

# Never Have so Many Known so Little About so Much

HO, CANADA! by R. Rogers Smith, ( Chief Wapanatak )

Canada is merely a geographical expression, not a political entity, says R. Rogers Smith, long-time battler for the right of Canadians to vote as Canadians, a right he claims they have never possessed.

In his final chapter the author proposes a “do-it-yourself” method whereby the individual Canadian can assert this right.

Writing often in a style, which has brought consternation to officialdom, **R. Rogers Smith** blends a scholar’s knowledge of Canada’s political history with a formidable array of facts, which cannot be disputed.

Here you will learn why the author states that: the American Civil War cost Canada more than the combined losses of North and South; *that the British North America Act of 1867 was designed to keep Canada in colonial status*; that as regards the Governor-General, there has been no alteration in the [constitution](#) of Canada since the capitulation of Montreal in 1760; *that there is not now, nor ever has been a confederation of the provinces of Canada*; nor has provision ever been made for the Canadian to exercise his franchise by voting as a Canadian\*.

Challenging controversial, plain spoken, **HO, CANADA!** [has not triggered any lively discussion but has prompted cover up action by the Canadian Government since its first publication, in 1965.](#)

[\\* The Canadian Elections Act since 1971, has been revised to exclude 17 British subjects requirements.](#)

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## *About the Author*

Time rolls on. The Canadian Pacific Railway (the first across Canada) was building. The Royal Canadian Mounted Police was being formed \*\*, and the buffalo herds were almost gone when the author was born February 16, 1884, at Fort Qu’Appelle, in the District of Assiniboia in the North West Territories.

Twenty-one years later, the Provinces of Saskatchewan and Alberta were carved from what were then these Territories.

His father, Richard James Smith, who was employed by the C.P.R. in building the wooden bridges for the railroad, and three others of his crew induced surveyor Dewdney, in charge of surveys for the railway, to survey homesteads for them in the Qu’Appelle valley. These were the first homesteads surveyed in what is now the Province of Saskatchewan. [*Staking land grants property rights to whomever pays for the stakes in English common law; ask Louis Riel. Ed*].

Because his parents fed the natives when they were starving, his father was made a blood brother of the Crees and later the author was made a chief of the tribe (*Chief Wapanatak, “Morning Star” in Cree*). He became a mechanical engineer and as a hobby a student of international and constitutional law, and forty years ago drafted the Resolution which the Rt. Hon. Mackenzie King presented to the Imperial Conference of 1926, which is recognized as being the basis for the enactment by the United Kingdom of the Statute of Westminster, December 11, 1931.\*\*\*

[\\*\\* The RCMP’s motto is “Maintiens le droit” which at the time it was granted, could have easily insinuated : “Keep it strait” ... the CPR mainline.](#)

[\\*\\*\\* We’re faced here with a special misdemeanor on the part of the Canadian Judicial System. If Canada claims its independence from the text of the Statute, the Provinces are equally mentioned, and are no less independent. More than 70 years after its enactment, provincials have yet to grasp the historical implication of their status. Les Québécois are not less part of the same stupidity by running referendum after referendum .](#)

# HO, CANADA!

by

R. ROGERS SMITH  
( **Chief Wapanatak** )

First Edition

VANTAGE PRESS

NEW YORK

[ [Out of Print since 1972](#) ]

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**The blue text in this edition is the opinion of the editor. He was prompted to check the veracity of such an endeavour.**

**OTHER WRITINGS by R. Rogers Smith**

*Alberta has the Sovereign Right to Issue and Use its Own Credit (1937)*

*Inside Canada (1939)*

*Our Sovereign Right ( ? )*

*Ask Your Banker ( ? )*

*Doit-on me fusiller ? (1942)*

*Doit-on s'unir ? (1942)*

**SMITH has INSPIRED to SPEAK , WRITE or LEGISLATE**

*Walter F. Kuhl, M.P. 1936-1949*

*for Jasper-Edson*

*Dr. Gabriel Lambert*

*Comment en sortir ? (Éditions Serge Brousseau 1947)*

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## EDITOR'S TERMINOLOGY

**Authority** : A person, an institution, increasing certain properties, certain possessions, certain qualities. *The opposite of what governments are.*

**Canada** : Geographical expression where liars have credibility and honest citizens are sincere political cuckolds, or a colony of sincere federalists.

**Competence** : L, *competens* proper, [what is more proper than property ?]

**Confederation**: A union of sovereign states desired by the unanimous consent of **all** the delegates; union that can eventually be dissolved. *Compare this to a Protestant marriage.*

**Contract**: Four requirements are needed for a valid contract: 1. Free and clear consent of the parties; 2. The capacity to contract; 3. Sufficiently determined object; 4. A legally considered case. *The BNA Act was not a contract between the Provinces.*

**Cuckoldom** : Not a sin; but a political organisation enjoyed by Canadians since 1867, to the delight of American institutions.

**Federation**: A union of sovereign states subscribed to by ...the **majority** of their delegates. This union is perpetual. *Compare it to what used to be a Catholic marriage.*

**Law abiding citizen** : A political cuckold, in Canada. A Canadian federalist is like someone preaching the virtues of his matrimony while living a common law union; ignoring marriage is a contract.

**Legitimacy**: An act is said to be legitimate when it coincides with historical authenticity.

**Power**: That capacity to guarantee continuity in the act, or in the state, whether you are looking at the engine, the Hydro, the State, or the old man.

**Sovereign State**: A nominal territory, **owned** and exploited by its own citizens, solely responsible for its administration. A territory where the head of state enjoys permanent residence. *Otherwise...*

**Impéritie** : The word as such is translated as **Incapacity** in English, but the French dictionary says: Ignorance of what one should know in his profession. ex. *L'impéritie of de La Feuillade caused Torino to be part of Italy instead of being French territory. [Larousse.]*



## PROLOGUE

## THE GOVERNOR AND THE CONSTITUTION

The Constitution of the government of Canada was drafted by Yorke and Yorke, attorneys for the Board of Trade (Sessional Papers 18 ).

The first Governor Gen. James Murray was accredited and appointed by the Earl of Egremont, President of the “Lords of Trade and Plantations”, to be a “Corporation Sole,” immediately following the capitulation of Montreal, 1763.

It is recorded that the first amendment to the Constitution of the Government of Canada was to provide that Roman Catholics could vote and serve as Judges ; Lawyers ; Bailiffs ; Prothonotaries, etc. Sept. 2, 1765. (Roman Catholics could not vote in Britain until 1805.)

The Lords of Trade and Plantations was composed of a group of London merchants who were authorised by the Crown in Chancery to be the government of the New England colonies. Canada was added to their administration.

