SOME PROPOSALS FOR A NEW CANADIAN CONSTITUTION

- The New Brunswick Development Institute

The New Brunswick Development Institute is concerned with promoting the economic growth of the New Brunswick economy and reducing the dependency of the economy on federal transfer payments. A national constitution provides a framework within which the national economy and regional economies must operate. Accordingly, the Institute endorses constitutional changes that will lead to a more prosperous and self-supporting provincial economy. Certain changes are essential for the attainment of these objectives.

(1.) A new Canadian constitution must state that balanced regional economic development is a major objective of the federation. A constitution with this provision would not be unique. This principle is embodied in "The Basic Law of the Federal Republic of Germany" - the constitution of West Germany. Over the last thirty years, the satisfactory performance of the West Germany economy has attracted attention throughout the world. Indeed, it has been referred to as "the German miracle".

Since Confederation in 1867, the principle of balanced regional economic development has been accepted implicitly by most Canadians. It was, perhaps, best expressed by the Royal Commission on Maritime Claims (The Duncan Commission) which reported to the Government of Canada in 1926:

> "It is not possible in such an undertaking as the making of Canada, with its geographical and physical conditions, and its variety of settlement and development, to maintain always an accurate balance, apportioning to every section of this extensive country the exact quality of benefit and quantity of advantage which would be theoretically and justly desirable. But reasonable balance is within accomplishment if there be periodic stocktaking."

The explicit acceptance of the objective of balanced regional economic development in a new Canadian constitution would do much to strengthen national unity.

(2.) A new Canadian constitution must contain the principle of equalization payments to low-income provinces. In a healthy federation, all the component provinces must have roughly equal per capita revenues. Substantial differences in public services among provinces would be a most disruptive force within the nation. High levels of health and educational services are basic to the fabric of our whole Canadian society.

(3.) Canada requires a popularly elected Senate with real authority and in which all provinces have equal representation. - This should be a major provision of a new Canadian constitution.

A Senate on the Australian model (See Appendix) would provide Canada with a second chamber with real authority - its members would be elected by popular vote the same as Members of the House of Commons - and all provinces would have an equal number of members. These principles are, of course, also embodied in the U.S. Constitution. In the United States, Maine and Alaska have two Senators as have California and New York. Indeed, it can be argued that a real federal system requires a second chamber with the power and representation to place small provinces and states on a basis of equality with large provinces and states. This was the concept of the Canadian Senate which was embodied in the British North America Act in 1867. Without this provision, it is improbable that the Maritime Provinces would ever have entered Confederation. Over time, with the increasing acceptance of liberal democracy, the authority of the Canadian Senate was eroded because it never became a popularly elected body. It should be noted that the U.S. Senate might have gone the way of the Canadian

other Atlantic Provinces are obvious. Historically, many of our economic problems have stemmed from the fact that we had such limited power within the federal decision-making process. In the House of Commons - the only chamber with real authority - we could always be outvoted by the great block of M.P.'s from Central Canada. A Canadian Senate on the Australian model would give Canada a federal constitution with the decision-making powers that were intended at Confederation.

The New Brunswick Development Institute believes that Canada requires a federal government with strong economic powers both to manage the national economy and to ensure the "reasonable balance" endorsed by the Duncan Commission over fifty years ago. An increased decentralization of economic powers to provincial governments would weaken the Canadian economy and impair our ability to make those changes in the national economy that are essential if we are to remain competitive in a rapidly changing international economy. Moreover, in the long run, the development of interprovincial barriers to trade serve neither provincial or national interests. - A stronger and more self-supporting New Brunswick economy requires a stronger and much better managed national economy.

The Developmental Institute, in agreement with the positions that the provincial government has taken, feels that the economic future of the

province must be given greater security in a new Canadian constitution. The guarantee of continuing federal transfer payments, by itself, simply confirms the status quo: a provincial economy largely dependent on political decisions made in the rest of Canada. In a new constitution, the federal government must be committed to assisting low-income provinces, like New Brunswick, to expand its industrial base and catch up with wealthier provinces. An elected Senate, with a strong delegation from New Brunswick and other low-income provinces, should ensure that this important matter receives the emphasis it deserves in the process of national economic policy-making.

This statement by the New Brunswick Development Institute on a new Canadian constitution is not meant to be definitive. As the constitutional discussions proceed, the Institute anticipates making additional proposals and comments. Indeed, it feels that a workable new Canadian constitution requires greater public discussion and consideration than has taken place to date. - The value of a new constitution depends ultimately on the spirit with which it is accepted and implemented by the Canadian people.

In conclusion, the Institute must state its unease that so much of the public debate is being left to the politicians. This unease was shared by many who attended the "Atlantic Provinces in Canada" conference, held at Acadia University, Wolfville, N.S., July 2 - 4. Our politicians are, after all, determining the "rules of the game" under which they will operate. Moreover, provincial politicians have no general mandate to speak for the people of their provinces. They were elected to deal with matters coming under provincial jurisdiction in the British North America Act.

APPENDIX

The Important sections of the Commonwealth of Australia Constitution Act dealing with the Senate are as follows: -

PART II THE SENATE

7. The Senate shall be composed of senators for each State, directly chosen by the people of the State, voting, until the Parliament otherwise provides, as one electorate. . . .

PART II THE SENATE

The Senate

Until the Parliament otherwise provides there shall be six senators for each Original State. The Parliament may make laws increasing or diminishing the number of senators for each State, but so that equal representation of the several Original States shall be maintained and that no Original State shall have less than six senators.

The senators shall be chosen for a term of six years, and the names of the senators chosen for each State shall be certified by the Governor to the Governor-General.

Qualification of electors

8. The qualification of electors of senators shall be in each State that which is prescribed by this Constitution, or by the Parliament, as the qualification for electors of members of the House of Representatives; but in the choosing of senators each elector shall vote only once.

Method of election of senators

9. The Parliament of the Commonwealth may make laws prescribing the method of choosing senators, but so that the method shall be uniform for all the States. Subject to any such law, the Parliament of each State may make laws prescribing the method of choosing the senators for that State.

Times and places

The Parliament of a State may make laws for determining the times and places of elections of senators for the State.

Application of State laws

10. Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State, for the time being, relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State.

Rotation of senators

13. As soon as may be after the Senate first meets, and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of six years from the beginning of their term of service.

The election to fill vacant places shall be made in the year at the expiration of which the places are to become vacant.

For the purposes of this section the term of service of a senator shall be taken to begin on the first day of January following the day of his election, except in the cases of the first election and of the election next after any dissolution of the Senate, when it shall be taken to begin on the first day of January preceding the day of his election.

. . .

Qualifications of senator

16. The qualifications of a senator shall be the same as those of a member of the House of Representatives.

Voting in Senate

23. Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote. The President shall in all cases be entitled to a vote; and when the votes are equal the question shall pass in the negative.

Powers of the Houses in respect of legislation.

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.