

June 30, 1981

LS: Mr. Manning, what I'd like to do today is talk about current events that are happening in our country. We last met in November of 1980, and there have certainly been interesting developments since that time. But I'd like to go back just a little earlier than that.

In June of 1980 you made a speech to the Financial Executives Institute in Toronto. I think that speech contained some important points that I'd like to expand upon this morning.

In that speech you listed four major national problems of that time. I'm interested in two things: (1) Where we stand with those national problems today, a year later. (2) Are there any new major things that have impacted on us as a country in the last year?

ECM: The four points that I raised at that Conference as being the major national problems were (1) inflation, (2) the pyramiding budgetary deficits, (3) the pyramiding balance of payments situation, and (4) the finding of an acceptable form of new federalism.

Since that time, very little of significance has happened as far as a solution to any of those problems is concerned. Inflation has continued, in fact is worse now than it was at that time. The budgetary deficits are pyramiding faster today than they were at that time. (This year alone they have taken authority to borrow another \$14 billion, which is a staggering amount for a country of our population and productivity.) Our balance of payments problem is getting more serious all the time as we are importing more and more, particularly of higher priced oil (totally unnecessarily, I might add). And in the matter of an acceptable federalism: this led into a whole series of Federal-Provincial conferences, and the breakdown then was followed by the Prime Minister embarking on the development of his own constitutional package, which at the present time is before the Supreme Court to rule on its constitutional validity.

So we haven't resolved inflation - it's worse rather than better. The same is true of budgetary deficits. The same is true of balance of payments. And I would have to say, we are no nearer to an **acceptable** form of Federalism than we were then. We are near perhaps to having a new Constitution forced on the country, against the will of a very large segment of the Canadian people, but I wouldn't refer to that as an acceptable form of Federalism.

LS: If we are in a worsening state a year later, what are your predictions; what are your feelings about how we can handle these as a country?

ECM: I wish I knew the positive answer to that. I regard the situation as extremely serious, particularly because with each passing month it's getting worse in many respects rather than getting better. It's one thing to have a static situation which you perhaps feel you can live with. It's ideal if the situation is improving, and you can see some light at the end of the tunnel.

It becomes most disturbing when you not only can't see the situation getting better, but there are so many factors that seem to be making it worse. Quite frankly, I don't know where this thing is going to end, if it goes on the way it is today.

If I could just refer quickly to those points that we mentioned. In this matter of inflation there is a growing body of conviction in Canada (and in other places for that matter) that the traditional method of trying to fight inflation by high interest rates simply is not working. We've lived with these high interest rates for a long time, with no indication of inflation coming down - in fact, it's gone up. The orthodox financial people that are convinced that this is the only way to control inflation keep saying, "Just wait a little longer, and it's going to bite sooner or later and come down."

But they've been saying that now for three years, without any signs of that happening, and in the meantime the disturbing thing is the terrible toll that this is exacting from the Canadian people. People today can't afford

to buy homes; young people can't afford to start up in business. The cost of money is absolutely prohibitive. It's putting scores - hundreds - of small businesses into bankruptcy. They can't continue to finance at 20% plus for their operating credit.

So to my mind, the thing that those responsible should be addressing today is to develop other methods for the curbing of inflation besides just relying on this tight money philosophy which simply is not working.

Now, I'm digressing a little, but it's rather interesting in my view that in the United States today, under the new Reagan Government, while they're still holding to high interest rates as one of their main weapons in the control of inflation, they are launching out into a lot of (according to some at least) almost experimental efforts to come to grips with this problem. They're slashing taxes at a time when they're still faced with budget deficits. But it's rather interesting that already that seems to be having at least a psychological effect on the American people. There's an optimism and a bouyancy that's come back into their business community, that was totally lacking before. And that already is beginning to reflect in improving productivity, and certainly their inflation rate is dropping quite significantly.

Remember that one of the serious factors in creating inflation today is the expectations of people. Everybody expects that everything's going to be higher tomorrow, and so they build into their price structure, their wage demands, and every expenditure in anticipation of inflation, so it becomes a self-fulfilling prophecy. If you can change that psychology so that people have some reason to believe that this thing is tapering off and inflationary rates are going to drop, it has a very, very significant effect. I believe this is happening in the United States today.

What the Reagan Government is doing there, in my view, is a breath of fresh air in the whole business and financial community, and in the economy of North America.

LS: What about the social aspects of his program? How do you feel about those?

ECM: It's hard to assess that from a distance, because we're fed all the newspaper propaganda. Most of the media of course is socialistically oriented so anything that touches what they regard as a social program they scream that this is going to hurt somebody. From anything I've been able to find (and I do spend a lot of time in the United States and I talk to a lot of people there), while certainly there will be some people hurt, I'm quite convinced that the cuts they are making, in the great majority of cases, are not going to hurt anybody. You've got so many freeloaders who have been cashing in on the social welfare programs for years down there (as in Canada).

