

OPENING STATEMENT FOR THE HONOURABLE JOHN M. BUCHANAN,
Q.C., M.L.A., PREMIER OF NOVA SCOTIA TO THE HOUSE OF
COMMONS SENATE JOINT COMMITTEE ON DECEMBER 2, 1980.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE,

I AM HERE TODAY TO TALK ABOUT CANADA. I AM HERE REPRESENTING NOVA SCOTIA IN A CONSTRUCTIVE SPIRIT PURSUING A COURSE OF MODERATION. I SINCERELY HOPE THAT IN THE DAYS AHEAD I WILL FIND IN OTHERS A SIMILARLY CONCILIATORY ATTITUDE WHICH WILL ENABLE NOVA SCOTIA TO STAY OUT OF THE COURTS.

MR. CHAIRMAN, WE NOVA SCOTIANS BELIEVE THAT WE HAVE A SPECIAL STAKE AND A SPECIAL RESPONSIBILITY IN WHAT IS HAPPENING TO CANADIAN FEDERALISM AT THE PRESENT TIME, APART FROM OUR NATIVE PEOPLES WE ARE FIRST AMONG CANADIANS, AND, MR. CHAIRMAN, WE WERE ONE OF THE FOUR ORIGINAL PROVINCES IN THE FEDERATION OF 1867 AND WE BROUGHT TO THAT FEDERATION A GREAT DEAL -- A GREAT DEAL OF HISTORY, OF LAW, OF GOVERNMENT, OF PURPOSE AND NOT LEAST OF ALL, WE BROUGHT TO THE UNION OF 1867 OUR COMMITMENT TO SERVE IN A CONSTRUCTIVE WAY IN THE NEW FEDERAL STATE THAT HAD BEEN CREATED.

WE FEEL THAT WE HAVE SPECIAL RESPONSIBILITIES TO PRESERVE AND TO PROTECT THE UNDERSTANDING OF 1867.

NOW WHAT IS THAT UNDERSTANDING? IT WAS AN UNDERSTANDING THAT CANADA WAS TO BE A FEDERATION--A FEDERAL STATE.

TO THE END THAT OUR UNDERSTANDING OF WHAT WE ARE TALKING ABOUT AT THIS TIME MAY BE ACCURATE, IT WOULD PERHAPS BE USEFUL TO GO BACK TO BEGINNINGS.

THE WORD FEDERALISM DERIVES FROM THE LATIN WORD FOEDUS WHICH IS DEFINED AS A LEAGUE BETWEEN STATES, A COMPACT, COVENANT OR AGREEMENT. THE SHORTER OXFORD DICTIONARY DEFINES THE VERB FEDERATE AS, "TO ENTER INTO A LEAGUE FOR A COMMON OBJECT, TO ORGANIZE ON A FEDERAL BASIS". FEDERAL ITSELF IS DEFINED AS, "OF OR PERTAINING TO A COVENANT, COMPACT OR TREATY". IT THUS APPEARS THAT THE TERMS FEDERALISM, FEDERATE AND FEDERAL INVOLVE THE CONCEPT OF A POLITICAL ARRANGEMENT IN WHICH SOME SORT OF AGREEMENT IS IMPLIED.

A REVIEW OF HISTORICAL FEDERATIONS SHOWS THAT THEY INVARIABLY CAME INTO BEING BY MEANS OF A CONTRACT OR AGREEMENT.

IT IS CLEAR, AS SENATOR EUGENE FORSEY HAS SAID, THAT THE CHARLOTTETOWN AND QUEBEC NEGOTIATIONS WHICH RESULTED IN THE BRITISH NORTH AMERICA ACT, CONSISTED OF VERY WELL INFORMED AND EXTREMELY INTELLIGENT NEGOTIATIONS BY THE COLONIAL AND PROVINCIAL LEADERS OF BRITISH NORTH AMERICA.

SENATOR FORSEY DECLARES THAT THE BRITISH NORTH AMERICA ACT "IS NEARLY 100 PER CENT HOMEMADE. IT WAS DESIGNED BY CONFERENCES IN CHARLOTTETOWN, QUEBEC AND LONDON, MADE UP WHOLLY OF BRITISH NORTH AMERICANS."

