

The Constitution

Westminster is, in fact, not only being asked to rid itself of the tiresome task of looking after the BNA Act and amending it from time to time when asked; Westminster is being asked, in addition, to amend it for one last time as far as they are concerned, and, in the process, rid itself of that tiresome chore.

In what areas is approval being sought for this final Westminster amendment? Largely, it is admitted with regret, in areas touching on provincial jurisdiction. Entrenched rights, many of which are property and civil rights. Under the BNA Act which is being patriated in a sense under article 50 or 51—the name is changed but it is still the BNA Act, to all intents and purposes—property and civil rights were assigned to the provinces, as was education. Those two elements are being changed in the constitution, presumably at the request of the government. The British parliament is expected to make those changes.

Equally important in the area touching upon the powers of the Senate, an area which itself impinges on provincial or regional jurisdiction, are the prerogatives of the regions or provinces. This is done without consulting with, and certainly without the consent of, the provinces.

In essence what we see first of all is the Prime Minister presenting a resolution to Parliament which because of its attack on provincial jurisdiction will fundamentally alter the federal nature of this country built up over 113 years. In addition, changes have been proposed in the powers of the Senate, thereby producing a fundamental change in the accepted parliamentary nature of this country. I shall return to this matter late in my remarks.

The argument we hear from the government's side asks what can be done after 53 years. We are being asked to do this in 53 days. What is the deadline there for, I should like to know? That is not more than 53 days away. If we cannot do it as a nation in 53 years, is this House expected to do it in 53 days?

An hon. Member: Two years.

Mr. Munro (Esquimalt-Saanich): They say it has proved impossible to get agreement short of unanimity on how to proceed with amendments affecting the provinces. I question the absence of unanimity, however. In fact, I suggest that it is not true. It is a downright lie. It is a lie.

● (2110)

The Vancouver consensus was agreed on by 11 governments meeting in Vancouver last fall. This was all governments, provincial and federal. If that is not unanimity, I do not know what is. I ask why it was rejected. Why should we turn our backs on such a prize and proceed by way of the Victoria formula which was rejected ten years ago? One can only speculate. Unfortunately, my speculation, based on 12 years of experiencing the Prime Minister's baneful influence on the public service and Parliament, leads me to the view that it is being done deliberately to provoke antagonism, just as the Pitfield document was deliberately leaked in Winnipeg to provoke dissension in the meetings of the council of ministers,

and just as the other longer 65-page document—whatever it is called—on closure of the meetings on September 12 or 13 was designed to bring about the failure of the first ministers' meeting.

That, Mr. Speaker, is my reading of why we have rejected a prize, a unanimously agreed upon formula, and picked one up which was thrown overboard ten years ago. The reason is that dissension is the way this government plans to govern this country. I am afraid there is something sinister here. I will return to provide supporting evidence of my belief in a minute.

The third element has to do with an equalization provision—as though that were new. Equalization has been a constitutional practice in this country I should say for almost 30 years now. It was suggested by the leader of my party at a meeting and included in a document which has come to be known as the Kingston memorandum, agreed upon by seven premiers and the present Leader of the Opposition (Mr. Clark). It suggested that the equalization formula be included and entrenched in any constitution that might develop. The form in which it is there requires, I think, a little bit of refinement. There is no problem with the idea.

If I look behind that equalization formula I wonder whether I would find the same musty cupboard with grubs, moths and things that I found when I looked behind patriation. I think I will just leave that one for the time being and on another occasion I may have a return to it.

I think you are entitled to ask, Mr. Speaker, why I am so worried about the federal Parliament trespassing upon provincial areas of jurisdiction without consent. This brings us to the question of what is Canada. How did Canada come into being? Here again I suggest we go right back to fundamentals. Not many of us may know it, but the BNA Act—incidentally, despite what television and the billboard ads are saying—was written in Canada by Canadians. It has been ours from the beginning, despite those stupid advertisements which cost us \$6 million.

The BNA Act starts out in its preamble in this fashion:

Whereas the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion—

This is followed in section 4 by the definition of Canada in these terms:

—the Name Canada shall be taken to mean Canada as constituted under this Act.

In other words, the coming together of three provinces, which eventually became four provinces, desiring to be united and form a central government.

Who or what then is Canada? Since Canada came into being and is recognized as having been constituted as "Canada" by the coming together of the "Provinces of Canada, Nova Scotia and New Brunswick", and since the other provinces are regarded, once they have been created as provinces and joined the union, as being equal in all respects to the original partners, it follows, according to any logic of which I have knowledge, that Canada as an entity is a creation of the provinces.