What Reagan is saying is, "Look, we're prepared to do everything that needs to be done to care for people who for one reason or another can't care for themselves. But we're not going to ask the taxpayers to provide a free ride for a lot of people that can well afford to do it for themselves."

Now, those people are going to scream. They're going to say they are being persecuted. But I think the Reagan people are realistic enough to know that a great many of the screams are just somebody having their special interest taken away from them and they don't like it. I don't agree at all with those who say that they're callous and indifferent to the poor and the needy, because any of the people that I know who have the slightest association with the Reagan people in the States are socially conscious and are determined that they're not going to do something that's going to cause affliction and hardship.

As I say, you can't make these drastic changes, especially in a nation with 220 million people, without somebody getting hurt, surely. But I think that's very insignificant compared with coming to grips with what is so long overdue in this country as well as in the States - the pyramiding costs of a whole proliferation of so-called social services, many of which are the brainchild of some bureaucrat who decided this was what the people needed, rather than the people deciding it themselves.

LS: Will Reagan's economic policies impact on Canada? And, will Canada pick up and institute some of the same things? Do you have any indication of that?

ECM: I think it's certain that the trends in the economy in the United States are going to affect the economy in Canada. That's inevitable because of the close ties between the two countries. They're our largest trading partner. So if they can bring their inflation rates down and if they can improve their economy, it's going to work to our advantage.

As far as Canada doing anything to come to grips with the pyramiding government costs, as Reagan is doing, I can see absolutely no hope of that under the Trudeau Government. They're anti- everything that Reagan stands for.

LS: In the fields of inflation, budgetary deficits, balance-of-payments deficits, do you have some specific ideas about what should be done in the country? What **could** we do? What is possible?

ECM: Well, let me pick out one that's easiest to answer. I think the balance of payments situation could very definitely be taken care of. The biggest single factor in our adverse balance of payments situation is importation of high-cost oil. The volume is going to increase, that is the dollar volume, because while the price of oil is stabilized now, in the long run I think everybody agrees it's going up.

I think I've mentioned this in earlier conversations. To my mind, if Canada (Federal and Provincial Governments together) had resolved a year or two or three years ago, that they would make the decade of the 80's the decade of resource development in Canada--the focal point of economic development--this country could have moved by now a long way toward energy self-sufficiency. We have tremendous potential, and we've frittered away seven years with very little being done that was effective in coming to grips with the development of our energy resources.

We've had no meaningful energy conservation program at all, and the so-called National Energy Program of the Federal Government is not a national energy program at all in the sense of making Canada energy self-sufficient. That's stated as one of its objectives, but there are so many features in it that work completely counter to that objective that

it's absurd to even say that that's its goal.

In my mind, there's no doubt that the real major objectives of the National Energy Program, as far as the Federal Government is concerned, are (in no particular order):

1. Canadianization of the industry.

I don't think Canadians can quarrel with that; I think we can all agree that it's good to have basic industries of that kind controlled by the Canadian people. Where I completely disagree with the Federal Government's approach to it is the method of arriving at Canadianization. To my mind, the intelligent thing would be to create tax structure adjustments, incentives for Canadian individuals and Canadian companies to become active in investing, in buying up equities and interests, in resource industries.

LS: How would you do that?

ECM: Well, these are off-the-cuff suggestions, but they illustrate the type of thing. You could waive capital gains on transactions in the energy field, for people who invest their money there. You could give better tax concessions (if you want to call them concessions) to Canadian investors in the energy field than what you give to foreign investors. There's a whole range of incentives of that kind that you can create.

But the course that the Government is following is to create these Crown Corporations and have the government own these things. What we're doing, to my mind, is utterly ridiculous. We're spending billions of dollars of taxpayers' money (or consumer money as in the case where they stick a few more cents a litre on gasoline to pay when Petrocanada wants to pick up another foreign company), and we pay this money outside Canada altogether - to France, or Timbuktu, or wherever the headquarters of the company we're buying are.

All that's doing is send our money out of the country. We haven't put another barrel of oil in the ground; we haven't taken another barrel of oil

out of the ground. We've simply drained the Canadian financial resources by that huge amount of money. We end up being able to say that Petrocanada, a Crown Corporation, owns a controlling interest in the company. Well, what has it done?

My idea of Canadianization is to have Canadian people and Canadian companies owning the industry, not taking taxpayers' money to do it.

It would have to be a cooperative effort--I'm not saying the Federal Government is solely to blame for this. It would require good cooperation on the part of the Provinces because they own the resources. We could have made the decade of the 80's I think one of the greatest economic eras Canada has seen. We could have gone all out for development of every kind of energy resource. Not just oil and gas, but alternate forms of energy - solar energy, nuclear energy, everything you want to name. And by doing so, we could have cut this staggering amount that we're paying to the Middle East, Mexico, Venezuela, and so on, for these imports of oil.

That would do more to correct our balance of payments deficit than any single thing the country could do. And that's well within our power. There's no difficulty there. It's purely a matter of policy within the Federal Government.