The Lords of Trade and Plantations was later known as the Board of Trade and Plantations, and finally as the Board of Trade.

The Crown in Chancery was established in the reign of Queen Elizabeth. It is the department of lands of Britain and it is from this name we derive the term **Crown Lands**.

*Sovereignty and the ownership of land are inseparable. When the ruler possessed the land he was Sovereign. When the people possess the land, the ruler is demoted to a monarch.*

Queen Elizabeth ascended the throne as a Sovereign. After granting a Charter to Sir Humphrey Gilbert, without the knowledge or assent of Her Council, she was demoted to a Monarch by the following :

Members of Her Majesty’s Most Learned and Honourable Privy Council,

( Divers Orders thereunto called ) conceived and established the Crown in Chancery to administer Affairs in connection with and exercise authority over the waste lands or Commons of England.

The Lord High Chancellor is the custodian of the Sovereignty of the people and all possessions of the Nation including the lands of England and the Dominions thereunto belonging are in the custody or the offices of the ‘Crown in Chancery’ at Whitehall. Henceforth England was known as a Limited Monarchy *[or a Republican Monarchy... Ed.]*.

The Golden Age of Queen Elizabeth was not due to any action taken by the Queen personally, but for the reason she could not take any.<sup>1</sup>

The next Charter, which was for Virginia, was granted to Sir Walter Rawleigh by Parliament and includes the clause : ‘that the colonists are to have all the privileges of Englishmen and be governed by laws of their own making.’

There is nothing in Magna Carta to compare in importance with this act of the Privy Council. King John was not demoted. Queen Elizabeth was.

This *Revolution* ended the Feudal System and released the bonds which had restricted

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<sup>1</sup>. *Queen Elizabeth II could neither repatriate the Constitution of Canada in 1982. First, that B.N.A Act was not expatriated, it was in the hands of those who had made it. Furthermore, has the deleted page of that document been included in these repatriation papers? Also, did the three Honourable Members of Parliament, namely: André Ouellette, Jean Chrétien and P.E. Trudeau, present on the podium that rainy day, have the capacity to accept what Her Majesty could not offer? That day in 1982, Canadians had an advanced edition of Montreal’s cynical “Bleue Poudre.” All three Honourables are still living. Please... keep on reading. Ed.*

literature, arts and science. The Spanish Armada was defeated because the Admirals could now act upon their own volition as urgency dictated.

Since then : 'The King can do no wrong.' Hallsbury says : 'This is an immunity by way of compensation for the absence of despotic power.'

Charles I lost his head by attempting to usurp the Sovereignty of the people.

The Quebec Act 1774, the Constitution Act 1791, the Union Act 1840, and the British North America Act 1867 do not alter in any essential respect the Constitution of Canada drafted by Yorke and Yorke in 1763.

It is important to know that there was no Confederation of the Provinces of Canada.

The Interpretations Act 1889, enacted 22 years after the British North American Act, states :

Sec. 18, Par. 3 : 'The expression Colony' shall mean any of Her Majesty's dominions (exclusive of the British Islands and of British India ) and where parts of such dominions are under both a central legislature and local legislatures all parts under the Central Legislature shall for the purposes of this definition be deemed to be 'One Colony.'

In 1889, Canada was the only Colony with a Central Legislature and Local Legislatures.

This is affirmation of what has been said here that the Acts previously mentioned did not alter in any essential respect the Constitution of the government of Canada as drafted by Yorke and Yorke of the Board of Trade.

This is further re-affirmed in that in the present revised Statutes of Canada it is stated : "The Governor-General is a **Corporation Sole**." Chap. 85 - R.S.

If the Governor-General is a "Corporation Sole" today, the story of Confederation is a much overrated fiction.

Since 1783, the administration of affairs in the Colonies were transferred to the Office of Secretary of State for the Colonies.

Sir George Fiddes in his book, *Dominion and Colonial Offices*, states : 'It is equivalent to a rejection of any person as a Governor if

his name be even mentioned to the Secretary prior to his appointment.'

Why ? The Secretary for the Colonies is a member of the Cabinet. He would resign if the Premier, any other member of the Cabinet, or the King, should suggest to him how he should run his office.

After a Governor is appointed by the Secretary, he is introduced to the Lord High Chancellor where he is granted 'Letters Patent,' which grant him the power to be a 'Corporation Sole' over the colony to which he is accredited by the Secretary of State for the Colonies.

These 'Letters Patent' were usually signed by Sir Claude Schuster, Clerk of the Crown in Chancery.

Since the enactment of the *Statute of Westminster 1931*, Canada is no longer a 'Colony'. Consequently, the Secretary of State was no longer interested in the appointment of a Governor-General. Further, Canada and the lands of Canada were no longer under the Crown in Chancery.

I have stated that Sovereignty and the power to exercise the right of **Eminent Domain** are inseparable.

This means that the Sovereign power is now transferred to the Provinces of Canada.

Section 109 of the British North American Act states : 'All lands, mines, minerals and royalties , etc., belong to the Provinces in which they are situate or arise.'

The Sovereign power has thus been transferred from the Crown in Chancery to the Provinces.

The King or Queen of Great Britain are 'Limited Monarchs'. They have not now or ever did have anything to do with the colonies.

Prior to the visit of King George V and Queen Mary to Canada in 1935, the Parliamentary Guide 1935 states : *Members of the Royal family when in Canada take precedence next after the Governor-General.*

The *Chicago Tribune* in 1946 decided to inaugurate a press service for their paper in Ottawa. Mr. Frank Hughes, one of the officials was to inaugurate this service. He requested me to introduce him to leading officials in

Ottawa. ( At this time Sir Harold Alexander was delayed in coming to Canada as no credentials could be issued to him by any department of the Government of Great Britain.) I suggested to Mr. Hughes that he meet Dr. Arthur Beausnesne, Clerk of the House of Commons.

However, as Dr. Beausnesne was at the moment engaged, I suggested that we call upon Dr. Maurice Ollivier, joint law clerk of the House. After introducing Mr. Hughes, I opened the conversation by asking Dr. Ollivier, 'What are you going to do about Sir Harold Alexander?' He replied, 'You will be surprised to know that this department in conjunction with the department of External Affairs is redrafting credentials for him right now.'

We left shortly and descended the stairway to the Press Gallery.

Mr. Hughes immediately picked up the phone and called the department of External Affairs. After stating who he was, he said : 'I understand that your department in conjunction with the Law Department of the House is drafting credentials for Sir Harold Alexander.'

'That's the first we have heard about it,' was the answer. I concluded that Dr. Ollivier's statement was simply a joke or most probably, made to impress Mr. Hughes with the importance of his department.