SENATOR FORSEY'S POINT IS, OF COURSE, THAT THE BRITISH NORTH AMERICA ACT IS ESSENTIALLY A PRODUCT OF BRITISH NORTH AMERICAN POLITICAL EXPERIENCE AND THE INVENTIVENESS AND CONSTRUCTIVE IMAGINATION OF BRITISH NORTH AMERICAN POLITICAL LEADERS. THE BRITISH NORTH AMERICA ACT EMBODIES AN INTENTION OF THE BRITISH NORTH AMERICAN COLONIES TO JOIN TOGETHER FOR COMMON PURPOSES, THE IDEAS, THE UNDERSTANDINGS AND THE AGREEMENTS EMBODIED IN THE ACT BY ITS BRITISH LEGISLATIVE DRAFTSMAN WAS THE WORK OF BRITISH NORTH AMERICANS.

THAT THE MARITIMERS, THE NOVA SCOTIANS ESPECIALLY, WERE PARTIES TO THESE NEGOTIATIONS AND TO THAT AGREEMENT-- THE AGREEMENT THAT WAS MADE AND CONFIRMED BY THE IMPERIAL STATUTE OF 1867, IS A MATTER OF SOBER HISTORICAL FACT, AND FROM IT, NOVA SCOTIANS UNDERSTOOD THAT THEY WERE PARTNERS IN A NEW POLITICAL PROCESS WHICH THEY HAD ASSISTED IN CREATING--AND IN WHICH A NEW PROCESS OF GOVERNMENT WAS ESTABLISHED: THE GOVERNMENT OF THE DOMINION OF CANADA--THE GENERAL GOVERNMENT OF CANADA-- WHICH HAD ASSIGNED TO IT SPECIFIC RESPONSIBILITIES UNDER THE BRITISH NORTH AMERICA ACT.

THE BRITISH NORTH AMERICA ACT MAY FAIRLY BE SAID TO HAVE EMBODIED AT THAT TIME THE UNDERSTANDING OF THE COLONIES AND PROVINCES INVOLVED OF WHAT THE AGREEMENT OF FEDERATION WAS TO BE. IT WAS--AS ALL FEDERATIONS IN THE MODERN AGE HAVE BEEN--AN AGREEMENT NOT BETWEEN PEOPLE PER SE, BUT AN AGREEMENT BETWEEN GOVERNMENTS TO EMBARK UPON A COMMON PROJECT OF GOVERNMENT AND IN THE PROCESS, TO CREATE THIS COMMON ORGAN OF GOVERNMENT TO BE KNOWN AS THE DOMINION GOVERNMENT. WE DO NOT SUGGEST THAT THE DOMINION GOVERNMENT THUS CREATED WAS THE SERVANT OF THE PROVINCES, BUT IT IS CLEAR THAT THE BRITISH NORTH AMERICA ACT CREATED A NEW POLITICAL COMMUNITY WITH A SPECIFIC AND LIMITED AREA OF JURISDICTION.

NOTHING IS PERFECT AND IF THESE ARRANGEMENTS NO LONGER MEET THE NEEDS OF THE LATTER PART OF THE 20TH CENTURY, THEN LET US HAVE CHANGE.

BUT MR. CHAIRMAN, LET US HAVE CHANGE IN ACCORDANCE WITH THE SPIRIT IN WHICH OUR CONSTITUTIONAL ARRANGEMENTS WERE ORIGINALLY PROMULGATED, THAT IS, WITH THE PARTICIPATION OF THE GOVERNMENTS WHICH FOUNDED THIS FEDERATION.

WE MUST ACCEPT THAT IN THIS, AS IN ALL FEDERAL SYSTEMS, EVERY CITIZEN BELONGS TO TWO COMMUNITIES--THE PROVINCE AND WHAT WE HAVE HISTORICALLY IDENTIFIED AS THE DOMINION.

IT FURTHER FOLLOWS THAT THESE TWO COMMUNITIES SHOULD BE CLEARLY DISTINGUISHED AND EFFECTIVELY PROVIDED WITH THEIR OWN GOVERNMENTS, EACH WITH CLEARLY DEFINED AREAS OF AUTONOMY. NEITHER SHOULD BE SUPERIOR NOR INFERIOR TO THE OTHER. THEY HAVE CO-ORDINATE DUTIES TO PERFORM AND THEY EXIST BY VIRTUE OF AN AGREEMENT OF GOVERNMENTS THAT NEITHER PROVIDED NOR CONTEMPLATED THE POSSIBILITY THAT EITHER WOULD ASSUME A UNILATERAL RIGHT TO ALTER THE TERMS OF THE AGREEMENT AND TO INVADE THE AUTONOMY OF THE OTHER.

