

The following is a written submission to the SENATE HOUSE OF COMMONS SPECIAL JOINT COMMITTEE ON THE CONSTITUTION OF CANADA dated this SEVENTEENTH DAY OF NOVEMBER 1980 at PETERBOROUGH, ONTARIO, CANADA.

As Canadian citizens committed to the preservation of freedom, the members of the Peterborough Libertarian Association wish to voice their strong opposition both to the federal government's move and proposals for "patriating" the BNA Act and to the constitutional changes proposed by Prime Minister Trudeau's government. We fear that, if adopted, they will lead to a further erosion of the liberties which we have so long taken for granted. Moreover, we are convinced that it is important that the Canadian people have a written constitution which puts strict limits on the ability of our various governments to violate basic personal freedoms.

The roots of our quasi-constitution,(the BNA Act) and our common law system are found in the Magna Carta and the Petition of Right. The significant characteristic of these charters is that they were made to provide protection and liberty for the individual and his property against the power of the state. In the same context, our neighbour to the south devised the American Constitution with its emphasis on limiting the power of the government to interfere in the lives of individual citizens.

However, limiting the power of government is the last thing on the minds of the self-appointed framers of this new constitution for Canada. To quote Globe and Mail journalist, Richard Malone, "Surely our chief concern should be with the growing centralization of power in Ottawa, supported by its monstrous bureaucracy, authorized to interfere and snoop into every aspect of our daily lives, and to regulate and direct our business affairs, tap our telephones, open our mail, misuse our tax returns, try individuals in secret courts, invade premises without warrant and seize our papers.

The power of the state in Canada has run wild these past 20 years and has landed us in the most god-awful economic mess. Liberty and property rights of the individual have been ignored and flouted as the state has deliberately robbed the savings of its citizens by debasing the currency and plunging us over our heads in debt."

THE PERSON WHO DOES NOT CHOOSE TO BE FREE
MAY SOON NOT BE FREE TO CHOOSE

Never in the history of Canada has it been so obvious that we must begin to devise ways of curbing the powers of government, which are, under our present constitutional setups (and under Trudeau's proposals) virtually unlimited. If we are going to have a new constitution then we the citizens of Canada should be insisting that restrictions be placed on government power to act in the following areas -

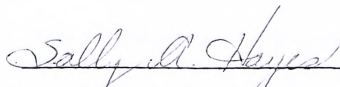
With regard to Individual Rights and Freedom - The government must be expressly forbidden from passing laws that restrict the basic rights to free speech, property, peaceable assembly, religion etc.etc. The government must not be permitted to violate the Bill of Rights. Its duty clearly should be that of protecting these rights.

With regard to social virtues, standards and culture - The government must be restricted from determining social values, cultural values and standards which it now does by means of legislation, grants or subsidies.

With regard to Economics and Production - The government must be restricted from interfering with an open and free market system which it now does by means of legislation, business grants, subsidies, price and wage regulation. Limits should be set on the power of government to spend, borrow and go into debt. The government must be restricted by law to operate with complete fiscal and monetary responsibility.

It is time for us to remind ourselves that the Magna Carta, the Petition of Right and the American Constitution were achieved when the people told the rulers what kind of constitution they were going to live under. Instead of Trudeau dictating the terms of our new constitution we the citizens and taxpayers of Canada should be telling him and our Parliament what our terms are going to be.

Respectfully submitted by:



(Mrs.) Sally A. Hayes, President

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Committees and Private
Legislation Branch

From Our President: Bob Marttila Peterborough Libertarian Constituency Association

To claim that the "patriation" resolution proposed by Prime Minister Trudeau ensures the fundamental freedoms and rights of Canadians is akin to claiming that Little Red Riding Hood's pretty red cape will protect her from the big bad wolf. In actual fact, it is a document that virtually guarantees that individual Canadians will be devoured by ravenous governments.

Item 1 of the proposed Canadian Charter of Rights and Freedoms states that those listed rights and freedoms are guaranteed "subject only to such reasonable limits as are generally accepted in a free and democratic society with a parliamentary system of government". In other words, you have freedoms and rights as long as they do not conflict with the needs of government.

To compound this qualification, we have a further qualification in Section 2 of Item 15. "This section does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged persons or groups." In other words, governments can ignore your so-called rights and freedoms and equality before the courts as long as they claim it is for a good purpose. To paraphrase an old saying, "the road to the elimination of all rights and freedoms will be paved with good intentions", (just as they have in the past).

All individual rights are meaningless unless there is a fundamental right to have, enjoy and maintain one's property. If a person has to rely on government for his food, clothing and accommodation, he has no protection against government. The Charter makes no mention of protection of property rights. For the right of property, it substitutes the right to "security of the person." This has cradle to grave connotations which can only be guaranteed by forcefully taking property from some individuals to maintain others. It negates the concept of voluntary association that is basic to civilized life.

The entire document is an inversion of proper concepts for a Constitution. Instead of protecting individual citizens from government, it protects government from citizens. Since it was written by politicians and bureaucrats, this comes as no surprise. Therefore, until such time as the "patriation" resolution contains a clause stating that no government shall hold or enact laws that infringe on the individuals' right to life, liberty and property, there should be no "patriation".

R. Marttila

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