As I mentioned before, Canadianization seems to be one of their goals in this energy program, and they're going at it, to my mind, in the worst way you can go at it.

2. Another main objective that they have is greater Federal control over the energy resources of the country. And that shows up in much of the legislation that's been passed over the last while. That's a matter of getting control. It has nothing to do with developing energy at all. It's a policy matter; they want to centralize this control in Ottawa; it's just that simple. They won't come out and **tell** you that, but that's what they're doing, and their legislation screams it from every page!

3. In some respects, I think this is one of the most important to them, and I can understand why. Their Program is designed to enable Ottawa to get a much larger share from the revenue that accrues from the development of resources.

I can understand their wanting to do that, because they're almost bankrupt as a Government as long as they're borrowing \$14 billion a year. They do not seem capable of addressing themselves to cutting the expenditure end--they're showing no indication of that at all. They are concentrating solely on getting more revenue, so we can go on spending more. And the best place to get revenue in Canada, they assume, is from energy resources. So that National Energy Program is designed very largely to give Ottawa more revenue from the development of resources. That's the sticker in the argument between Alberta and Ottawa at the present time, on the energy agreement - it's revenue sharing, not developing oil at all.

You can perhaps understand why they want to do all those things - and some of them have merit - but the actual concentration on developing the maximum amount of energy resources is neglected in this whole thing. The program is counter-productive.

They're driving millions of dollars of Canadian investment capital out of this country, particularly to the United States. It's far more attractive to drill oil wells in the United States than it is in Canada. Who would drill a well in Alberta when you have to sell your product for \$18.75 a barrel, when you can go 100 miles south of the line and drill one and sell it for \$40 a barrel? Their whole policy is completely counter-productive. The artificial pricing is ridiculous.

LS: In the light of that, what is your prediction for the major projects that are on "hold" right now?

ECM: That's one of the very disturbing things. Certainly the companies involved, particularly in the Esso-Cold Lake group, have been sitting on the edge of a decision to put the whole thing on the shelf, waiting and

waiting and hoping there'd be some agreement between Ottawa and Alberta on this energy thing. It's already cost this Province thousands of jobs. It's slowed down the whole economy of the country in that respect. Eastern Canada (and the Government strangely doesn't seem to pay much attention to this) and the industrial centres in Ontario particularly stand to lose a tremendous amount by slowing down that kind of development. They are the manufacturers of much of the equipment that is used, not all of it, but much of it.

There's no way those projects can be kept alive very much longer. It's costing them millions of dollars a month, and in some even more serious respects.

I'm more familiar with the Cold Lake project than with the tar sands, but I know for the Cold Lake project (because it's the first one of its kind in the world) the company and the prime design engineers have put together highly sophisticated teams of scientists and experts for that project. It's simply going to be impossible to hold those teams together very much longer. These are key individuals who are experts in their field, and they're not going to sit around indefinitely waiting for a couple of governments to come to an agreement so the thing can move ahead.

And if the thing is shelved and those teams dispersed, you'll never put them back together. You can put another one together, but you'll start from scratch. And the cost goes up by millions and millions of dollars.

The other thing that should be mentioned, with projects of that magnitude, is that in a time of inflation, every year that you delay a project like Cold Lake (which started out at about \$7 billion and is already up to \$12 billion because of the impact of inflation during the period that the governments have held it up) every year adds at least another billion dollars or more to the cost. And the public's going to pay all this, in the end.

LS: Are there continuing discussions behind the scenes, that we don't read about? What can people do? Never mind the person on the street, but

people who are heads of major companies, other politicians who perhaps like yourself don't agree with this kind of policy. We can't be inactive on the issue. What is happening? What are people doing in that respect?

ECM: Well, certainly within the industrial community (the petroleum industry especially) they have been very active. There have been all kinds of representations made to both the Federal and the Alberta Government, and I assume to the governments of the other producing provinces, pointing out the disastrous impacts of this National Energy Program and the disastrous impacts of the lack of agreement on pricing and overall energy agreement between Ottawa and the producing provinces.

The most frustrating thing in the whole situation, and one for which I frankly do not know the answer, is the Federal Government's attitude particularly is just, they know best. I've been in Ottawa when these delegations come down - take the Drilling Association for example. They've been down, to my knowledge, three or four times and made official representations pointing out all the statistics of their members and the numbers that are moving out of the country, the contracts that are terminating and not being renewed. And when it's all over, the Federal Minister of Energy and Prime Minister just shrug their shoulders, and say, "Well, no, that doesn't coincide with the information we have; they've just got to have an axe to grind so we don't pay any attention to them."

That's the frustrating thing. If they would pay attention to evidence when it's submitted to them and act on it, or even recognize it, there would be some encouragement, but I haven't found any indication of it. They've got a bunch of bureaucrats that designed this program, they're convinced that it's the best thing for Canada, and Canada's going to live with it whether they like it or not, or whether it wrecks the country in the process. That's exaggerating a little bit, but not very much.