Dr. Ollivier had known me for ten years. He knew that I was an expert in constitutional law. He knew that I knew that neither his department nor the Department of External Affairs had any power or authority to draft credentials for a Governor-General.

As I had been out of Canada, it was years later before I found that credentials had actually been drafted by Dr. Ollivier and had been signed : W. L. Mackenzie King by '*His Majesty's Command.*'

This statement, by 'His Majesty's Command' is tantamount to a forgery.

By the Constitution there is no other Government in Canada, only the Governor-General. He is a 'Corporation Sole.'

If the document signed by W. L. Mackenzie King by His Majesty's Command is fraudulent, there is no Governor-General. [\[or the one sitting there is an impostor. Ed.\]](#)

Having no Governor-General, there are no Lieutenant Governors of the Provinces nor is there any constituted government in Canada.

The Dominion Government in Canada is therefore supposititious.

This calls for the formation of an interim government, prior to the formation of a Federal Union.

## RECAPITULATION

**T**he Canadian People are not subject to the laws of Great Britain and are not British Subjects.

You may kick this problem around any hundred acres and you will find that you are back to the same spot.

You cannot have a *Canadian* government as long as a *Canadian* is denied the right to vote as a CANADIAN.

Previously I have said that Sovereignty and the ownership of land are inseparable. The

Gypsies have a King and Queen but, having no land, have no Sovereignty, and no Flag.

It may be necessary to quote the last line of Section 109 of the B.N.A. Act : [ *All lands belong to the Provinces* ] 'except for any interest other than that of the Province in the same.'

This meant the interest of the *Crown in Chancery*, which interest was held as long as the Province was a *Colony*. This interest of the Crown in Chancery was relinquished in Sec-

tion Eleven of the Statute of Westminster.

The Province is no longer a Colony but a Sovereign State. When it is proven that the statement of Mackenzie King 'By His Majesty's Command' is a fabrication, there is no 'Office' of Governor-General. The Dominion government is finished. The King has no despotic power to command. It has now become the duty, responsibility, and prerogative of the Sovereign States of Canada to create by appointment an interim government. Two officials can be appointed until a Federal Union is consummated.

Why fight a shadow . The Dominion is but a shadow. The provinces possess all Sovereign power.

“ To him that *hath* shall be given and to him that *hath not* shall be taken away that which he seemeth to have. ” Period.

[Russell] Rogers SMITH  
(Chief Wapanatak)  
Washington, D.C. 20004

## FAIRY STORY

There is not now nor has there ever been a Confederation of the Provinces of Canada.

The Right Hon. Sir **John A. Macdonald** confirms this in a letter he wrote to the Governor-General. This is a reply to his query as to whether or not John had a list of those who should receive honours on Her Majesty's birthday.

He wrote: Honours should be granted only for a service performed for the Imperial Government... Considerable feeling was aroused in Lower Canada among the French Canadians as what they looked upon as a slight to the representative man of their race, and a motion on the subject was made in Parliament. Lord Monck refused to give any information on this question as being one of Imperial concern only; but in order to allay this feeling obtained permission from Her Majesty's government to offer Mr.

Cartier a baronetcy if I did not object to it. I at once stated I should only be too pleased to see my colleague receive this honour. Mr. Galt was made a K.C.M.G. All these honours were conferred upon myself and the other gentlemen *on account of the prominent part we had taken in carrying out the Imperial Policy.* (Dominion Archives.)

Why did John sell out? One of the reasons was to prevent the United States from annexing Canada. It is a matter of common knowledge that Great Britain assisted the Southern States during the Civil War and was prevented from declaring war on the United States only by the prompt action of the Czar of Russia.

It will be remembered that Russia had recently defeated the combined forces of Britain; France; Sardinia and Turkey in the Crimean War — 1854-1856.

Great Britain now threatened to declare war

upon the United States unless an apology was forthcoming within 24 hours, for the action which **Captain Tom Wilkes** had taken in the **Trent Affair**.

The Czar immediately dispatched his Baltic squadron under the command of **Admiral Livofsky** to New York City and his Pacific squadron under **Admiral Popov** from Vladivostok to San Francisco.

The Czar, who had freed the slaves of Russia in 1861, was in sympathy with Lincoln and not only this but he was protecting Russia's interest in Alaska. It was upon advises from the Russian Ambassador that **Lincoln** issued his "Emancipation Proclamation" in 1863. The seven million two hundred thousand dollars paid to Russia by **Seward** for the purchase of Russia's interest in Alaska on March 30, 1867, was not because Seward thought Alaska was worth anything, but to repay the Czar for the expenses incurred by the fleets which he had sent and maintained in New York and San Francisco until victory was obtained by Federal forces ending the Civil War in 1865.

When Federal troops were mustered out and paid by 'Greenbacks', they were permitted to keep their firearms and knapsacks.

They were then enrolled in a force of 180,000 set to invade Canada. Ten thousand were encamped in Buffalo, N.Y., and 1,500 under **Col. John O'Neil** invaded Ontario. Representative Banks introduced a 'Bill' in Washington to annex Canada.

The War Office in London sent **Col. Jarvis** to Canada to investigate. He reported: 'You have only 10,000 troops there, veterans of the Crimean War and scions of the British nobility and you cannot count on more than 20,000 volunteers. You would be facing a force of 300,000 at the frontier. You cannot hope to defend Canada, nor Canada be expected to defend herself.'

Great Britain now agreed to negotiate. Previously the Imperial Government had refused to consider the demands made by the United States that Britain was responsible for 226

ships sunk by privateers, which had been built in Britain for the Southern States by **Laird & Son** in Birkenhead. The United States claimed these ships were British from keel to masthead, armed by British guns, manned by British crews and the pay office was in Liverpool. Further Britain had forts at Nassau to supply Confederates with small arms and ammunition as well as mines for their harbours.

Britain's only defence was that she had not declared war. The United States replied, 'This is a game two can play at.'

This was the situation when our delegates from Canada with the Quebec Resolutions were convened in the Westminster Palace Hotel in London, 1866. They sat until the Christmas holidays and were elaborately wined and dined by members of the British government.

**Col. Montague Bernard**, Member of Her Majesty's Imperial Privy Council, introduced John A. Macdonald to his sister, the Hon. **Susan Agnes**. John A. Macdonald was 54 and a widower. Of course the Hon. Susan Agnes fell in love with John and they were married Feb. 16, 1867. It was explained to the groom that Britain was not adverse to a Federation of the Provinces of Canada, but this could not be accomplished until a settlement had been made with the government of the United States.

