



memo from
Robert N. Thompson

25.03.91

Dear Howard,

How did your
Alberta Alliance Seminar
go. Its a good thing I
have a few friends in
Alberta - otherwise I would
be blind to Alberta politics.
They tell me you are the
chief Organizer!!

Here is a presentation
I made last Thursday to the
Parliamentary Committee on the
Constitution. 5 Senators 12 MP's
all parties! Love Bob.

SUBMISSION TO THE SPECIAL JOINT COMMITTEE

Considering the process for the amending of the
Constitution of Canada

by Robert N. Thompson, O.C., Ph.D.
March 21, 1991 at Victoria, B.C.

Senator Gerald Beaudoin
Mr. Jim Edwards, M.P.
Honourable Members of the Joint Committee

It is a privilege to present a brief paper on the reforms of the Constitution of Canada as I view the situation within Canada at this crucial point in the history of the nation. I regard this opportunity not only as a privilege but also as a responsibility, for I see your Committee of basic importance in our present struggle for national unity amongst our diverse people. A new and relevant sense of national spirit and determination to survive as a nation is not possible without a revised and relative constitutional reform. It goes much further than an amending formula. In fact, neither the federalism of 1867 nor 1982 is adequate to withstand the pressure and demand of the current situation.

We live in a world with a profound crisis of deepening poverty, increasing national debt, collapsing ecological systems and disintegrating social structures. This crisis does not result simply from inadequate fine tuning of economics, and political, and social policies. We face a new historical reality--the passing of human society beyond the natural limits of social exploitation, political expediency and environmental exploitation. Yet, I am convinced that the nation of Canada is much greater than the sum of its parts, be these parts the geographic divisions or regions which make up the nation or the different historical, social or political concepts which now exist in our midst.

My family heritage does not include the two founding nations of Canada's history. My father and his father migrated to this country at the turn of the century from peaceful and traditional Norway. My grandfather's vision was not brought about by wars or hunger. It was the challenge of a new life of opportunity and freedom for himself and his family. His early years on a pioneer homestead farm in the foothills parkland of west central Alberta was a difficult struggle for survival. He did not live to see the lifestyle which we enjoy today, but his vision and determination never wavered.

I am an immigrant in my own right being born in the United States as my father went to Minnesota to complete his education which, in his time, was not available in the Northwest Territories or the early years of Alberta. My citizenship was given to me by Order of Council during the war years when I required a passport for special service overseas. My mother tongue was neither French nor English although in the course of time and experience I am now conversant in five languages.

In the multicultural makeup of Canada I belong to the minority grouping of those who immigrated to make this land their home. This minority is now larger in number than either of the founding races, the British or the French.

I have great respect and love for my Canadian heritage from the British--their sense of fairness and justice in their Common Law and democratic freedom of their political experience. I have a warmth of appreciation for the French culture and adventure which the Habitant settlers brought from pre-revolution France. In fact, my blood carries the strains of a French great-great-grandmother who was a Countess from Normandy and a great-great-grandfather who came across the North Sea from Scotland.

I have several other reasons why I am proud to be one of the new Canadians who make up our mosaic and who have the privilege of appearing before your Commission.

I came to know my Canada from the outside as well as the inside. Of my adult life, approximately one-third of the time has been in foreign service. It was World War II that made the difference for me. The East African Campaign came to a formal ending with V E Day in Europe. I had demobilized and was one of two Canadian senior educators in the employ of the Ethiopian government. The other was Dr. Lucien Matte of Laval who later returned to Canada to become President of Laurentian University. We used to go to diplomatic and governmental functions together in the presence of Emperor Haile Selassie. We were always introduced as Canadians. I was a pure Westerner. Yet, in that setting we both were "Canadians" and we came to know and respect each other for that simple fact; so much that when I first touched down at Dorval Airport in Montreal after four years of absence I had to kneel and kiss the earth of the homeland. Montreal or Calgary--this was home!

During the seven years following World War II I served as an advisor to the special Imperial Commission charged to draft a democratic Parliamentary Constitution

for Ethiopia's first Parliament. It was not an easy task in a country where literacy was not more than 10% out of a population at that time of approximately 30 million. I cabled the Minister of External Affairs, Lester B. Pearson for a copy of the BNA Act. The document that was finalized contained many of the federal characteristics of the BNA Act except that instead of a Governor General we had an Emperor. He carried on many of the duties we today assign to the Prime Minister. This was not hard to do because nowhere in the BNA Act was there mention of the title of Prime Minister. Thus it was the Emperor who appointed the Cabinet, the Senators, the Diplomatic Corps, the Judges and the one who drafted legislation. While there was a formal debate, Cabinet discipline did not allow any formal dissent. As in Canada's early years that Constitution worked well in Ethiopia within the newly built Parliament Building.