LS: In listening to you talk, sometimes it occurs to me that if you have one or two or three chief politicians in the country, and some bureaucracy to back and feed the policy in, perhaps what the rest of the country wants is not being reflected up at the upper echelons. Yet, we're a democracy and we

live under that theory. There's a problem there. What is it?

ECM: You've put your finger on one of the basic problems that we face as a nation in Canada. It's due, to a large extent, to our size as a nation, and particularly to the unequal distribution of both population and resources throughout the country.

What you have in Canada today is a national government that is there with a majority by will of the public (which is the democracy end of it you referred to). But that's only half the story. With the exception of about 20 of their members, their majority comes from the two central provinces of Canada. That's because with representation by population they can have a majority in the national Parliament, with only 2 Members from west of Ontario, and very few from the Maritimes. 100 of their 200 and some members come from Quebec! Ontario and Quebec together represent over 80% of the Government's membership in the House.

This underscores two things. One, it's possible in a country like this (and we have an actual example of it today) to have a democratically elected government with a clear majority in the House but in no sense representative of the country. Where this becomes particularly serious in this period of time when the energy matter is to the fore, is that the two central provinces of Ontario and Quebec have a vested interest in low energy prices. They don't care whether they're artificially low or not - low, period. The Federal Liberals won the last election on the propaganda in Ontario that if they were elected they would not permit the price of oil at the pumps to go up as much as the Conservatives would. In other words, they were going to hold down the price to the producing provinces (particularly Alberta) to give an artificially low price at the gas pumps in Ontario. This was very popular with the people of Ontario. To put it bluntly, they used Alberta's money to buy the votes of the people in Ontario. That's how they got their majority.

So while, sure, it's all very democratic - it was a democratic election - they are in no sense a representative national government. As I say, that's one of the consequences of a country where the population is so

unequally distributed and where democracy can work with that strange result.

LS: Just to finish off there. Do you have any thoughts on how in fact we could make it more representative?

ECM: This comes into another field, the field where I'm involved. The whole purpose of the Senate in the Canadian Parliament, by the Fathers of Confederation, was really in recognition of this fact. They were pretty wise fellows. They looked ahead and they saw these problems. They knew where the concentration of population was in those days--there wasn't any population in the West. The whole idea of the Upper House was recognition of the fact that the House in which the membership was elected on the basis of representation by population could easily create situations where regions of the country would control the country.

So the Senate was to have, not representation by population, but representation by regions -- appointed, with little or no regard for population. They gave some regard to population; they gave 24 to Ontario and Quebec, and half-a-dozen to each of the others. There was some recognition that they were the two big provinces. But the Senate membership bears no actual relationship to population. The idea was that they would be representatives of regions, and that they would be the counter-balance to a House that was controlled by representation by population.

The system has broken down, because in the operation of the Senate it is not effective as a means of providing a counter-balance.

LS: Why not?

ECM: First of all, because it's an appointed House, and the public themselves and the elected House of course have a very strong resentment against an appointed house overriding the decisions of an elected house. And that's understandable. As far as the public is concerned, I don't think they would resent it; the Commons would resent it.

There were very few times in their history that the Senate did really act as a counter-balance to legislation in the House of Commons that they felt was not in the interests of their region. They have a few times, but with vehement criticism from the elected House, and of course it's a pretty strong argument for the public. "Why should these fellows who are appointed override those whom you've democratically elected to represent your interests?"

But quite frankly I think that the only way, in a country such as ours, of offsetting this situation that we have today, is to have a second House that is really effective in discharging the role for which it was created in the first place.

LS: Do you see any way of making that institution viable and effective?

ECM: There are ways of doing it. Whether it can be done or not, I honestly don't know. It would involve constitutional changes.

LS: What would it be like?

ECM: I have reluctantly (I had a lot of reservations on it) come more and more to the conclusion in the light of what's happening in Canada that we're perhaps going to have to come to the place where we have an elected Senate as well as an elected Commons. If that were done, that gets away from the biggest criticism of the Senate's blocking actions of the Commons. Then you've got two elected houses, and Senators then become responsible to the people of their regions, the same as the members of the House of Commons.

If you had an elected Senate, it would have nothing to do with population. You would have the regions represented as regions. I would give each Province the same number of Senators, if I was doing it. So this House truly represents regions.

That raises a lot of problems; it's not a simple thing. It may well be that in electing Senators you would almost have to go to proportional representation. That's the ideal way of electing anybody, but it has a lot

of disadvantages because of the complexity of the thing.

Another facet of the Senate's operations which I would like to see drastically modified is the partisanship. Today, because the Liberal Government has been in office so long and they appoint the Senators, you have 64 Liberals in the house as against 25 in the Opposition. So no matter how they argue in their talks, when it comes to voting the partisan ties are such that the Government always gets its way. This is a point to which I have taken violent objection in the Senate. My argument is that there's no place for party politics in the Senate. A Senator is there to represent the people of a region, not to support the Party in power.

LS: Do other Senators feel this way?

