

provinces on the Atlantic seaboard had equally strong local loyalties and traditions. Hence whatever the personal predilections of the Fathers of Confederation, the only hope of agreement lay in a union on a federal basis. This was quickly agreed to at the meeting of the Quebec Conference.

The Fathers of Confederation, knowing that they could not have a unitary government, tried to do the next best thing and establish a federal union with a strong central government. You must always remember that an American civil war was raging during the time that the principles of our constitution were being worked out. Rightly or wrongly it was then the current view in Canada that one of the many reasons leading to the civil war was the fact that under the United States constitution, too much power was given to the states and too little to the central government. To remedy what they considered the weakness of the United States federal system, the Fathers of Confederation bolstered the strength of the federal government in a number of ways, the two most important of which are perhaps the following: the residuary powers under the Canadian constitution are given to the federal government whereas in the United States constitution they are allotted to the states. The federal government was given the power of appointing and removing Lieutenant-Governors of the provinces and, more important still, the right to disallow or set aside any provincial statute within a year of its passage.

I might here deliver a short homily on the difficulties of drafting constitutions, for I have to report that whatever the Fathers of Confederation intended and whatever the language of the document they drafted, a quite different sort of federal union has developed. I am not saying that the development was a good or a bad thing but it is fair to say that over the years, the powers of the provinces have increased relatively to those of the federal government. This came about partly by judicial interpretation of the provisions of the constitution and partly by constitutional usage. For example, the power of the federal government to disallow provincial statutes has been used less and less and is in fact rarely invoked except where a provincial statute is clearly unconstitutional and the delay occasioned by testing the statute in the courts would be harmful. It is now true to say that the provinces in their own field of legislation are of equal power and status with the federal government and operate without serious interference from federal authorities.

The actual division of powers between the federal and provincial governments surprisingly enough caused very little trouble at the Quebec Conference. It seems to have been agreed on all sides that as long as the minority rights of language, law and religion were preserved, the central government should be strong. A few words about the distribution agreed upon is now necessary. The federal government was given exclusive power to make laws "for the peace, order and good government of Canada" in relation to matters not coming within the classes of subjects assigned to the provincial legislatures, under a later section. For greater certainty, the federal government was given exclusive jurisdiction over a specified list of subjects including national defence and the armed services, trade and commerce, navigation and shipping, coinage, banks, bills of exchange, interest, legal tender, bankruptcy and insolvency, patents, criminal law and so forth. The federal government also had power to raise money by any system of taxation. In practice it was found that the general power to legislate for "the peace,