

Canada with the power of constitutional amendment. This is what he said:

The British North America Act itself is not only the charter of the Dominion of Canada; it is just as much the charter of the provinces of Canada—

That is what we are forgetting today.

Would it then be fair for us to arrogate to ourselves the right to change the act which is just as much the Constitution of the provinces as it is our own? . . . Within their sphere the provinces enjoy the powers of self-government just as much as the dominion Parliament does, and if so, surely the dominion Parliament cannot take upon itself the right to change a statute which gives to those provinces the powers which they enjoy—

Unilateral action will change this country. In 1925 the prime minister of the government of that day recognized that.

Let us move to 1946, when a great Canadian, the Right Hon. Louis St. Laurent, was minister of justice. He was asked the question whether Section 133 of the British North America Act could be altered without provincial assent. Section 133 is the section which provides French and English language rights in the Parliament of Canada, the Supreme Court and the legislature of Quebec. Mr. St. Laurent was asked if the federal government could force the same thing on every other province. This is what that great man, who has passed on, said:

Legally I say it can. The situation appears to me to be this. There are persons and nations who reach a high estate in the affairs of men, and the high estate they reach imposes upon them high obligations—I feel—and I believe my fellow Canadians of my race and religion can feel—that a better guarantee than anything that might be found in section 133 is to be found in that respect, for those who have been formed under the principles of British freedom and British fair play, to protect what are our essential rights.

It is not the manner of those who have themselves had, and whose ancestors have had, the formation that comes from that long history which has brought us to this point in the civilization of mankind, to do things which the conscience of humanity at large would regard as dishonourable; and the conscience of humanity at large would frown upon as assemblage in this House that attempted to take from me and from those of my race the right to speak the language I learned in my infancy as one of the official languages in which the deliberations of this House may be carried on. So it is of everything else that is not within section 92. If it is fair, if it is just, if it is proper according to the standards of human decency, it will be done; if it is unfair, if it is unjust, if it is improper, all members of this House will say, "It is not our manner to do such things."

● (1730)

The great prime minister would not force himself to do something he considered dishonourable, even though it was legally right in his mind. Also in 1950, the Right Hon. Louis St. Laurent said the following in his opening statement at the constitutional conference of federal and provincial governments:

—it is, and has always been, the view of the present federal government that the exclusive jurisdiction of the provinces which gives a federal character to the Constitution of Canada must be respected.

I should like to repeat again the opinion I have expressed on many occasions that, regardless of the legal position, nothing placed by the Constitution under the jurisdiction of the provincial legislature should be dealt with or altered without provincial participation.

Those were the words of a great prime minister of Canada, albeit he was a member of the Liberal Party.

Then in 1956, in reply to a question by the Right Hon. Mr. Diefenbaker, Prime Minister Pearson said:

My right honourable friend also referred to the fact that we said very little in the Speech from the Throne about constitutional amendment, and that we

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seemed to have dropped the Fulton-Favreau formula. We have not dropped it, Mr. Speaker. We shall do our best to put it into effect if and when we get the agreement of all the provinces, but without that agreement it cannot be done.

Then there was the fourth principle of the Hon. Guy Favreau in 1965 which indicated:

That the Canadian Parliament will not request an amendment directly affecting federal-provincial relationships without prior consultation and agreement with the provinces.

I come now to 1979 when the Right Hon. Prime Minister (Mr. Trudeau) said the following at the February 6, 1979, meeting of first ministers:

So, will there be unilateral action by the federal government regardless of the result of this conference? Our priority would be to seek agreement and move in areas of federal and provincial concern where we could move together but if we are not successful I repeat we preserve our constitutional right to change our constitution, the federal one, just as the provinces keep their right to change their provincial constitutions and I do not think either the provinces or the federal government would want to give up that right. . . . Our priority is to change this constitution collectively, federal and provincial. . . . We will adopt a Charter of Human Rights, we will constitutionalize it. We cannot force the provinces to do it. We are trying to convince them to do it. . . . I can answer unequivocally that the federal government intends to entrench a charter of basic human rights and of linguistic rights. Now, this will bind the federal government; it won't bind the provinces unless they want to bind themselves but here again we can under our constitution bind ourselves just as the provinces, many of you, have adopted charters of human rights. Well, we have adopted one and we want to constitutionalize it.

Those were the words of the present Prime Minister who has now changed his mind and is imposing items upon the provinces. He has said that conferences fail. I wonder why in 1979 he said that it will not bind the provinces unless they want to bind themselves? In other words, they would have the right to opt in or opt out.

I should like to refer to a book which was written by the Prime Minister entitled: "Federalism and the French-Canadians" which was republished in 1961 in "Social Purposes for Canada". On page 148, the Prime Minister argued against the centralizing policies of socialists. He stated:

And there is surely some good in trying to improve upon, or modernize, the rational but perhaps aging division of powers adopted by the Fathers of Confederation. I am inclined to believe, however, that Canadian socialists have exaggerated the urgency of rewriting or reinterpreting the BNA Act. Most of the reforms that could come about through greater centralization could also follow from patient and painstaking co-operation between federal and provincial governments. And the remaining balance of economic advantage that might arise from forcefully transferring more power to the central government is easily offset by the political disadvantages of living under a paternalistic or bullying government.

He said, "living under a paternalistic or bullying government"; that was back in 1961. How he has changed! He does not mind establishing now a bullying government and ignoring the provinces. He does not mind doing something unilaterally which no other prime minister in the history of Canada would have even thought of doing.

On March 31, 1976, the Prime Minister sent a letter to the premiers in which he wrote:

In practice, of course, the federal government has in the past sought the unanimous consent of the provinces before seeking amendments that have affected the distribution of powers.