IT MAY BE, INDEED, THAT CHANGE IS NEEDED, BUT IT IS A CHANGE THAT CAN ONLY PROPERLY BE ACHIEVED BY MUTUAL AGREEMENT OF THE PARTICIPANTS IN THE PROCESS OF FEDERALISM.

NOVA SCOTIA SUPPORTS THE PATRIATION OF THE CANADIAN CONSTITUTION AT THE EARLIEST CONVENIENT TIME. THERE HAS NEVER BEEN ANY QUESTION ABOUT OUR POSITION ON THIS BASIC PRINCIPLE. IT IS A POSITION WE HAVE MAINTAINED AT ALL CONSTITUTIONAL GATHERINGS SINCE NOVEMBER OF 1978. HOWEVER, WE BELIEVE THAT PATRIATION SHOULD BE SIMPLE AND STRAIGHTFORWARD: A REPEAL OF SECTION 7(1) OF THE STATUTE OF WESTMINSTER WITH AN AMENDING FORMULA WHICH IS AGREEABLE TO THE PROVINCIAL GOVERNMENTS AND THE GOVERNMENT OF CANADA.

AS FAR AS NOVA SCOTIA IS CONCERNED WE HAVE ALREADY INDICATED THAT WE ARE PREPARED TO ACCEPT EITHER THE VICTORIA FORMULA OR THE VANCOUVER CONSENSUS AND DID AGREE TO THE VANCOUVER CONSENSUS AT THE FEDERAL-PROVINCIAL CONFERENCE IN SEPTEMBER AS DID ALL PROVINCES. ALTHOUGH NOVA SCOTIA IS PREPARED TO ACCEPT THE VANCOUVER CONSENSUS, THE POINT NEEDS TO BE MADE THAT WE OBJECT TO THE GOVERNMENT OF CANADA ATTEMPTING TO UNILATERALLY IMPOSE IT UPON THE PROVINCES.

WHILE WE ARE SOMEWHAT FLEXIBLE ON THE QUESTION OF THE AMENDING FORMULA WE ARE UNSHAKEABLE IN OUR BELIEF THAT ANY ALTERATIONS TO THE CANADIAN CONSTITUTION BEYOND PATRIATION WITH AN AMENDING FORMULA SHOULD AND MUST BE DONE BY CANADIANS HERE IN CANADA.

OUR POSITION, IN ESSENCE THEN, WOULD BE TO SEEK A RENUNCIATION BY THE UNITED KINGDOM OF ITS AUTHORITY OVER OUR CONSTITUTION AND TO ENABLE US TO GET TO WORK ON IT HERE IN CANADA.

THE GOVERNMENT OF CANADA, HOWEVER, DOES NOT SEEM TO TAKE THIS VIEW BECAUSE THEY SEEK TO HAVE THE BRITISH PARLIAMENT MAKE SIGNIFICANT ADDITIONS TO OUR CONSTITUTION. WESTMINSTER HAS NO BUSINESS DOING THAT AND WE HAVE NO BUSINESS ASKING THEM TO DO IT. IN FACT, THE GOVERNMENT OF CANADA'S ASKING THEM TO ACT IN THAT WAY CONSTITUTES AN INTRUSION AND AN IMPOSITION.

FURTHER, NOVA SCOTIA BELIEVES THAT THE GOVERNMENT OF CANADA IS ASKING THE UNITED KINGDOM PARLIAMENT TO ENACT LEGISLATION WHICH WOULD, IN EFFECT, ALTER THE RELATIONSHIPS BETWEEN THE FEDERAL AND PROVINCIAL GOVERNMENTS WITHOUT THEIR PARTICIPATION AND CONSENT, THIS IS NOT ONLY IN VIOLATION OF CONVENTION BUT ALSO OF THE FOURTH GENERAL PRINCIPLE ENUNCIATED BY THE HONOURABLE GUY FAVREAU IN THE GOVERNMENT OF CANADA'S PUBLICATION OF 1965, "THE AMENDMENT OF THE CONSTITUTION OF CANADA" WHICH IS THAT:

"THE CANADIAN PARLIAMENT WILL NOT REQUEST AN AMENDMENT DIRECTLY AFFECTING FEDERAL/PROVINCIAL RELATIONSHIPS WITHOUT PRIOR CONSULTATION AND AGREEMENT WITH THE PROVINCES."

