitution should include a formula for future amendments. Without such an amending formula, we run a definite risk of finding ourselves in a blind alley. We prefer the "Vancouver formula" rather than the amended "Victoria formula", because the former provides better protection to provinces like ours. Furthermore, an agreement on the main features of the "Vancouver formula" seems to have been reached during the recent meetings on the Constitution. But we note that there is one section which provides that eight provinces, representing together 80 per cent of the population of the country, could submit another amending formula to the Federal Government within two years. A national referendum would then be held to determine which formula should be adopted. In the meantime (for the next two years), any amendment of the Constitution would require the unanimous consent of the provinces. Under the present circumstances, we feel that this is the most practical and adequate way of proceeding.