ECM: Well, we had the so-called "Palace Revolt" a few weeks ago, in which 9 Liberal Senators came out publicly and said, "We're not renouncing our Party, we're not severing our Party connections, but we want it known publicly that in this House we are voting as individuals. We will not accept Party discipline, Party direction, at all." That, to me, is one of the most encouraging things that's happened in all the years I've been in the Senate.

LS: Do you know of any repercussions that those people have felt? What happened behind the scenes? Was that a surprise to some people?

ECM: I know some of the Government people, when they got wind of this, worked desperately hard to dissuade some of them from doing it. They were successful with some. After they had done it, they put a lot of pressure on some of them, and there have been some indications of a few cold feet. They're ostracized. This party discipline is a subtle thing--it doesn't show in the open, but it's there. It's not easy.

I have a great admiration for those people. I identified myself with them, not because it made any change in my position (I had no party ties in the House anyway). And another Senator, Molson, who is also in the House as a complete Independent, did the same thing. In the first place, we were

saying, "The position you have taken is what we have argued consistently should be the position of every Senator. We're delighted to see you taking this position, and we're happy to join with you."

We're not forming another group or a Party or anything of that kind. We have asked to sit together in the House, but that's not to function as a group. There will be no organization at all. We are just Senators, in this case Liberal, Conservative, and Independent Senators. All we're saying is, "As far as our votes are concerned, we're going to vote as individuals representing the regions of the country from which we are appointed."

LS: When we started talking about making the Senate viable, you said it would require constitutional changes to make it so that Senators were elected representing regions. If that's a scenario or goal, how likely is it?

ECM: It's hard to say. In the last several years there has been far more attention given (not only in the Senate, but by the Government), and public discussions, on restructuring the Senate. The Government itself submitted legislation a couple of years ago, with drastic revision of the Senate. It was pretty unrealistic, and it never got beyond the discussion stages. But they all recognize that it's absurd to have the Senate go on as it is. You've got the people, experience and expertise which is not being used to a fraction of its potential, and it's not doing the job for which the Senate was created by the Fathers of Confederation.

The need for that job to be done has become much more evident in the last few years, where we've run into serious national problems that stem to a large degree from the imbalance in the House of Commons, where the majority comes from just one region of Canada and the other regions are not represented.

LS: If they recognize that, how optimistic or pessimistic are you about seeing those kind of changes?

ECM: I'm hopeful, but I'm not over-optimistic. That may sound a little

contradictory! I'm hopeful because the need for the change is being recognized far more than it was even a few years ago. The reason I'm not over-optimistic is that you have a lot of barriers to get over.

For one thing, to be fair, there are a lot of people in the Senate who wouldn't want it changed at all. They're very happy with it the way it is. So you've got that opposition.

You certainly wouldn't get enthusiastic support from the House of Commons, because they don't want another house that has comparable powers to challenge their decisions. The present Government in Ottawa, to my mind, is centralist from start to finish.

Their whole philosophy is geared to the fact that they know better than anybody else in the country how to govern it, and the more power they have in their own hands where they can decide what's good for the country and the people, the better. That is not compatible with the creation of a Senate that could say, "Wait a minute, you can't do that. The regions of Canada do not want that."

So while, from the Prime Minister down, they give a lot of lip service to reform of the Senate, I have very grave reservations as to whether they'll go along with it.

And finally, there's the practical, physical problem of getting constitutional amendments. Here we've been hassling around for years, and can't even agree on a **formula** to amend the Constitution, let alone actual amendments. So you've got that hurdle to get over.

LS: Do you think we have another 100 years of the Senate as it is now?

ECM: No. I think the Senate will either be reformed or abolished. As far as I'm concerned (and I've said this in the Senate), if they're not going to make it effective, then why don't they abolish it--be realistic about it.

LS: I'd like to turn back to some issues that we just talked about, to expand upon them a bit.

Going back to the speech you gave to the Financial Executives Institute, I want to get to the whole issue of the Constitution and the Supreme Court making an important decision. I'm wondering what your answer is to this question: Is it the energy policy that's really been the impetus for the whole Constitution thing, or not?

ECM: No. The constitutional issue was there apart from the energy question.

LS: What are the constitutional issues, and how does the National Energy Policy fit into them--or does it at all?

ECM: Yes, there's a close relationship. I would say that the constitutional issue is primarily a brainchild of the Prime Minister. I don't want to be unfair to him, but I'm absolutely convinced that, had he not, as Prime Minister, decided that bringing the Constitution to Canada and revising it, developing an amending formula, was a major issue, this thing would never have been an issue at all. Left to their own judgment, there would be very few members of the House of Commons or the Senate who would ever, at the present time, make constitutional issues a major national issue in Canada. There are too many **pressing** things.

We've lived 114 years with the BNA Act, and I haven't met many people who have suffered because of that. Sure, there are imperfections. We'd all like to see the Constitution in Canada, and we'd like to see it revised. But, who's being hurt by what we've had? The Prime Minister gets very exercised because it's "demeaning" to have to go over to Britain and beg them to make a change. This is a lot of nonsense. It's a simple resolution through the House. You're doing what the BNA Act requires you to do. You simply follow the legislative procedure, and if there's a normal degree of agreement between the Federal and Provincial Governments the British House of Commons zips it through, and that's all there is to it. It's never been any great major hardship.

