

of the
CANADIAN PROTESTANT LEAGUE

to the
SPECIAL JOINT COMMITTEE OF THE CONSTITUTION OF CANADA

1980

The Canadian Protestant League is not an organization hoary with age, or of a vast, wide spread influence. Its primary concern is that of defending the faith and conserving our freedoms, and this has been its consistent history for forty years; and represents approximately five thousand families of loyal Canadians, in all the provinces and territories, of almost every Protestant denomination, and almost every ethnic group--people who take seriously the dream of the Fathers of Confederation: that of a united Canada "From sea to sea".

We are here to focus attention on some propositions in the Committee's frame of reference which give us concern (even alarm), and then we will endeavour to zero in on our main areas of anxiety.

"Separation" is, we believe, a dirty word. We do not like it when in Acadia, Quebec or Western Canada, and we are upset that the talk of separation in Western Canada is being considered lightly. I lived in Alberta for a number of years, as the pastor of a church in Edmonton, and one separatist talk then came, not from people of wide influence or renowned for their maturity or wisdom. It was something of a joke. Today it is different, and we want to urge this group of gentlemen to consider it with the utmost care and concern.

The Prime Minister has challenged the western provinces and dared them to talk of separation, to use it "as a lever" or as a "form of blackmail". Whatever the Prime Minister would use to describe the repeated demands "grant us this or we withdraw from Confederation" as long as we can remember, we cannot imagine.

We are suggesting that a man everybody considered was the only one available to overcome Quebec suspicion and the "Separatiste" movement, has by his language legislation, his energy policy and his attempt to force the issue of a new Constitution in such an arrogant fashion, is apt to divide us completely.

Many think that the methods and demands are not only imprudent, but downright insulting. All of us object to being lectured so patronizingly by one who also treats Her Majesty's Loyal Opposition with nothing short of disdain.

Surely the polemical binge which followed the attempt to thrust through the proposed Constitution, is proving to be that which might very well rend the Dominion of Canada asunder.

Nova Scotia is opting reluctantly and reservedly for co-operation as that which is "better than confrontation".

Prince Edward Island believes it will lose as a "federal ward", a government member of that legislation claims.

Newfoundland says it could lose Labrador and its educational system if the present proposals met the approval of Westminster and is considering court action.

New Brunswick is extremely agitated about what is transpiring.

Quebec's Premier virtually declares war on Ottawa's B.N.A. proposals, and threatens to fight it "as far as London". La Belle Province claims the "plan is all wrong", and the Prime Minister is accused of being "a liar". The leaders of the opposition in the Quebec Legislature are also alarmed at what is taking place, refusing the bait offered. Quebec is almost unanimous in rejecting Ottawa's wishes. The Prime Minister's plans for Canada were supposedly sparked by a promise to Quebec after last spring's referendum. But even federalist forces in that province disagree with the Government's plan. They see perilous elements lying beneath the surface.

The only M.P. who is a native Canadian, from the North West Territories, insists that his people are not at all satisfied with the proposals.

Manitoba gets its three proposals relative to the Constitution before that province's Appeal Court.

Saskatchewan's Premier says that constitutional bickering, energy-pricing and resource-control disputes can be "highly disruptive, very dangerous for Canadian unity", and he states the Prime Minister is in "a dream world",

Alberta fears the gathering storm, consistently so; fears the "collision course", and has almost 100 per cent support with its reservations about the recommendations before you. SaC (but necessary) threats are heard from that prosperous oil province as it makes its position quite clear.

Alberta is accused of being selfish and greedy. For years the West was compelled to buy the protected industrial goods the East produced above world prices, while they couldn't get more than world prices for their own. (Who is greedy and selfish?) And now the Government is telling Alberta they must sell their own oil at half the world's price! Alberta has done so willingly for several years and has forfeited billions of dollars in doing so, but now, when world prices are rising, Alberta negotiates for a higher price and it is accused of being anti-Canadian by the energy proposals and, in effect, in the Constitutional packet.

Not by any means is Ontario united with its Premier in his acquiescence to what Ottawa seems to expect.

British Columbia expects to respond by mounting a "line of defence" to inform its people as though in an emergency situation and is instituting its own legal action.

All is not well at Westminster. Some of the British people feel that our Prime Minister "is trying to bounce Britain into committing a dubious act over the vexed question of . . . the 1867 B.N.A. Act. He should be resisted." All provincial governments but one, the Britishers believe, were opposed to the alterations wanted from Westminster. It is true that in the past British governments have refused to make amendments to the B.N.A. Act solely at the request of the provinces, so it could be argued that they should be equally ignored in their opposition. But there has been a convention that amendments which directly affect powers between federal and provincial administration are made only with the consent of all.