If John would consent to become a member of the Commission to be sent to Washington he would first be appointed and sworn as a member of Her Majesty's Imperial Privy Council. (The minimum salary of a member is **£ 2,000** per annum.)

Further if the Commission were successful he would undoubtedly be granted a title of Sir.

John knew a 'Bill' was pending in Washington and if Canada were annexed he would be only a very little frog in a very large puddle.

John A. Macdonald and his brother-in-law, the Rt. Hon. Col. Montague Bernard, were accredited and created Ministers Plenipotentiary, and when the Commission was convened in the Arlington Hotel in Washington it was agreed that Emperor William of Germany be ap-

pointed arbitrator. The agreement consummated is embodied in the Treaty of Washington, May 8, 1871.

This stipulates that Great Britain shall grant the government of the United States an apology; pay a direct indemnity of \$37,500,000; pay for the shipping sunk as would be decided by an Admiralty Court in New York City; grant to the United States equal rights in **perpetuity** of the navigation of the St. Lawrence River through **Quebec**; the disputed boundaries — Lake of the Woods and Point Roberts, B.C., to be granted to the United States.

The question of ownership of the San Juan Islands to be left to the arbitrator.

Emperor William of Germany decided Oct. 25, 1872, that the San Juan Islands should belong to the United States and \$15,000,000 more to pay the expenses incurred by Federal Cruisers in chasing the privateers.

Viscount Bury said of the apology:

“A national expression of regret is an act of the gravest importance. If England had been clearly in the wrong an expression of regret would be consistent with her dignity, but it has hitherto not been usual for nations of the highest rank to apologise for acts which they never committed. The same Englishmen who offered the apology framed the British case. The case is elaborate statement that Britain is in the right. It is hard to escape from this dilemma. Either the apology was unnecessary or the British case is a tissue of mis-statements.”

Delegates from Canada had no part in drafting the British North America Act, March 29, 1867, and no certified copy of this act was brought to Canada.

The Act was drafted by **Lord Thring**, Parliamentary Secretary to the Treasury.

It is not a Constitution for it constitute nothing. It simply emphasises the power of the Governor-General to appoint and remove a Privy Council to ‘aid and advise’ him and to state that the Governor-General has the power to pass an ‘order-in-council’ by himself indi-

vidually as the case requires. ( An ‘order-in-council’ is equal to an Act of Parliament.)

One score and two years later the Interpretations Act, 1889, was passed, stating that Canada is a Colony. This gives the lie to the story of Confederation and brands it as a *reductio ad absurdum*. Another recent absurdity is that a House and Senate of British Subjects debating the adoption of a Flag and Anthem.

You say you have never heard of this before! You are not alone in this.

Since 1931, Canadian citizens are not subject to laws enacted by the British Government and are not recognised by Great Britain as British subjects.

To sum up: Canada lost everything gained politically in the previous hundred years and reverted back to the Constitution granted in 1763 to Governor James Murray by the Board of Trade (*Sessional Papers 18*). Lord Monck came back to Canada as a ‘Corporation Sole’ and his first act upon opening Parliament was to announce that John A. Macdonald had been granted a title of ‘Sir’.

John did very well for himself; he obtained a titled Lady as a bride, an annual stipend as a member of the Imperial Privy Council, and was now the Right Honourable Sir John A. Macdonald. But at what a cost to Canada !

Twenty years ago, 98 percent of the druggists of New York State were graduates of Canadian Universities, and over three million Canadians had migrated to the United States. (U.S.A. immigration).

It is estimated that it costs the parents and the state \$15,000 to feed, clothe, and put a son through high school and four years in a university. [\[Any graduate of any Faculty does well for himself whenever he moves south to practice his profession south of the friendly border, but at what cost to Canada. I have a son in Chicago occasionally roaming Canada to swindle new talent and business for his new employer, under the watchful eye of Canadian politicians harping for Canadian Unity. Study closely the Gov.-General’s annual scholarships feedback to Can-](#)



[ada and see who benefits. Ed.\]](#)

In case your computer is not working, I might as well state this amounts to 45 billion dollars [in 1965].

Late in 1939, I was most courteously received by **Beaudry Leman**, President of the Bankers Association. After an inter-view of about an hour, he asked if I had any objection to seeing Mr. **W. Wilson**, President of the Royal Bank of Canada. I immediately stated I would be pleased. He phoned Mr. Wilson's office in the Royal Bank. Mr. Wilson listened attentively to the evidence I submitted and said, 'I think your information should be presented to our chief legal advisor, Mr. **Robert C. McMichael**.'

The firm of Brown, Montgomery and McMichael comprises 25 lawyers which occupy the entire fourth floor of the Royal Bank of Canada Building on St. James Street, Montreal, except for three offices of the firm of McKinnon & Co., chartered accountants.

As I had no need for notes, my evidence was submitted to Robert C. McMichael orally.

I explained that Section 109 of the B.N.A. Act states that all wealth is the possession of the Provinces. That the City of Ottawa, which includes the Parliament Buildings and the residence of the Governor-General, was equally an asset as much as any farm to guarantee the payment of Bonds issued by the Legislature of the Province of Ontario.

Further, although the Governor-General's Act, Chap. 85 R.S., states that he is a 'Corporation Sole', it also states that he is not the owner of any public property. That all revenue and taxes are returnable to him and all debts are paid by vouchers which are signed by him.

It is further submitted that the House of Commons and Senate are not responsible for the National debt as they are constituted only to '*aid and advise*' the Governor-General. It is further submitted that the Canadian people are not shareholders in the Dominion Corporation. That there is no provision in the Dominion Elections Act whereby a Canadian can exercise

his franchise as a *Canadian*. That the Canadian people cannot be held accountable for a National debt in which they had no part in contracting. That the issues of securities by the Dominion should not be referred to as **bonds** but be designated as debentures.

Mr. McMichael saw the point and immediately instituted a plan whereby the Banks need not subscribe directly for debentures issued by the Dominion.

That the Banks provide ample funds to be extended to insurance companies at  $1\frac{3}{4}\%$ . The debentures draw 3%, that gives the insurance company a profit of  $1\frac{1}{4}\%$  for simply borrowing the funds from the Bank.

The securities subscribed for by the insurance company to be held by the Bank as well as a list of the assets of the insurance company which is the security for the loan.

By this plan, the Banks do not stand to lose anything. If the debentures prove to be of no value, the Bank can expropriate the assets of the insurance company to liquidate the loan. *Caveat Emptor*. (Buyer, beware).

When the term of the present Governor-General expires, who is to appoint his successor. The British Government can not, and there are none in Canada who can.