As I say, the Prime Minister made this a personal, national issue. Had it not been for that, I'm convinced that the attention would have been on these other issues, which as far as the public is concerned are more important. They're far more worried about the cost of living and inflation than they are whether the BNA Act is in London or Timbuktu. Not that they're not interested in it, but it's not a matter of urgent importance to them. So he has made it an issue.

The constitutional proposal relates to the energy situation in sections dealing with resources which clarify the situation. But the aspect in the proposal that's before the Supreme Court at the present time, that I think is the most serious - is the equalization provision which they're seeking to write into the Constitution. We've had an equalization formula in Canada for years, under which the Federal Treasury redistributes public revenues from the provinces that have to the ones that haven't. That's been accepted, and agreed to by the provinces and the Canadian people, I think without question.

But when you write this into the Constitution, you give a new dimension to the whole thing. Now these provinces who benefit from equalization programs by virtue of a voluntary agreement between other provinces and the Federal Government will now be able to claim this as a constitutional right. That's a different thing altogether. What worries me, and what worries a lot of other people, is, what happens if some regions of Canada say, "Look, under the equalization provision we are entitled to more national revenues, because we're so far below the national average." Where do they get the revenues? The only place they can get them is from the provinces that have resources; that's the only source of revenue that they're not bleeding to death already.

So this can become a justification for the Federal Government to move in on energy resources, from the taxation standpoint particularly, and their justification is, "We have to do this because we are constitutionally obligated to provide X number of dollars under the equalization formula." These are areas where there's a very close tie between resource development, resource revenue, sharing of resource revenues, and the

effective operation of the equalization provision that's being written into the Constitution.

LS: You said that if the Prime Minister hadn't pushed the issue at this time we wouldn't be dealing with it specifically. Do you have any thoughts about why he did? In fact, does this issue about equalization have something to do with that?

ECM: I have some ideas, yes. I preface anything I say on it with this comment: I don't want to be unfair to Mr. Trudeau. It's not given to any of us to read any man's mind and to know precisely why one person does something.

My own assessment of Mr. Trudeau is first of all that he has a very brilliant mind; he has very broad horizons; he's a "world federalist" in the sense that his scope is very broad. He's a philosophical individual. He's not a man that shows any interest in economics and the nitty-gritty of how you live from day to day (other than a casual lip service, as all politicians pay to those things). He likes philosophical challenges; he likes abstracts.

So this constitutional realm, of drafting and amending constitutions, is appealing to him. It's in his field. Whereas if you go and talk to him about how you're going to get money into the hands of people to pay the rent, that's boring. That's not his field. He doesn't know how the other half lives anyway, and it doesn't register.

I think that Mr. Trudeau really believes (and I don't question his sincerity in this at all) that this is very important to Canada, to have its own constitution. He sees this as being completely **independent from** what he regards as some remaining ties with Britain and the Empire, and all that kind of thing. I suppose it would be fair to say that in part this is influenced by his French-Canadian background. It's natural that a French-Canadian doesn't have the sentimental and emotional devotion to the Crown and the British Commonwealth that the Anglo-Saxon has.

I think he really thinks it's important. And then of course when they got

into the hassle in Quebec with the Referendum, he made a very strong point (and I don't doubt it influenced and probably decided the outcome of the Referendum) that if they would turn down the Sovereignty-Association idea, he would see to it that there was meaningful constitutional change. He was in the field that he loved--the philosophical, constitutional area.

So they went through the exercise of the Federal-Provincial Constitutional Conference. I think, the way it was orchestrated, it was foredoomed to failure. And that gave him a free hand to say, "We can't go on any longer. We've been talking for years without any agreement, so somebody's got to take the bull by the horns and do this thing." That was just exactly what he loved to do. To him that was a challenge that meant a great deal.

I think he very much wants to go down in history as the Prime Minister that gave Canada its own Constitution, and restructured that Constitution, and made it completely, as he would say it, independent as a supreme, sovereign state in its own right. I think that means a lot to him.

LS: Surely, though, the country does as well? And it's a very divisive thing.

ECM: How do you draw the line? I'm quite satisfied that Mr. Trudeau thinks what he's doing is the best thing for the country. He believes that. He's wrong, but he believes it. And he's a very stubborn man; he's a very strong-willed man. Having made up his mind that this is what's good for Canada, they're going to have it whether they want it or like it, or not. Someday, he thinks, they're going to thank him and give him great praise for having such wonderful foresight when nobody else (or almost nobody else) could see it.

LS: How was the Constitutional Conference set up to cause you to say that it was doomed?

ECM: Just quickly to trace the sequence: as I've mentioned, during the Quebec Referendum campaign, he made very firm commitments that there would be immediate attention to constitutional patriation and reform.