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Winston Churchill, piloting an amendment through the House of Commons in 1907 made a point of saying that the British would be bound to refuse to follow federal advice if it conflicted with that of the provinces. His view, we believe, should still apply.

The suggestion of referenda to approve constitutional change, would be going over the heads of the provinces. This arbitrary and divisive plan, should be rejected. Confederation came about, not by the merging of two founding religions, or two founding languages, or even two founding races, but by the actions of the founding provinces. We cannot alter that historic fact, and should not change its motion now. Should it be insisted upon, we are afraid of what may follow.

But the Prime Minister gives a shrug of his shoulder, opens his hands innocently and seems sure that he will "win over" each objector, and shows no interest whatever in endeavouring to seek areas for agreement.

The president of Canada West Foundation insists the Government's method is "like pouring a little of our well-known crude oil on the fire . . . I really did think . . . that he wouldn't go quite as far as he did . . . He was acting as though he were president in a unitary sense."

Somehow, after managing a rather peaceful co-existence for more than eleven decades, there seems to have developed a doubt about the decency and civility of the Canadian people and their ability to respect and protect human rights without a carefully crafted contract.

Again, we emphasize, a divisive political battle is being fought between the provinces and the federal Government. We are being told it is over human rights, but the real catalyst is power--the power of one government to have its will prevail over all others.

We have been informed bluntly, as were the provincial legislators, that there is only one way to approach constitutional reform--it is *My* way (the Prime Minister's own way!). Kaiser Wilhelm said at the early part of World War I, "Me'n God will do it!" Mr. Trudeau is saying "Mineself alone can and will do it!"

We know the ultimate leadership must rest somewhere in Canada and that place obviously is in Ottawa. But now, this Prime Ministerial line of dealing firmly with the provinces on the constitution has the added commitment to put federal government much more deeply and powerfully into participation and control of the one sector of our commerce and industry which simply must have priority for many years--energy! This shakes all our favourite platitudes and cliches about private sectors and free enterprise, which are being invaded by this divisive document.

THE PRIME MINISTER'S MOTIVE

Mr. Trudeau wrote to the Premier of Alberta, March 31st, 1976: "So far as the federal government is concerned, our much preferred course would be to act in unison with all the provinces. 'Patriation' is such an historic milestone that it would be ideal if all the premiers would associate themselves with it."

At approximately the same time, the Prime Minister wrote to all the premiers to outline possible options for achieving his greatest and most noble political ambitions--the formal termination of Westminster's power to legislate for its former North American colonies. His plan is plainly just that; and with it we are not upset. But we confess things accompanying this desire, and the methods to bring it about, are baffling and alarming to the extreme.

The Prime Minister has said: "There is a national interest which transcends regional interests." But the reason for writing a new Constitution, he said, in July (1980), to a Winnipeg audience, is because during the referendum campaign in Quebec "we made the pledge that the rest of Canada would deliver if Quebec delivered." How come then, that the national interest was to be decided by what Mr. Trudeau promised to a regional interest. How come, too, that the leaders of Quebec's political parties oppose Mr. Trudeau's plans now?

Quick unilateral action is the Prime Minister's latest tactic. We must rush off to Westminster for instant "patriation" to Ottawa.

But . . . not quite that instant! First, he wants the old anachronistic colonial power--whose hypothetical authority to have any say in Canadian affairs was so shameful in his eyes--to exercise real colonial power over Canadian affairs, and amend the Constitution to design before handing it over!

Thus the Administration wants all the shameful colonial power to impose on all Canadians and all the provinces his ideas on language, taxation, energy, etc., which the Prime Minister has been unable to impose himself.

In other words, Mr. Trudeau is asking Westminster to do his own work for him, to disregard the wishes of the provinces, and to hand over to him not our present constitution, but a new one giving him wellnigh what would be supreme power. This is what worries us.

What the Ontario Premier has embraced is Prime Minister Trudeau's bid for unilateral patriation of the constitution on terms that offend all the provinces and place new strains upon the threadbare fabric of national unity.

The Prime Minister said to a conference of learned societies in Charlottetown before he even had joined the Liberal Party back in 1964: "Federalism is by its very essence a compromise and a pact . . . It is a pact or quasi-treaty, in the sense that the terms of that compromise cannot be changed unilaterally."

And now the Prime Minister tells us "this is our last chance" to have what we are to think of as "our own" constitution. We totally disagree!

The Prime Minister shocks us when he says, provinces approving or not, "We'll do it my way anyhow" when talking of energy and the constitution.