In retrospect with the passing of time the younger generation objected to the arbitrary monarchical form of a parliamentary system. The best trained body of young Ethiopians, the officers of the Army, Police, Air Force and Navy embraced the principles of Communism and eliminated the Emperor, the Constitution and Parliament. Today, like most Communist states, the economy is in shambles and government rules by sheer force with the Parliament Buildings a monument of what might have been.

I have fears for the future of Canada if our Constitution is not brought into line with the current situation. The Canadian public is dissatisfied with our present system. If there was any remaining loyalty for the Senate it was lost in the fracas of the GST debate and the brute force of the Prime Minister in creating enough new Senators through an out-dated, unknown and never-before-used minor clause of the Constitution to give his party a majority in the Senate. Certainly the Canadian public were provided with enough evidence to convince them that it was a useless appendage.

The recent Meech Lake fiasco, rejected in process as well as content, further weakened the confidence of public opinion in the present system. Without regard to the rights of the aboriginal minority and the giving of the constitutional right of veto to a single province on all future constitutional change, Canada would have placed itself in a constitutional straight-jacket. An interesting side-light on this tragic episode of Meech Lake through a recent (February 28, 1991) Angus Reid-Southam Poll showed that on a national basis, including Quebec 60 percent of Canadians were opposed. Without Quebec the result was 65 percent opposed. To me Meech Lake was another outdated concept that Canadians did not want.

From a strictly democratic viewpoint, what could be more fair than the Trudeau Constitution's amending formula, based on the agreement which had come to be known as the Victoria Formula, and later the Vancouver Accord, requiring a majority vote of seven of the ten provinces representing at least 50 percent of the nation's population? In the sense of what Canada is today, rather than what it was fifty or a hundred years ago, any constitutional change must be based on democracy and freedom in a parliamentary system. If politicians insist on hanging on to what was acceptable years ago, then Canada as a nation will fragment and disappear.

While the repatriated BNA Act is now enshrined within the Constitution of Canada there are lessons to be learned from the process which brought it into being. It was at the Charlottetown Conference of 1864 that the politicians of the day agreed to agree. In September of the same year Canada's colonial politicians met in Quebec City for what has become known as the Quebec Conference. This conference met for several weeks in formal sessions and then continued in Committees and subsequent meetings through 1965 and most of 1966 to draft the final document. The final draft of the BNA Act was the work solely of Canadian politicians, but in the end was sent to the Parliament of Westminster for final passage in January 1967 and promulgated on July 1, 1967. It was not the work of a committee sitting part-time or of all the politicians of the day meeting for several weeks. Rather, it was a prolonged exercise with ample time for the politicians to seek advice from their advisors and the public.

This pattern is important to you as a Parliamentary Committee. Perhaps with a Quebec referendum promised for late 1992 the time limit is shorter and the crisis more critical. The point is in my opinion that your Committee should sit more or less continuously until you have what is considered to be a satisfactorily amended Constitution, which should then go to a National referendum involving all Canadian citizens in the final process.

There are several considerations which are important in understanding what took place in 1864-66.

1. The politicians of the day were divided by party loyalties, by regional differences, by a basic difference between Quebec and the three provinces which shared in the final decision. Those men put aside their petty differences for a major cause and objective. Georges Cartier and John A. Macdonald made a pact of understanding

and agreement. Their association was solid through those years of constitutional deliberations until Cartier's death in 1873. George Brown as a Whig was Editor of the Toronto Globe. He was a lifelong foe of Macdonald, yet they put aside their differences so they could work together in coalition for Confederation, although he lost his seat in the first Canadian election. Sir Leonard Tilley, Governor of New Brunswick gave to Canada the nation's motto "Dominion from Sea to Sea."