## INTRODUCTION

The search for truth is one of the strongest impulses of mankind. This may be the reason many students turn to the back of the book and read the **last chapter first**. The author here has no objection to this procedure, but would point out that "there is no royal road to knowledge". This was the answer given by a professor to a king who desired that his son be quickly promoted.

If you planned to purchase a diamond, you would take a magnifying glass and examine every facet to see if you could discern a flaw before consenting to buy.

Each chapter in this volume is designed to shed some light on each facet of the constitutional position of Canada. In one chapter it is stated that "Canada is merely a geographical expression, not a political entity."

Another chapter exposes the myth of confederation.

If the reader fosters some preconceived *notions* or *assumptions* regarding the government of Canada, he would be well advised to put them away, so that they will not bother him while he is engaged in reading. If you neglect to follow this advice, you would lose *them* entirely and agree with the author when he says: "**Never have so many known so little about so much.**"

Now that you have finished reading the last chapter, you can start again at the beginning. The author will endeavour to keep in step with you so that when we reach the last chapter, you can read it over again.

### *Wapanatak*

De tous les organismes et des individus qui ont

insisté pour recevoir une copie du livre **HO, CANADA !**, seul le chef Joe Norton, par le biais de la Bibliothèque du Long Sault à Khanawake, a manifesté un désir sérieux de posséder le livre de Wapanatak. Si le chef Norton n'a pas lu **HO, CANADA !**, quelqu'un là-bas l'a lu et il l'a compris ; de même qu'un septuagénaire de Kootenay, B.C. Les autochtones semblent être les seuls à vouloir amener une solution à l'honorable anarchie qui paralyse l'esprit sincère de la majorité des Canadiens. Le ministre Chevrette sonne la fin de la récréation le dimanche, et l'autoroute 132 en Gaspésie est toujours bloquée lundi soir, 2 jours après la signature dudit protocole d'entente avec les autochtones *assimilés*, tandis que les autochtones *traditionalistes* flottent toujours le drapeau américain sur leur « Timberjack » de Pointe-à-la-Croix.

C'est simple, tout le système judiciaire et ses magistrats s'assoient sur l'**AANB**, et l'Acte en question est frauduleux. Pour des Canadiens, la compétence et la juridiction émanent des articles 91 et 92 de cette loi britannique. Les états étrangers n'ayant pas d'articles 91 ou 92, comment leur magistrature se démêle-t-elle avec la juridiction et la compétence. Souplat, la France et l'Angleterre n'ont pas d'articles 91 ou 92, elles ont pourtant une magistrature, comment font-elles. Vous me direz, elles n'ont pas d'autochtones. Ces pays ont pourtant des Indiens et des Nigériens sur leur territoire. Ils ne bloquent pas les routes, mais si toutefois ils les bloquaient, les bloqueraient-elles longtemps ? Sont-ce les articles 91 et 92 de l'Acte de l'Amérique du nord britannique, ou est-ce tout l'Acte responsable de nos malaises routiers et judiciaires ? Souplat, dites-nous chers autochtones comment faites-vous pour lire et comprendre Wapanatak ? Souplat, dites-le à notre magistrature et à nos media, ça presse.

Jean-Paul RHÉAUME ]



## Chapter 1

# SEARCH FOR THE BRITISH NORTH AMERICA ACT OF 1867

Early in 1935, after lengthy talks anent the constitutional position of the provinces to the Dominion Government with Chief Justice Morrison of the Supreme Court of British Columbia, I asked, "Has British Columbia a copy of the British North America Act?"

"No," he informed me. "You know that British Columbia was united to the original provinces by an Order in Council. This Order in Council was signed in London by **Prince Arthur** on May 10, 1871, four years after the British North America Act was enacted, so we have no copy.

"Of course the original provinces, namely Nova Scotia, New Brunswick, Quebec and Ontario, would have copies of the original, but may I suggest that you could see the original, or a duplicate of the original, in Ottawa."

Thanking the Chief Justice, I mentioned that I planned to be in Ottawa in the fall and would visit the Archives.

Leaving Vancouver, I stopped over in Edmonton and addressed **Premier Aberhart** and his newly elected Cabinet in the Macdonald Hotel on the constitutional position of Alberta. While there, on October 25, 1935<sup>2</sup>, I cabled the Secretary of State for the Colonies in London, protesting that any credentials issued to **Lord Tweedsmuir** who was expected to leave for Canada.

He received none. No doubt my cable is on record in the books of the cable company.

Arriving in Ottawa the first week in No-

vember, I visited the Archives and was directed to the Reference Library.

When I asked **Colonel Hamilton**, who was in charge, for a certified or duplicate copy of the British North America Act, he informed me that as the act was still in force, the Archives would not have the document until the Government was finished with it.

"You had better contact the Privy Council," he said. "Do you know **Mr. Lemaire**, the Chief Clerk?"

"No," I replied. "I am here from Vancouver and I have not had an opportunity."

"Very well. If you wish, I shall make an appointment for you, as I know **Mr. Lemaire**. In the mean time, we have the original papers here that were written by the delegates who presented the Quebec Resolutions when they were in London."

I spent some two weeks in the Archives where a chair and table were provided, and as I finished with each document it was returned and another placed before me.

The name of each delegate was across the top of each copy which was a revision of the Quebec Resolutions, but none were signed at the bottom; further, no confederation agreement was drafted or signed by them.

I was most interested in Sessional Papers 18 which contained the first Constitution of Canada, drafted by Yorke and Yorke, of the Board of Trade (1763).<sup>3</sup>

Among these many papers are letters written

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<sup>2</sup>. This conference was published from Ottawa in 1937 in a pamphlet called "ALBERTA has the SOVEREIGN RIGHT to ISSUE and USE its OWN CREDIT." Ed.

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<sup>3</sup>. Excerpts from this Constitution appear here in Chapter 11, on the Governor-General.

by John A. Macdonald.

Also, Sessional Papers 18 state that the Constitution of Canada was amended September 20, 1765, to permit Roman Catholics to vote and hold office as proctors, prothonotaries, judges, and so forth. (This was forty years before Catholics were permitted to vote in Great Britain - 1805.)

One day Colonel Hamilton came to my table and said, 'I have arranged an appointment for you with Mr. Lemaire for to-morrow.' He said further, 'Do you know, you are the first Canadian to go through these papers in the many years I have been in charge here?'

I was received most graciously by Mr. Lemaire, who was very interested when I explained that there apparently was a typographical error in the copy I had, which had been printed by the printer in Ottawa, and I desired to compare my copy with the original or a proven duplicate.

Mr. Lemaire said, "As the Privy Council does not have a copy of the original, I think the best place would be the Office of the Governor-General. Wait a moment and I will have my secretary escort and introduce you to the Governor-General's secretary."

