

UNB prof. publishes article

By KEN CUTHBERTSON
Brunswickan Staff

Gary J. Allen, assistant professor of political science at UNB, has published an article entitled "A Constitutional Time-Bomb: The Canadian Debate Over Patriation of the United Kingdom" in the British journal "The Round Table: The Commonwealth Journal of International Affairs." He is one of several political science professors across the country who have published articles on the constitution and dealt with the patriation process, the substance of the amending formula and the problems resulting from both.

Allen suggests in his article "this latest attempt at locating the BNA Act in Canada is perhaps the most serious of several which have been made over the past fifty years, if only because the present national government has forsaken the effort to gain the approval of the provinces and has decided

to proceed unilaterally in its patriation efforts."

The Trudeau government has violated the convention of a federal-provincial agreement by amending the sections of the BNA Act which affects the provinces' power and "reneged upon a promise to native groups" to be involved directly in constitutional change. Morally, the government is guilty of "pursuing a 'game plan' devised behind the backs of the provincial premiers and the public" which was intended to prevent opposition to the scheme and "placing the British government in a 'no win' position."

Allen warned if the British Government gives in to the request from Canada, it will abandon its role as a "constitutional protector of provincial and native rights" and if it does not, it will create the probability of an anti-British election campaign and possibly a unilateral declaration of independence.

When this request comes to Britain it "constitutes a constitutional time-bomb, a bomb dumped more or less deliberately in the lap of British parliamentarians by a Canadian government and Prime Minister intent on constitutional change at all costs." It is unfortunate the British parliament is placed in such a position, although Allen is strongly against the method used to patriate the constitution he believes Trudeau will get his constitution either way you look at it.

Allen's main disagreement with the process used to patriate the constitution appears to be with the "secret memo" of an August 30, 1980 report to the cabinet on constitutional discussions commonly referred to as "For Ministers' Eyes Only" which outlines the Liberal "game plan."

Allen cites the memo, "Clearly the federal government and its advisors expected the First Ministers Conference to fail and had even made plans, before meeting the premiers, for the introduction of a resolution for a joint address (of both Houses of the Canadian Parliament) to Her Majesty the Queen at the end of September or early in October."

Allen specifies that the option chosen, out of the three possible timetables according to the resolution, "was deliberately designed to deal with the possibility of 'prolonged and determined obstruction' in the House, which the government ended through the imposition of closure."

"The government has directed all of its efforts to this express end of limiting, if not effectively muzzling, debate," Allen claims. He points out that the Joint Committee, for

example, was asked to report on December 9, but was denied a travel budget and prevented from televising its hearings. "Such careful management removes the issue from public view and the constraints placed on time, financing, and publicity effectively prevent the Committee from functioning as a committee of inquiry." Since the article has been written, a travel budget has been provided and hearings televised, but the scheduled date of July 1 for bringing home the constitution has not changed.

Another point Allen makes in regard to the memo explains why the Canadian government is avoiding the courts. He stated "the government does not trust the courts to render a decision favorable to it, politically, even if legal opinion is on their side."

He also makes clear that substantial amendments to the BNA Act would be less well received and more difficult to do in Canada than if done by the British House of Commons. Allen goes on to say the memo "makes clear the perception of the federal government that such legislation enacted in Britain, would be beyond the reach of the Canadian courts." Allen refers to the strategy as "Catch 22" meaning if Trudeau can get his resolution passed quickly enough he has accomplished the goal he set out to attain.

Allen raised a series of questions in regard to the substance of the amending formula. He stated for instance, "the Charter of Human Rights is distinguished as much by what it does not say as by what it does specify." The native people were not consulted about

change in the constitution nor given protection by it and "have been effectively left out in the cold." As well, the linguistic and educational rights of minorities have not been adequately protected, he said. Allen commented that the charter does not "constitutionally guarantee the right of children whose parents are members of the majority language group to an education in the minority language," which means that French children in Quebec have no constitutional right to be educated in English and English children have no right to be educated in French. "The guarantee of language rights in education is a one-way street, at best," he said.

On the same topic Allen goes on to say that it represents a mixture of compromise in basic principles and a refusal to compromise on the process. "Provincial opposition is directed less at the principle of a charter than at the method of implementing it," he said.

Of most concern to the provinces is the two-step process of patriation Allen stated. He said it "in effect," holds the provinces up for ransom, on the one hand, and creates distinction among them, on the other" by giving Ontario and Quebec the veto power over any amending formula agreed upon by the provinces. The second part of the formula provides for the use of a referendum, authorized by the Canadian Senate and House of Commons by a resolution, which would allow the federal government to avoid the provinces and ask the people for a mandate for change.

Search for deans

The faculties of engineering and forestry are in the process of selecting new deans. Dr. Robert Burridge, UNB vice-president academic and chairman of both search committees told the *Brunswickan* this week the search for a new dean of engineering began in late October. An external and internal search is now being conducted Burridge said. Letters have been sent to most universities where an engineering program is offered and to certain selected US universities. National advertising in several papers and journals has also been completed and several replies have already been received, Burridge said.

UNB's faculty of engineering has been without a dean since the appointment of the former dean, Dr. Burridge, to the position of vice-president academic last summer. The current acting-dean, Prof. Albert Stevens, has indicated he is not a candidate for the position of permanent dean said Burridge.

Meanwhile the search for a new dean of forestry continues. Advertising in national publications has been carried out and applications are being invited from both UNB and other areas. UNB's current Dean of Forestry Dr. Robert Ker is retiring and therefore is not re offering, Burridge said.

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Contact: Rosary Hall 455-1654 Monte Peters (UNB Campus Ministry) or Elinor McCluskey (STU Campus Ministry).

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