2. Sir John A. Macdonald and Georges Cartier and practically all of the Fathers of Confederation considered the American Constitution as a superior form of government and patterned the Canadian counterpart after it. They were, however, overwhelmed by the fury of the Civil War in the U.S. Their determination was to find a viable alternative and that alternative was to make sure that no such revolt could take place in Canada. They reversed the U.S. pattern of giving the United States the residual power of government by reinforcing the power of a strong central government, "giving Ottawa all powers not specifically inferred on the Provinces" (Sir John Pope, - MEMOIRS OF SIR JOHN A MACDONALD - Vol. I, page 269).
3. The pattern of democratic representative government was to be Parliamentary rather than Congressional with the Queen's representative as Governor General, resident in Canada. The office of the senior Executive Officers was not defined and the Legislative and Executive arms of Parliament were to be coincidental in colonial tradition.
4. The Constitution gave certain guarantees to the Province of Quebec which gave Quebec a distinctive flavor. Briefly these guarantees summarize as follows:
 - (a) The government of the Province of Quebec was directly responsible for the administration of the internal affairs of the province.
 - (b) Quebec was guaranteed the right of the French language.
 - (c) Quebec's laws were to be the Napoleonic code.
 - (d) The Parliament of Canada was to be bilingual.

- (e) Canada's national currency was to be bilingual.

The BNA Act was generally accepted as skeletal in form with the filling in to be accomplished by convention and negotiated agreements between Canada and the U.K. The power of amendment of the BNA Act was retained by the British Parliament on advice from the Government of Canada. This left room for the addition of new provinces beginning with Manitoba in 1870, B.C. in 1871, Prince Edward Island in 1873, Alberta and Saskatchewan in 1905, and through to Newfoundland in 1949. Likewise the Senate was fixed at 96 and 24 in Quebec, Ontario, the Maritime Provinces and the Western Provinces yet to be formed. Senators were to be appointed by the Privy Council and were intended to be the voice of the provinces.

This form of government worked reasonably well as mutual agreement and convention developed a continuing pattern of independence. It is now obvious that the pace of reform has not kept up with the changing conditions internally and internationally, particularly during the past decade as independence and decentralization has taken over the spirit of our present generations. The repatriation of the BNA Act in 1982 ended this in the "Canada Act."

A book which has been of tremendous assistance to me in understanding what these changes actually are is "THE THIRD WAVE" by Alvin Toffler, the author of "FUTURE SHOCK." I recommend it to you. To Toffler the First Wave was an Agricultural Civilization where food, clothing and shelter were the main concerns of the people. The Second Wave was the Industrial Civilization which has brought a consumer oriented world to its present apex, but which is now moving into its degenerating phases. It is the era of big corporations such as General Motors and Exxons with larger budgets than 95 percent of the world's governments, and the centralization of governmental power as in Ottawa, the USSR and others.

The Third Wave is the wave of Decentralization—a new beginning. "There is a powerful tide surging across much of the world today, creating a new, often bizzare environment in which to work, play, marry, raise children or retire. In this bewildering context businessmen swim through highly erratic economic events, politicians see their ratings bob wildly up and down, while universities, hospitals and other institutions battle against inflation." Burgeoning debts and ever increasing budgets and interest rates limit

governmental subsidies. Who would have dared to dream two years ago what has happened to Eastern Europe, or today in the USSR or in Albania or Yugoslavia?

Toffler wrote that if decentralization of policy, authority and administration does not take place quickly, the future of western civilization will inevitably lead to disintegration and collapse. I believe that much of the resentment amongst the minorities of Canada, including the aboriginal peoples' minority is because of the concentration of power and the process as well, seeks to perpetuate a system which no longer functions according to the will of the public at large nor according to sound democratic principles.

The final result is that the bitter controversy which has surrounded constitutional debate during the last 10 years has reached a climax in 1991. It continues unabated in the minds of the public, particularly in the minority elements in the Canadian mosaic, be they ethnic, political, economic or geographic. "Rich by nature--Poor by policy" wrote Goldwin Smith, Canada's deTocqueville in his 1891 classic "CANADA AND THE CANADIAN QUESTION." He well described Canada one hundred years later. The question is simply whether or not the country of Canada can continue as a nation or whether democracy itself will survive.

It is of significance that Pierre Elliott Trudeau believed passionately in a strong united Canada with Quebec an integral and willing partner in Confederation. So did John Diefenbaker and likewise did Lester B. Pearson and Louis St. Laurent before him. With that level of positive leadership, why is it then that Canada's national unity and spirit is weaker today than it was in their day? I am convinced that this is because not one of these outstanding leaders dared to attempt to reform the parliamentary system away from the vestiges of colonial days to a functional democracy. In the end, Prime Minister Trudeau was forced to use unilateral authority of the Federal Government which was finally approved by a decision in his favor by the Supreme Court. The crowning accomplishment of Pierre Elliott Trudeau was the patriation of the BNA Act when on April 17, 1982 Queen Elizabeth delivered the document to Governor Edward Schreyer, putting Canada on its own constitutional footing. The Meech Lake attempt to amend the Constitution failed. This is why we are here today. Band-aid amendments will not succeed.