When Mr. Lemaire's secretary introduced me to Mr. **Periera**, the Governor-General's secretary, he smiled patronizingly and, reaching over his desk, picked up a sheet of the Governor-General's letterhead. He wrote a note for me and said, "Just give this note to Mr. **Hardy**, the Parliamentary Librarian."

Mr. Hardy laughed and said, "This is too important a document for us to have in the Library. I think your best plan would be to see Mr. **Coleman**, Secretary of State."

"Where would I find him?"

"He has an office in the West Block."

Mr. Coleman was in when I called on him and, in answer to my question, said, "We have no copy that I know of. We have the Great Seal, if you would care to see it."

Thanking him, I mentioned that I had seen reproductions of the Great Seal so I was not particularly interested, but if there were a Confederation in Canada, each province which was a party to the agreement should have a certified copy and I had been informed that I would find a copy in Ottawa.

"You should see Dr. Beausnesne, Clerk of the House of Commons, who is an authority on the British North America Act, and if he does not have a certified copy, he will tell you where to find it," Mr. Coleman advised me.

Dr. Beausnesne, venerable Chief Clerk of the House of Parliament in Ottawa and author of *Beausnesne's Parliamentary Rules and Forms*, said, after I had been introduced, "What did they send you to me for? They know that I keep no valuable documents here, and this most valuable document would be kept closely guarded somewhere in a vault. There is such a vault under the Senate Chamber but you would have to see **Dr. Blount**, Clerk of the Senate."

Thanking him, I traversed the lofty corridors of the House of Parliament, on the walls of which are hung the paintings of former premiers of Canada, to the office of Dr. Blount, who, after introduction to me said:

"You know, you have me very much interested. Do you mean to say that you have been to all these places and you have not found any certified copy of the Act? Well! We have a vault under the Senate, but I do not know of any copy there. If you would care to look, you are welcome."

When I expressed my pleasure at having him extend this courtesy, he said, "I will call an assistant."

Dr. Blount, the assistant and I descended to a high ceiling vault about twenty by forty feet which had shelves about ten feet up from the floor along the south and east sides.

Certified copies, which must be stamped with the seal of the Senate, as well as certified copies of orders in council, are in hardwood

cases on the shelves, each case marked with the year's date.

The assistant handed down two cases as he stood on a step-ladder — 1867 and 1868 — which Dr. Blount turned over to me for my inspection.

Not finding a copy of the British North America Act, I asked if it had been destroyed in the fire.

“No,” Dr. Blount assured me. “The Parliament buildings were destroyed but we saved the Library and this vault. All that the Government lost were some paintings in the corridors. Some members lost personal files in their rooms. You will be interested in seeing this, no doubt,” and he produced a polished hardwood case and showed me the gallon measure in bronze and the platinum ounce and pound. In another case were the inch, foot and yard standards. He explained that the Bureau of Weights and Measures, by law, must check their sets with these every two years.

“Was this British North America Act ever presented to the Senate?” I asked.

“We can check the records in my office.” Dr. Blount replied.

After consulting his book of records, he assured me it had not been presented to the Senate.

“Was it ever presented to Parliament?” was my next question.

“You will have to ask Dr. Beauchesne,” he said.

Retracing my steps to the office of Dr. Beauchesne, I related to him my failure to find any certified copy and that Dr. Blount could find no record of it in his office. Would it have been placed before Parliament?

Dr. Beauchesne called for the records of the House of Commons, and after looking over the records, he told me that it had never been placed before Parliament.

“Well, Doctor, if a copy of this Act had

ever been brought to Canada, it would be here, would it not?” I asked.

“Yes, of course,” the Doctor replied.

“Then, Doctor, I think we can say that no copy of this Act was ever brought to Canada, is that correct?”

“I am very much afraid that you are correct,” was his answer. [*The perfect excuse for repatriation. Ed.*]

**Dr. Kenny**, Dominion Architect, met me on Sparks Street a few weeks later and said, “So many people have been asking me, writing me, and phoning me to know if there is a copy of the British North America Act in Canada that I think I should write London for a photostat.”

“An excellent idea,” I said.

Hearing that a photostat was being sought, a friend of mine in London had one made for me, as he knew I would be interested. On receipt of this, however, I was disappointed, for it stated that this was a photostat of a *copy*.

Why Dominion officials should put any value upon this, I do not know. My copy is a duplicate of the one which they have and I cannot conceive of any intelligent person being satisfied with a *photostat of a copy*. [*Ever seen a cop accept a photocopy of a driver's permit ? Ed.*]

It would not be more difficult for a photographer to make a copy of the original, would it?

It means that after a hundred years we cannot get a photostat even of a document which is supposed to have created a Confederation of the Provinces.

**Lord Thring**, who drafted the British North America Act, tells us in his book *Parliamentary Rules and Forms* that it is mandatory that any Act be printed before it is introduced to the House of Commons.

**Mr. Hadfield**, who was a back-bencher in the House of Commons in 1867 and was not in on the scheme of the Secretary of the Colonies, asked the following question:

“Why all the haste in enacting this measure? I am not sure I will have anything against it, but it affects four million people and we should have an opportunity to study the measure, which is now in second reading and it has not been printed.”<sup>4</sup>

Britain’s national economy was sustained by her possessions or colonies. These were her sources for raw materials, which could be imported at a price which Britain could set. In return, the colonies became the main market for her exports which, because of tariffs imposed by Britain, could be marketed at a non-competitive price.

The Conservative and Liberal Parties had differences which were fought over and they vied with each other for office. But when the national economy was threatened they could bury the hatchet and unite to fend off any threat to the economy, which was of paramount interest to both, and to the national welfare of Britain. This is exemplified in the following passages.

The Earl of Carnarvon, Secretary of the Colonies, presented the Bill to the House of Lords with these words: “The Bill opens by reciting the desire of the several provinces to be Federally United.”

Lord Campbell, leader of the opposition, said in reply on February 9, 1867: “The Bill is founded, I believe, on what is termed the Quebec Scheme of 1864... Our lights may be imperfect upon this part of the subject and I will not dwell upon it... but one thing is clear, the preamble of the Resolution comes before us in clear and perfect authenticity, it cites the expediency of federating the Provinces of British North America.”<sup>5</sup>

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<sup>4</sup> . *Parliamentary Debates*, Vol. 185, p. 1016. (Volume missing on the shelves of Laval’s general library. Ed)

<sup>5</sup> . If the Imperial Parliament federated the Canadian colonies, like many do think, why did it not federate the American Colonies the same way after 1776? These American colonials would have saved themselves a War of Independence. If Britain could not federate her

That Lord Campbell knew and was in accord with the Earl of Carnarvon in fending off this threat to the economy of Britain is clearly implied in his remarks at the second reading of the Bill on February 26. He said, “It would scarcely be possible to break the **artificial unity** we now propose to organize.”<sup>6</sup>

Let me not omit to explain the difference between a “private bill” and a “public bill” as ruled by the Parliament of Great Britain.