We agree to bringing home the B.N.A. Act--no question at all here! But we want our own legislators to do the job of amendments. Why not try a variation of the Victoria formula, which Quebec killed. Bring it forward again and adjust it to our present situation. Let it be that the power of veto may be exercised by two (rather than one) of the provinces, and have the provinces operate as we always understood they were entitled to act. Some complain that it would be too difficult to amend at any future time. Somehow we always thought that was the idea.

With that lengthy preamble, and arising out of it, we make specific observations about which we feel so strongly.

I. THE QUEEN OF CANADA

We avow our love and loyalty to Elizabeth II, Queen of Canada, believing that this commitment assures specifically our journey through the Dominion's second century, governed by a democratic monarchy as the best guarantee of our continuance as a truly free people.

We are alarmed over proposals which might even hint or suggest the removal of the Queen of Canada as our Head of State. To the Canadian Protestant League, each year re-affirming its loyalty to Her Majesty, any such suggestion, or any such trend in official thinking is absolutely absurd and preposterous.

We plead with the Joint Committee to include this recommendation expressed by many other people, allowing for no change at all as far as the Monarchy is concerned. "God save the Queen!"

SEPARATION OF CHURCH AND STATE

The major concern to which we ask you to give very serious consideration is the matter of the relationship between church and state--the places of the body religious and the body politic.

We sincerely believe, in the framework of any newly devised constitution for Canada that the specific areas of both should be defined and as clearly as possible be seen as distinct and separate from each other.

We believe that the wise, historic Protestant position (wherein the church becomes essentially the conscience of the state, seeking neither to dictate to the political power of the nation, nor being dominated by the political arm), to be the sort of situation most desirable, most just and the most fair for all Canadians, therefore the Canadian Protestant League has been urging that in any Canadian Constitution a component clause declare and guarantee the principle of separation of church and state.

We believe the First Amendment of the United States' Constitution has much to commend itself, wherein it is stated that the responsible lawmaking body " . . . shall make no law respecting an establishment of religion, . . . or prohibiting the exercise thereof . . .". Thus no legislation could favour any one religious group over another, which would give any favour to any religious group not accorded secular organizations, or concerning the economic or political status of any religious identity.

A clearly stated declaration after the fashion of America's First Amendment (already referred to) would be a tremendous step (a departure from the principle in the Old Country), wherein the Queen of England is recognized as the titular head of the established Church of England. In Canada, happily, we have no such a thing as a "state church" or "national church".

By specifically drawing the line that would officially separate church from state, we could avoid many inequalities, and help to solve the increasing problems associated with the use of public funds for religious purposes.

We believe that taxes to finance indoctrination institutions are in violation of the principle the Canadian Protestant League espouses as right and good:

1. Church owned exempt properties should at the very least pay partial taxes to reimburse municipalities for services such as fire and police protection, the construction of roads, sidewalks, sewers and other facilities, without which they could hardly operate efficiently. Why should non-members of our churches pay the cost for the rest of us? This principle should apply to church buildings, parish halls, manses, rectories, parsonages, vicarages, convents, Sunday Schools, day school facilities, as well as parochial, confessional schools of any sort, whether any of these are physically joined to a main church building in any way--or not.

2. Only voluntary contributions received by churches and other taxfree organizations from members of the public should be free from taxation. Any and all income from interest, dividends, royalties, capital gains, purchase and sale of properties or business operations of any kind, especially such profit-making operations (e.g. restaurants) which might actually be in competition with any taxpayer in the community--all should be taxed precisely as if they were being received by a private individual or corporation.
3. The incomes of tax-free foundations should also be taxed like those of any other corporation.
4. Every voluntary, non-profit body should be required to furnish all members and contributors with a complete, detailed and independently audited annual financial statement, and to open its books to scrutiny upon request from any of these on pain of losing their exemption status.
5. The title to all properties owned by tax-free organizations should be vested in an independent Board of Trustees, on pain of losing every form of tax-immunity.
6. All religious personnel should contribute to Income Tax requirements, the same as others. Every form of contribution to anyone's standard of living should be taxed on the same basis as if it were cash paid in the form of stipend, wages or salary. Even a "vow of poverty" should not exclude the taxable portion of the entire income paid to the person employed, and take into account all amounts which are turned over to any religious church, organization or "order", like any other person is required to do. Surely the maximum of 20% deductible for charitable purposes must apply when somebody turns over everything above the specified amount listed as personal income under a vow of poverty.
7. Any tax-exempt body which pays fealty to any foreign power, authority or entity, or which takes money from its members to support such an organization should forfeit every form of tax immunity, and should be required to reveal by way of report all contributions from members and the public as if it were net profit to a private corporation.
8. Every tax-exempt body should be required to file a full report of its income, expenditures, surplus, assets, liabilities, bonds, investments, dividends, rentals, royalties or other capital gains on property holdings to municipal, provincial and federal authorities, even when no taxes are required, just as all non-religious, private organizations now do when they receive income from any form of capital gains (as individuals report their non-taxable receipts, etc).
9. No church, religious organization, hospital, school, philanthropic organization or welfare group, allied with the propagation of any distinctive religious doctrine, should be supported by any sort of state aid, when that aid comes from public monies.
10. Individual organizations should continue to exercise the right to establish or maintain private, parochial, confessional, separate, christian, and Calvin schools and academies under whatever designation they choose; but such institutions of instruction should always be subject to state accreditation and curricula, but no public funds should be appropriated for support of such institutions whose purpose is that of evangelism and indoctrination. The