So then they called a conference of Federal and Provincial representatives and worked out an agenda of items that they should reach agreement on. I think the first serious error was made at that point. The area they tried to cover was much too broad, too comprehensive. They wanted to deal with it as a package - a whole list of things. They set up a committee of representatives of the Federal Government, chaired jointly by the Minister of Justice and one of the Attorneys General (a man from Saskatchewan) and they had a series of meetings to go over the agenda and try to reach agreement on the items in preparation for the Federal-Provincial conference when it would be formalized.

They made some progress in those discussions, but they couldn't reach agreement on the package. It was just too much. They were trying to do now, in the space of six weeks, what had been subjects of discussion over forty years without finality.

When they met for the Federal-Provincial conference, the committee had to report that they could not get agreement on this and this and this. There was some measure of agreement on some things. So then there was the effort made to try to get agreement. But there was no hope. To try to reach agreement on that comprehensive a package in that short time of one meeting, in the light of the experience of forty years, was just unrealistic.

It's my own firm conviction that had they confined that first Conference to reaching agreement on an amending formula, I'm sure they could have gotten it. There was no argument on the patriation; everyone was agreeable to that. The whole argument rose on what changes Trudeau wanted to make in the Constitution before it was patriated. That's where the controversy was.

If they had set that aside and said, "We're all agreed we want to patriate the Constitution. It's unrealistic to patriate it without an amending formula because we'd cut off the process we have now to get amendments before we have something in its place. So let's agree on an amending

formula."

I don't say an agreement on an amending formula would be easy. It had been debated often before. There was agreement reached twice on it before, but it broke down later when the Province of Quebec refused to ratify it. But under the circumstances that existed at that time - the aftermath of the Quebec Referendum, the general sentiment across Canada of wanting to see the constitutional thing (if it was going to be dealt with) dealt with expeditiously and cleared out of the way - I'm absolutely convinced that with the properly methodology they could have gotten an agreement at that conference, on that one point.

But as soon as they interjected all these things like charter of rights, equalization formulas, and all the things that were highly controversial, there was no hope of agreement.

Again, without wanting to be unfair to the Prime Minister, it almost makes you wonder whether some of these things were interjected on purpose. To achieve his overall goal, it was better for him that they didn't agree. That gave him a free hand to say, "Well, they can't agree, so we're going to do it unilaterally." That became the justification for doing it.

LS: One other thing you alluded to in the speech we talked about earlier was that we, as a country, pay inadequate attention to methodology. This was an example where, with a very important conference, the methodology of reaching a decision wasn't particularly effective.

But I'm interested in this whole concept of methodology. I understand it in terms of what a social scientist thinks about it. But what does it mean, when you use the word "methodology"? And secondly, how can a country apply a methodology?

ECM: What I mean is this. In arriving at a desired result, in government or the structure of the country, there are several stages you have to go through. It seems to me the first one is that you have to decide definitely what you want to accomplish. Where do we want to get to? What do we want to have?

In this case, we want a new constitution - let's say that's the goal.

Alright now, if we're agreed that that's the goal, then we have to address the question, What is the best method of procedure to insure that we will be successful in arriving at this goal? The point I was making in the address you referred to is, to my mind that's where governments fall down badly. They don't have too much trouble deciding goals. But they do not give enough attention to the alternate methods of arriving at that goal, and carefully deciding which is the best way to proceed, that has the greatest opportunity of success.

Because they just barge ahead, thinking that having declared a goal, how you get there is something that automatically unfolds (as Mr. Trudeau says, "the Universe unfolds as it should"), I don't think it works that way. I've seen this happen in governments time and time again, in their own policies. A government will come up with a policy; they're convinced that it's something important, people want it, it's necessary. "How are we going to do it?" That's where there's inadequate attention.

They don't give enough attention to that. They usually have some group of bureaucrats sit down; they chart up a nice procedure, and say, "Here it is, and away we go."

Now in the case of the Constitution, Mr. Trudeau decided on a methodology that I think was disastrous to the unity of Canada. He said, "Well, you fellows can't agree (in the Federal-Provincial Conference), so we'll do it unilaterally. We'll draft a constitution. We'll go through the form of a Committee" (which was largely window-dressing, because the Government had decided what they wanted in the thing; all they did was dress it up a little bit). But they decided on a method.

To my mind, it was a very bad method. To me, a constitution, of all things, should be something that people get enthusiastic about. It carries not only their judgment in general, but it carries it with enthusiasm, so they have some pride in it. It's so closely connected to their pride in their country.

To just sit down and say, "We're going to do this this way. We're going to do it unilaterally. We're going to do this step and then this step and then this step. We're going to put it to a committee which we're going to dominate because we'll have a majority of members on it (so that's window dressing). We'll bring it back to the Commons (and use closure then to cut off the debate). We've decided what we're going to have, so we'll go through a certain amount of debate to conform to the democratic process, but cut it off when we get tired of it. Then we'll send it over to Great Britain."