Decentralized reform of the parliamentary system is not something which would destroy the system. There are several models of constitutional reform which can be used as patterns. We do not need to revert to a Presidential system such as exists in the United States or in France although in light of current needs they may be more effective than is the Canadian system. Perhaps the most direct example is Australia where Parliament exists on a fixed three-year term with an equal elected Senate. Even the Mother of Parliaments in Westminster has reformed itself much more effectively than has Canada's Parliament, making it more sensitive to the opinions of the electorate. One of the most effective Federal democratic systems of the post World War II, is that of Germany. We do not seem to want to learn in Canada. Our Prime Minister and his personally selected Cabinet are "all-powerful." The only weapon which the opposition members can use in this present oligarchic system lies in their ability to delay or obstruct governmental legislation. Back-benchers on the government side have no real input on government policy except perhaps in confidential Caucus debate. Unfortunately the chief function of the parliamentary majority is to sustain the vast power of the Prime Minister and his Cabinet. The remedy of a functional check and balance on the Prime Minister's authority by parliament is virtually non-existent. To me as an experienced parliamentarian and a Professor of Politican Science, Canada's Constitution in today's world is seriously flawed and poorly designed. How long will the political establishment recognize that structural changes must take place? The key to these changes must be decentralization.

Joint Chairman, Senator Beaudoin and Mr. Edwards, my suggestions to your Committee as a reasoned approach to the Parliamentary reform:

The House of Commons

- Fixed term of three years--with the one exception that where the government with an overall majority fails to win a vote on the annual budget.
- Members elected by direct representative vote.
- Prime Minister is the leader of the party with a majority of members.
- Cabinet chosen from members of the majority party in the House by the Prime Minister and his Caucus.

- The fundamental problem in the Canadian parliament is that the legislative and executive arms of government are one and the same. The Cabinet initiates all legislation and that same Cabinet administers the laws which they themselves have formed. In this situation the executive powers of the Cabinet must be subject to checks and balances. Likewise the elected representatives of the people must have a greater opportunity to participate in the drafting and passing of legislation.
- The Speaker is nominated by the party with majority representation in the House but elected in open election of all members.

The Senate

- Equal representation from each province such as six Senators from each province representing specified constituencies following the pattern of Australia and the U.S. The basic purpose of the Senate must be to provide a voice of the Provincial Governments in the Federal Parliament.
- Term of office--six years with one-half of the Senators elected each three years in national three-year elections.
- Legislation may originate in either the House or the Senate with both giving their approval to legislation prior to "Royal" Assent with the exception that budgetary legislation be the sole prerogative of the House of Commons. Individual Members and Senators will have the open opportunity to sponsor legislation.
- The Speaker is nominated by the party with majority representation but elected by open election of all Senators.
- Senators cannot hold Cabinet office.

Privy Council

- The sole function of the Privy Council is to give approval to the nomination of the individuals to serve as Governor General and as Lieutenant Governor.

Governor General

- The Governor General office as recommended by the Privy Council is to serve a term of five years. As the representative in residence of the Monarch, the Governor General should hold the office as "Head of State" and Chief of Protocol. This would include the Vice Regal office including Orders, Decorations and the Heraldic Authority. The Governor General as "Head of State" gives his assent to all Acts passed by Parliament.

The Lieutenant Governors as the provincial representatives of the Governor General representing the Canadian Monarch, as recommended by the Provincial Cabinet to the Privy Council.

Parliamentary Structure

Committees

- The Committee system of the House of Commons should continue as at present but with strengthened roles. Chairmen of the Committee should hold the office by order of seniority but with the approval of the Committee members.
- The Joint Committees of the Commons and Senate should be established for all departments of government and of national importance such as foreign policy, national security, constitutional change, foreign trade and justice. In the case of the latter all appointments to the Supreme Courts and Federal Justices be approved by the Joint Justice Committee before appointment.

The language and records of Parliament shall be maintained in both English and French.

The Courts

- The Supreme Court made up of nine members with three members from the Province of Quebec to allow for the system of the Province of Quebec.
- Criminal Courts are to continue as Federal Courts.
- The Parliamentary Joint Committee of Justice to have the right of approval on all appointments to the supreme Court and the Criminal and Federal Justices.

Amending Formula

- The Amending Formula for the Constitution should continue as specified in the 1982 Constitution.
- All amendments to the Constitution of Canada to be submitted to the Canadian voting public through a national referendum. It is imperative that the Canadian public consider the Constitution of the country as part of them.