IT IS INTERESTING TO NOTE THAT THIS PRINCIPLE WAS ONE WITH WHICH THE RIGHT HONOURABLE LOUIS ST. LAURENT QUITE CLEARLY AGREED WHEN HE SAID AT THE FEDERAL-PROVINCIAL CONSTITUTIONAL CONFERENCE OF JANUARY 1950:

"PARLIAMENT COULD NOT TAKE FROM THE LEGISLATURES WITHOUT THEIR PARTICIPATION SOMETHING OVER WHICH THE ACT OF 1867 HAD GIVEN THEM JURISDICTION".

WE FURTHER OBJECT, MR. CHAIRMAN, TO THE PROVISIONS FOR CONSTITUTIONAL AMENDMENTS BY REFERENDA TO BE HELD APPARENTLY ONLY ON THE GOVERNMENT OF CANADA'S INITIATIVE, AT THEIR TIMING, UNDER THEIR RULES AND ALWAYS WITH THEIR PROPOSITION ON ANY BALLOT. WE NOTE WITH SOME ALARM THAT THE REFERENDUM PROVISIONS MAY EVEN BE APPLIED TO CHANGE THE AMENDING FORMULA ITSELF.

IT IS CLEAR THAT THE INCLUSION OF REFERENDUM PROVISIONS AND THE CHARTER OF RIGHTS IS LEADING TO AN INCREASING DISUNITY THROUGHOUT CANADA. THE PROPOSITION THAT THE GOVERNMENT OF CANADA SHOULD BE ABLE TO GO OVER THE HEADS OF THE PROVINCES WITH REFERENDA IS ONE WHICH STRIKES AT THE VERY HEART OF THE CANADIAN CONFEDERATION, IS INCOMPATIBLE WITH PARLIAMENTARY DEMOCRACY, AND WAS NOT CONTEMPLATED WHEN THE FEDERATION WAS FORMED IN 1867.

SOME PERSONS HAVE SUGGESTED THAT THOSE WHO ARE NOT PREPARED TO SUPPORT THE PROPOSALS OF THE GOVERNMENT OF CANADA IN THIS RESPECT ARE WEAK IN THEIR SUPPORT OF CANADIAN INDEPENDENCE AND STAND OPPOSED TO CONFIRMING OUR NATION'S SOVEREIGNTY.

NOVA SCOTIA VERY STRONGLY RESENTS SUCH SUGGESTIONS. IN FACT, MR. CHAIRMAN, WE BELIEVE IT IS ARGUABLE AND PROBABLY DEMONSTRABLE THAT BY ASKING WESTMINSTER TO ENACT MEASURES WHICH COULD NOT BE LEGALLY ENACTED BY THE PARLIAMENT OF CANADA ALONE, THEY ARE ACTUALLY INVITING THE UNITED KINGDOM TO EXERCISE A JURISDICTION OVER US WHICH IS INCONSISTENT WITH OUR STATUS AS A SOVEREIGN NATION,

LET THERE BE NO MISTAKE ABOUT IT: THE GOVERNMENT OF CANADA'S PROPOSALS DO NOT CONSTITUTE SOME MINOR AMENDMENTS OR ALTERATION TO THE BRITISH NORTH AMERICA ACT--THEY ARE SUBSTANTIAL ADDITIONS TO IT AND IN EFFECT, WOULD LODGE FURTHER CANADIAN DOMESTIC LEGISLATION AT WESTMINSTER.