A private bill is one which affects only a private citizen or a part of the British Empire, but does not affect any other part. As an instance, the Island of Malta requested an alteration of Constitution in 1936. Now, as this did not affect any other part of the Empire, it was a private bill.

**Private bills** are first introduced into the House of Lords and, after passing, are referred to the House of Commons, where they may be amended; but the purposes of the bill are not discussed or debated.

**Public bills** are first introduced into the House of Commons and then go to the House of Lords to be acted upon in the same way as private bills going from the House of Lords to the Commons.

As the British North America Act did not affect any part of the Empire except Canada, it was a private bill.

All legislation going before either House is called a *bill* before it is enacted into law.

This may not appear to be important, but it is. The bill in question was not amended in the House of Commons, but was enacted as the British North America Act on March 29, 1867.

It was printed when introduced in the House of Lords. Why did Mr. **Hadfield** say, when the bill was in second reading in the House of Commons, that “*it has not been printed*”? For

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American Colonies around 1782, she did not federate any more in her *B.N.A. Act. Ed.*

<sup>6</sup> . *Parliamentary Debates*, Vol. 185, p. 1016.

the good reason that one page of the bill, which states the *raison d'être* of the Act, was deleted before going to the Commons. [\[Was it repatriated in 1982, with this deleted page? Ed.\]](#)

The reason for and the purpose of any enactment is of the greatest importance. Hallsbury states: “ An Act must be read and construed as a whole, though one subsequent section should bear a wider and another a more limited meaning. ”

The deleted page stated: “ *By reason of the request of the Colonies for Federal Government, it is expedient therefore that they have laws and regulations to guide them.* ”

If this page had not been deleted, the provinces of Canada would ere this have formed a Confederation, *or, as the Act states, a Federal Union.* [\[..., ..., ... How? Ed.\]](#)

As the Act had been debated and passed by the House of Lords, it was but a routine matter for the Commons to place the seal of approval upon it. There was, therefore, no need for more than a quorum to be present to grant the Commons' assent.

The next Act upon order paper was the “ Tax on Dogs. ” The House was crowded.





## Chapter 2

### *THE BIRTH of GREAT BRITAIN*

Newfoundland, the last to join the Dominion of Canada as a province, was the first colony of England. Queen Elizabeth Sovereign of England, granted a charter to Sir Humphrey Gilbert in 1583 to colonise the colony. He was accompanied on many of his voyages by his younger half-brother, Walter Rawleigh.

Years later when **Sir Walter Rawleigh** wrote his history of the world when incarcerated in the Tower of London, he included charts of Newfoundland and Nova Scotia drafted by **Sir Humphrey Gilbert** which compare favourably with the maps and charts of our modern atlases. His career ended when his little vessel, the *Squirrel*, only half-decked over, was overwhelmed and foundered in a storm off the Azores.

Prior to the reign of **Henry VIII** the rulers of England were vassals of the Pope. When Henry VIII broke with papal authority he became the first absolute sovereign of England. Queen Elizabeth inherited this sovereign power from her father. She owned all of England and all that England owned, and could of her own volition grant the Charter to Sir Humphrey.

However, when this Charter was brought to the attention of Her Majesty's Privy Council, they said: But the Queen herself does not own everything by right. England and her possessions belong to the Queen and her people.

Consequently, they forthwith drafted thirty-nine articles which Her Majesty was induced to sign.

**Article 1** reads:

“No gift or grant shall be made to any person without the consent of Parliament.”

This article transcends anything to be found in Magna Carta. It demotes the sovereign of

England to the position of monarch. Ever afterward the government of England has been known as a “limited monarchy”. The ruler is no longer a sovereign.

In the *Encyclopedia of American and British Law*, James Cacroft has the following to say concerning **sovereignty**:

The right to exercise the power of **Eminent Domain** is inherent in **Sovereignty**, necessary to it and inseparable from it. From the very nature of society and of organised government, this right must belong to the **State**. It is a part of the Sovereign power of any nation. It exists independent of constitutional recognition, and it existed prior to constitutions. It lies dormant in the State until legislative action is had pointing out the occasion, and modes and the agencies for its exercise.<sup>7</sup>

An important point to remember is that sovereignty can be exercised only by those who own the land.

In the records of Queen Elizabeth it is stated that:

“Members of Her Majesty's Most Learned and Honourable Privy Council (divers orders thereunto called) conceived and Established the Crown in Chancery to Administer Affairs in connection with and exercise authority over the waste lands and commons of England.”

This Crown in Chancery, the first department of lands the world has known, was housed at Whitehall where it is today. The Lord High Chancellor is the custodian of the sovereignty of England; all lands are under him and his jurisdiction, and their retention as assets of the nation is his responsibility.

The **Lords of Trade and Plantations** was

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<sup>7</sup>. Under the article *Eminent Domain*.

organised by the merchants of London, and to this organisation the Lord High Chancellor granted the power to exercise authority over and administer affairs in connection with the plantations and colonies in the New World.

In order to assist them, Parliament enacted the Navigation Acts: “ Anything and everything exported to the colonies must be by an English ship, manned by an English crew. ” This is the gist of the many Navigation Acts enacted by Parliament.

This administration became so obnoxious to the colonists that it became a matter of principle as well as profit to them to circumvent the rules of the Lords of Trade and Plantations insofar as they were able. This period is known as the old smuggling days.

It will be interesting to some to know that the Charter to colonise Virginia was granted by Parliament before it was submitted to Queen Elizabeth for her signature.

One clause of this Charter gives us an insight into the character of Sir Walter: “ ...the colonists were to have all the privileges of Englishmen and be governed by laws of their own making. ”

It may also be of interest to know that the rule by the Board of Trade and Plantations lasted for two hundred years, from 1583 when the first Charter was granted to Sir Humphrey Gilbert until a Treaty at **Versailles** was signed by Great Britain which recognised that the colonies of New England were independent, September 1783. The loss of the colonies was a bitter pill, and the prestige of the Ministry was a low ebb when in 1782 Burke introduced a Bill in scathing language to abolish completely and utterly the Lords of Trade and Plantations. In their destruction they provided a perfect scape-goat for the party in power.

