

the spirit of the times, in looking for the meaning of the B.N.A. Act, as for the events that led to the great charter to be overlooked in seeking to understand the supreme intent and import of that document (*w*).

The British North America Act must not be approached with the ordinary measure of statute construction. It is no puny act that permits of that course (*x*). It is the charter of a nation loyal but free (*y*). It is the gift of one free nation to another—a gift destined and intended to weaken the visible bond of union, but having for its object the cementing together in an irrefragable union, of two peoples having common interests, common laws, common language, common blood, and, above all, a common desire to be free (*z*). When that great Canadian, the late Sir John Thompson, urged the claims of his country, it was not his voice, but the voice of five millions of people that was heard, pleading, not to an ordinary court of law, but to the great court of the Empire. Behind that mighty voice was the indomitable spirit of the Canadian people. Behind it was their implicit confidence that they had not been deceived in accepting the B.N.A. Act as the palladium of their liberties. And when Sir John declared that "the people of Canada would hold him culpable if he failed to assert what was the only interpretation under which they received the constitution, and under which they were willing to be content with that constitution" (*a*), he gave public utterance to the firm resolve of a people willing and desiring to be loyal, but determined to be free.

The mind of the Canadian people was open and known to the enactors of the B.N.A. Act (*b*). For years the former had been in the full and free enjoyment of the blessings resulting from the exercise of responsible government. Their progress had been as phenomenal as their capacity for self-government was indisputable

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(*w*) Existing conditions at Confederation may be consulted : C. J. Richards in *Severn v. The Queen*, 1 Cart. 430-31 ; and see, also, *Corporation of Three Rivers v. Sulte*, 2 Cart. 280 ; *Reg. v. Trevor*, 36 U.C.R. at 212.

(*x*) In construing an instrument of government such as the B.N.A. Act, a wide construction should be given to the powers of the Local Legislature. Cf. Vattel, Bk. 2, c. 17, secs. 285-286.

(*y*) It confers a constitution : Spragge, C.J., in *Hodge v. The Queen*, 7 A.R. 246.

(*z*) Cf. Lewis' Govt. of Dependencies, Introduction by Lucas, p. lxiii.

(*a*) Sir John Thompson—Hodgins, p 33.

(*b*) Lord Selborne in *Reg. v. Burah*, 3 Cart. at 431.