AT THE FIRST MINISTER'S CONFERENCE IN SEPTEMBER, I WAS IMPRESSED BY THE MEASURE OF GOODWILL AND SPIRIT OF COMPROMISE THAT I WITNESSED AT THAT TIME. I SAID THEN THAT I BELIEVED AGREEMENT WAS POSSIBLE ON A VARIETY OF IMPORTANT MATTERS IF THE WILL TO SUCCEED EXISTED AND IF

WE WERE PREPARED TO CONTINUE NEGOTIATIONS. LET ME SAY THAT I BELIEVE PREMIER MACLEAN DID YOUR COMMITTEE A SERVICE WHEN, IN APPEARING BEFORE YOU, HE OUTLINED THE EXTENT TO WHICH AGREEMENT WAS ACTUALLY REACHED IN A NUMBER OF AREAS, SINCE A GREATER MEASURE OF AGREEMENT WAS ACHIEVED AT THAT CONFERENCE THAN HAD HITHERTO BEEN THE CASE, OPTIMISTS LIKE NOVA SCOTIA SEE THAT AS AN ENCOURAGEMENT TO CONTINUE NOT A REASON TO SURRENDER.

I BELIEVE WE WILL BE ABLE TO SIT DOWN, TO RESPOND TO THE NEEDS OF CANADIANS, AND TO AGREE TO CHANGES WHICH WILL BE IN KEEPING WITH DEMANDS OF THE FUTURE. I BELIEVE WE CAN WORK TOGETHER AND WE CAN DO IT TOGETHER AS CANADIANS ACTING IN CONCERT.

THAT IS NOT TO SAY THAT THERE WILL NOT BE DIFFERENCES OF OPINION, NOR IS IT TO SUGGEST THAT THESE SOLUTIONS WILL BE EASILY AND QUICKLY ARRIVED AT, BUT WE OWE IT TO THE CITIZENS OF THIS COUNTRY TO GIVE IT OUR BEST EFFORT AND TO TRY A LOT HARDER THAN WE HAVE TO DATE.

WE ALSO OWE IT TO CANADIANS TO MAKE SURE THAT OUR ATTEMPTS TO RESOLVE OUR DIFFERENCES ARE DONE BY OURSELVES IN OUR OWN COUNTRY. IF WE DO NOT, THEN WE HAVE NO RIGHT TO CALL OURSELVES A NATION.

SO I SAY THE CONFERENCE PROCESS SHOULD BE RESUMED AS SOON AS POSSIBLE AND THAT WHILE NEGOTIATIONS PROCEED UNILATERAL MOVES BY THE GOVERNMENT OF CANADA SHOULD BE HELD IN ABEYANCE.

NOVA SCOTIA IS CONFIDENT THAT FURTHER PROGRESS CAN BE MADE. LET US REFRAIN FROM RUNNING TO LONDON TO MAKE OUR DECISIONS FOR US BUT INSTEAD BRING THE CONSTITUTION HOME AND GET TO WORK ON IT RIGHT HERE IN CANADA. ON BEHALF OF THE CITIZENS OF MY PROVINCE, I AM PREPARED TO ACCEPT THAT CHALLENGE, AND I THINK THE OTHER PROVINCES ARE SIMILARLY WILLING. THE GOVERNMENT OF CANADA SHOULD ALSO BE READY TO MEET THAT CHALLENGE.

IN CONCLUSION, MR. CHAIRMAN, LET ME SAY THAT I BELIEVE THAT YOUR COMMITTEE IS NO ORDINARY ONE. YOUR COMMITTEE IS CHARGED WITH A SERIOUS RESPONSIBILITY OF PROTECTING THE INTERESTS OF CANADIANS BOTH PRESENT AND FUTURE. TO MANY CANADIANS YOUR COMMITTEE IS SEEN AS THE LAST AND ONLY HOPE TO PREVENT SOMETHING FROM HAPPENING WHICH THEY BELIEVE MAY WELL DESTROY OUR COUNTRY.

THE UNITY OF CANADA IS VITAL BUT THE FUTURE OF THAT UNITY IS AT STAKE. I APPEAL TO YOU TODAY TO DO EVERYTHING WITHIN YOUR POWER TO SEE TO IT THAT WE RESPOND TO THE DEMANDS OF CANADIANS THAT WE WORK WITH ONE ANOTHER NOT AGAINST ONE ANOTHER, AND NOT ALLOW THERE TO BE PLANTED IN OUR SOIL THE SEEDS OF THE DESTRUCTION OF THIS NATION.

MR. CHAIRMAN, MEMBERS, I THANK YOU FOR YOUR KIND ATTENTION.