Charter of Rights

- The Charter of Rights should be maintained as in the 1982 Constitution with the two important omissions added; i.e. the full rights as Canadian citizens of all aboriginal peoples, and the inclusion of the property rights for all Canadian citizens.

National Capital District

- National Capital District to be established with the administrative and financial jurisdictions to be defined by the Constitution similar to that of Canberra, Australia. It would be administered by the National Capital Commission.

Provincial Legislatures and Assemblies and Government

- Terms and elections to be coordinated with that of the Federal Constitution. Jurisdiction of the civil courts and the provincial areas of

governmental authority to be defined by the Constitution with the details of tax sharing in agreement established with the First Ministers.

- The possibility for issue of referendums and local initiatives to take place at regular election times be allowed as coordinated with provincial governmental institutions and procedures.

Decentralization of the Administration of Canada

- The entire emphasis of the Parliament should be to decentralize the authority and place of governmental authority to the provinces. All decentralization agreements should apply equally to all provinces.

The Administrative responsibilities of the present Federal Government must be decentralized to the provinces in as many areas as possible, in negotiation with the First Ministers. All provinces should assume these responsibilities equally. Certain responsibilities will have to be shared, such as the Aboriginal Land Claims problem, although the heavy bureaucratic Department of Indian Affairs should be for the most part eliminated.

The details of the powers of Government as they are assigned to the Provincial Governments will be the subject of negotiation between the provinces and with the Federal Government.

Specific Departments involving the responsibility of the Central Government would of necessity remain in such areas as External Affairs, Defence, International Treaties, International Trade, National Security, the Bank of Canada and Currency, and Criminal Justice. In this regard the controversial Allaire Report is of special interest.

Canada's unique Equalization Agreement should be maintained as well as the central standardizing core of the National Health Program.

The creation of new provinces or the consolidation of provinces into regional administration would continue as the responsibility of the Federal Government through amendments to the Constitution.

CANADA - ONE NATION - A NATION FROM SEA TO SEA



Robert N. Thompson
O.C., B.Sc., M.A., Ph.D., LL.D.

Raised on a pioneer farm in the foothills/parkland area of Western Alberta.

- 1934-37 - first professional training and experience as a School Teacher in the Province of Alberta.*
- 1935 - first ran for public office, Provincial and Federal - unsuccessfully*
- 1939 - married to Hazel Maxine Kurth*
- 1940 - candidate for election but withdrew from nomination to enlist in the*
- 1941-45 - Army to later transfer to the Commonwealth Air Training Scheme and to finish the war in the East Africa Campaign - Rank: Colonel*
- 1945-57 - served in the Ministry of Education of the Government of Ethiopia as Secondary School Headmaster, later Superintendent of Schools and finally as Associate Deputy Minister of Education and as occasional Advisor in Foreign Affairs.*
- 1952-59 - with SIM International as Chairman of the East Africa Education Committee and Director of Shashemane Leprosarium.*
- 1959 - - returned home from Africa due to family illness.*
- 1960 - entered Federal Politics*
- 1962 - elected as Member of Parliament in June*
- 1962-72 - Member of External Affairs and Defence Committee. On special assignment by the Government of Canada in the Congo War - 1964 and the Biafran War - 1969-70. An Observer in the Vietnam War.*
- 1972 - withdrew from political service because of family illness and moved to Vancouver.*
- 1967-72 - Professor of Political Science - Wilfrid Laurier University*
- 1973-84 - Trinity Western University, Vice-President, Professor of Political Science*
- 1964-91 - Has made annual tours of the Asian Rim nations from Australia to China and Japan and to Africa on alternate years speaking in Third-World Development and Education.*
- 1972-91 - Active in Community Affairs including Chamber of Commerce Free-lance Visiting Lecturer*
- 1979-84 - Member of the Parole Boards of Canada and of B.C.*
- 1990 - Officer of The Order of Canada*

Books Published:

- 1963 - CANADIANS, IT'S TIME YOU KNEW*
- 1965 - COMMONSENSE FOR CANADIANS with Patrick Nicholson*
- 1978 - FROM THE MARKETPLACE*
- 1982 - MODEL CONSTITUTION with Cleon Skousen*
- 1985 - LIBERATION, THE FIRST TO BE FREED*
(military biography)
- 1990 - A HOUSE OF MINORITIES*

TELEPHONE: (604) 888-1994

FAX: (604) 888-9775

Box 430, Port Langley, B.C. Canada, V0X 1J0