Now the plan was upset by the Provinces' challenging the constitutionality of it, with one court decision favourable to the Provinces, one to the Federal Government. So ultimately they did agree to refer it to the Supreme Court. But this was an interjection which they had not intended to begin with.

LS: What are your thoughts on what the Supreme Court is deliberating, and what may be its final decision? And how would that impact on us?

ECM: There's no way of knowing, of course, what the Supreme Court will decide. It would be inappropriate to suggest other than that they will give the thing their closest analysis as learned judges and come up with what they consider is the constitutional position.

Many people, including governments, had held from the beginning that any constitutional package which went beyond the simple things on which there was no argument, such as an amending formula and patriation, should have been referred to the Supreme Court, as a reference, before it was even dealt with in the Commons, so that you'd know whether we were dealing with something that's constitutional. The Government rejected that; they had no intention of referring to the Court. They said, "No, this is it; it's going to pass the Commons; we're going to send it to Britain and they're going to have to pass it."

Certainly in Great Britain (and this was made clear by Mr. Kershaw, the Chairman of the Joint Parliamentary Committee over there) they were very

upset because this matter had not been referred to the Court inasmuch as its constitutionality had been challenged in Canada. It put them in a difficult position, because Britain has very little to say about this thing, if it is constitutional. If it isn't constitutional, then they do not want to be parties to something which is unconstitutional. Their position, from the first, was, "Why in the world don't they refer this to the Supreme Court and find out the constitutional position on it?" But that was not Mr. Trudeau's plan, until he was forced to it by the Court references by the Provinces and the opposition in the House of Commons.

What the Supreme Court will find, of course, I have no idea. I'm only speculating. There are a few assumptions that can be made, that perhaps are not improper or unreasonable. You have nine Justices; I can't imagine a unanimous decision on an issue of this kind. I think there are enough debatable points in the package that I would be very surprised if there was a unanimous decision.

I don't know if you can read anything into the time the Court has taken; I know some are reading into it. If it was a clear-cut case, the argument is the Court could have decided that in a week, or two or three weeks. The very fact that they're putting off their judgment till fall suggests, at least, that this was not a simple open-and-shut case that they could write a judgment on quickly because there was little argument. I think there's some validity to that; the very nature of the thing of course lends itself to that conclusion.

Now, I suppose the judgment could take on one of several forms. As I say, I would be very surprised if it was unanimous either way. I would look for a split decision, and it is conceivable that the Court will find, "You can do this part of your package, and this part, but you can't do this part, and this part." In other words, they may find some provisions in the package are constitutional, but other provisions are not.

Again, just to illustrate (and I don't say these would be the ones), I would think there would probably not be an argument against patriation. I think it would be quite within the power of the Federal Government to

patriate the Constitution. They might say, "You can certainly do that. That doesn't change it; that just changes its domicile." They might say, "This provision or this provision is within the Federal jurisdiction sufficiently so you can do that without provincial consent."

But conceivably they could say that with an issue such as the Charter of Rights (which is really the one that changes the powers of the Provinces) you have an infringement into the two fields of jurisdiction - Federal and Provincial - and that one would require provincial consent. This is the kind of thing I mean, where they say, "You can do this and this, but you can't do that and that."

Personally, I would think that kind of a decision is quite probable, but I'm not a lawyer; it's just an assumption.

If they come out with that kind of decision, it will be an interesting position. The Prime Minister has been very insistent that this thing has to be dealt with as a package. If they ruled that part is constitutional and part isn't, then he's faced with a decision either to scrap the whole thing, go back to square one and start over again, or else to split the package and proceed only with the parts which they say are constitutional.

So a great deal hinges on what the Court says.

LS: It's a very interesting dilemma, if it comes that way.

ECM: Yes. There's a tremendously onerous burden on the Supreme Court. They're being asked to make probably one of the most important decisions that they've ever been called upon to make.

LS: I know that when we look at the Supreme Court, one of things we've always been taught is that it is without prejudice, but these people are appointed as well. Whether with this particular Supreme Court there is a possibility of that, do you think that there is a possibility for certain kinds of pressures on those individuals.

ECM: I don't think there would be pressures on them; that is, there certainly wouldn't be external pressures. The Court is very cautious to isolate itself from external pressures. I think you can't get nine people without having significant shades of difference of conviction and assessment of the broader aspects of issues of this kind, not the strict legal point maybe. How far, if at all, that influences a judge's decision, I really have no idea.

I'm a little disturbed, I admit. It's being said in certain quarters, "Oh, well, you know, five of these Judges are Trudeau appointments so there's no question which way they'll go." I think that's unfair to the judges. Without even knowing some of them personally, I don't think that's a legitimate assumption.

As far as is possible for a court to be impartial, I think our Supreme Court is impartial. There's no such thing as complete impartiality when you're using human beings, but those are the only creatures we have to put on the Bench!

I don't think the American system where you elect them minimizes the prejudices any more than appointments do.

LS: Thank you. We'll leave it there for today.