right to operate such schools should be entirely at the expense of the people who feel impelled to provide such education in other than state-operated schools. Any privilege granted any one must apply to all.

11. All moneys appropriated by governments, municipal, provincial or federal for educational purposes, should be allocated only for public schools, colleges, universities, trade schools or other such enterprises whose intent is that of education, but never for the support of any such institution whose intent is evangelism, indoctrination or promotion of any particular religious emphasis.

Tax aid for a parochial school would be a violation of the principle of church and state separation. It would force any taxpayer to help pay for the promotion of doctrines and principles which are repugnant to him, thus violating his right of a free conscience.

12. No government should have the right to force any man to support the activities of his own, or any other church. No church should have the right to accept coerced support for any of its activities, even from its own devotees.

A constitutional statement, declaring that separation of church and state is a basic position of the Canadian constitution as far as constitution is concerned, would be a tremendous stride in the direction of stamping and removing some of the abuses apparent in the current experience across the Dominion of Canada.

WHY BE IN SUCH A HURRY?

We would like to express one more concern. We believe that those who are so anxious about a new constitution might be getting overly impatient. Constitution reforming and rewriting cannot be done overnight. We suggest a two-year cooling off period, and then, as long as ten more years might be spent profitably in Committee Hearings, Assemblies, re-hashing over and over the finer points, exchanges between municipal, provincial, federal and other authorities, study groups responsible for examining and studying the reaction of the people to the part of the constitution they might be responsible for--and their recommendations coming before the House of Commons. There is plenty of time for all sorts of conversations, further exchanges, sharing and still more studies, under the chairmanship of some distinguished authority such as Senator Forsey. These times of study, exchange and waiting are, we believe, essential in an area such as that of framing an entirely new constitution.

Anything hurried (in the current context) cannot help but perpetuate the vagueness and ambiguities of the documents with which we are now concerned. Another twenty years under the B.N.A. Act will not be the cause of difficulty. It has served us well for 116 years, and cannot hurt us while the framers of an entirely new constitution have methodically and painstakingly done their work. The children to come are the ones who will enjoy or endure a newly written constitution and a few more years cannot hurt--only help. Why not strive to have the new constitution ready for approval and declaration in time for the 125th Anniversary of the Canadian Confederation.

The recommendations of the Canadian Protestant League, then, to the Special Joint Committee of the Constitution of Canada, are as follows:

1. That nothing be done constitutionally to, in any way, diminish the authority of Elizabeth II, Queen of Canada, as the first Canadian citizen. Thus we would retain the many advantages every Canadian enjoys in our Canadian democratic monarchy.
2. We earnestly urge the Joint Committee to concur and recommend to Parliament that the B.N.A. Act come home to Canada, this autonomous nation within the Commonwealth. This is where it belongs. This is where it should be settled as it now is. Then the processes may be commenced to amend the Constitution. We see no necessity for scrapping totally the B.N.A. Act, which has served us so well since 1867.
3. We believe that a basic statement, after the fashion of the U.S.A. First Amendment, declaring that church and state are separate entirely, be included in our newly amended Constitution.
4. We urge that, as an adjunct to the foregoing Recommendation 4, that it be clearly enunciated constitutionally, that absolutely no public moneys of any sort may be used to support any church-related institution whose even secondary purpose might be evangelistic, propagational or doctrinal.
5. We believe that the work on a new or an amended Constitution should be seen as that which should occupy the pooled resources and wisdom of many more people than those already involved or employed on the project. Its preparation should be timed--but by much more than extended period than what is now visualized. We urge a cooling-off period; that plans be made for studies, exchanges, hearings, pooling of resources from all sectors, the study committee headed by an expert in constitutional law, such as Senator Forsey; that we might aspire to the goal of the new Constitution of Canada becoming law as part of the 125th celebration of Confederation. This would be much more acceptable than the current undue, excitable, divisive haste being exercised on so vital a matter.

Respectfully submitted, and assuring you of our prayers and concern for the Joint Committee as you wrestle with this issue of tremendous importance, an endeavour involving that which is of tremendous concern to most Canadians.

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