Their functions were transferred to the Colonial Office with a Secretary for the Colonies holding a cabinet position. In Canada, the battle on the Plains of Abraham was fought in 1759.

General Wolfe fell on the field and was succeeded by General James Murray, next in command of the British forces; and when Montreal capitulated in 1760, General Murray was appointed Governor of New France by the Board of Trade. His papers, signed Yorke and Yorke Attorneys for the Board of Trade, constituted him an absolute dictator.<sup>8</sup>

As the title to all British lands is in the custody of the Crown in Chancery, all government or public lands are referred to as “ **Crown lands.** ” After the Lords of Trade and Plantations were abolished, the Colonial Office administered the affairs of the colony. The colonial officials were so enamoured of the terms of the authority granted to General Murray by Yorke and Yorke that they copied them for all governors thereafter.

The papers granting absolute power drafted in 1947 to the Governor-General of Canada and signed W.L. Mackenzie King are, *mutatis mutandis*, those issued to General James Murray in 1763. There has been no alteration in the government of Canada since the capitulation of Montreal, [September 8, 1760], with the exception that since Canada is no longer under the Colonial Office (by reason of the enactment of the Statute of Westminster, December 11, 1931), the Colonial Office has not accredited a governor to Canada.

Returning now to 1600, Queen Elizabeth’s reign was followed by that of James I, the son of Mary, Queen of the Scots, who was the daughter of James V of Scotland and cousin of Queen Elizabeth. In 1603 when he was crowned Monarch of England, he was and continued as Sovereign of Scotland.

His accession to the throne of England did not unite the governments. The governments of England and Scotland were united a hundred years later (1707) in the reign of Queen Anne

King James retained his right as King James VI, Sovereign of Scotland, where he was the

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<sup>8</sup>. Sessional Papers 18, Dominion Archives.

exclusive owner, ruler and law of Scotland, since Scotland was a feudal state.

In England, however, James I was required to submit to the advice and consent of the English Privy Council and Parliament.

The Charter to Sir Humphrey Gilbert to colonise Newfoundland which led to the signing of the famous Thirty-nine Articles by Queen Elizabeth rang the death-knell of the feudal system and fostered a period of prosperity never heretofore known in England.

It spawned the era of exploration, and fostered the arts, science and letters.

This period is adorned by the names of England's greatest men. Among those most noted are Shakespeare, Sir Francis Drake, Frobisher and Sir Walter Rawleigh. Returning from his last trip to Newfoundland, Sir Humphrey Gilbert was lost when his vessel, the *Squirrel*, foundered in a violent storm off the Azores. Walter Rawleigh succeeded in saving his ship and another vessel. When he reported the disaster to Queen Elizabeth, she granted him the inheritance of his brother's patents and knighted him.

Nearing the end of his reign, King James VI as Sovereign of Scotland, acting on his own volition, granted a Charter to Sir William Alexander to colonise Nova Scotia in 1621.

The boundaries of the territory granted extended from the mouth of the Penobscot River north to the St. Lawrence, and comprised what is now Gaspé, New Brunswick and Prince Edward Island and our present Nova Scotia (New Scotland).

King James is reported to have said: "Well! England has New England and France New France, and I see no reason why Scotland should not have New Scotland."

Let me not omit to explain at this point that subjects of one sovereign were not permitted to emigrate to a country of another ruler. In 1684 a proclamation of the King of France was

posted in the City of Quebec that the punishment would be death for any French Canadian who emigrated to the colony of New York.

In 1680 some Scottish emigrants, finding the winters in Nova Scotia too rigorous for them and hearing of the salubrious climate and fertile land of Carolina, requested their Governor to confer with the Governor of Carolina in England and negotiate with him to arrange for their removal to that colony. The Governor of Carolina assented and wrote to his representative to settle these colonists near the borders of Florida and provide them with thirty cannon and powder shot so that they could protect themselves and prove a buffer between the English and the Spaniards who held Florida.

In 1684 fifty-one Scottish families arrived; but the agitation among the English colonists was so great they were not permitted to land. This attitude was general throughout the New England colonies. The Scots spoke a language none could understand; they wore kilts and were looked upon as savages. Even before the Romans built **Hadrian's wall** the English and Scots were antagonists. Not until the Treaty of Union was signed, 1707, were the Scots tolerated. At the convention held in Philadelphia in 1782, commenting on the tremendous influence the Scots and Irish had in the Legislature of Pennsylvania, Benjamin Franklin said: "... and to think I can remember the first ship that brought them over."

One reason so many Scottish immigrants came was that as late as 1747 laws were enacted by the British Parliament to "civilize" the Scotsmen. "The practice of carrying dirks to the Kirk and Publick meetings were keeping the Scots from becoming civilised." This practice was outlawed. The playing of the bagpipes or wearing a Scottish cap or any part of the Scottish garb meant deportation for man or boy.

The captain of the ship landed the Scottish families in Florida where they settled at St. Augustine. When reports reach Spain of the arrival of these heretics in their territory a force

was dispatched to drive them out. As the Scots were unarmed, the Spanish force made quick work of this.

The Seminoles succeeded in saving a number of the survivors, who thereafter made their homes with them. Nothing further was heard from this Scottish colony.

England was at this time at peace with Spain, and this action was not their concern. Scotland, however, was enraged and decided to retaliate. Scotland outfitted and dispatched a force of 2500 men with three ships and three ministers under the command of Rory McNab. This force invaded the Isthmus of Panama, drove the Spaniards out of three forts in 1686 and occupied the territory until the year 1701.

**Rory McNab** expected that he would be able to buy supplies from the Barbados, Jamaica or other English colonies. However, fearing that the Scots who were setting themselves up on one of the principal trade routes of the world would become their serious competitors, the Lords of Trade and Plantations had written a circular letter to their governors not to grant the Scots “fire or water.”

The Scottish force were dependent upon three ships to supply them. One, the *Speedy Return*, was either captured or sunk by a pirate. The Scots blamed the English.

Short of supplies and decimated by malaria and yellow fever, the Scots accepted the offer of a Spanish envoy to give them passage back to Scotland if they would give up the forts. Some remained, being engaged in cutting dye-wood in what is now British Honduras.

In 1705, **Captain William Green's** *Worcester*, caught in a storm in the North Sea, put into the Firth of Forth and anchored at Leith, the harbour for Edinburgh. Casual talk among sailors on the docks led the authorities to believe the ship was a pirate. They seized the *Worcester* and in their search found that the goods in her holds were flung in and not stored as they would be by stevedores at a wharf. William Green and his first and second mates were

arrested.

At the trial held at Edinburgh the authorities could produce no evidence that the prisoners had sunk the *Speedy Return*, but they hanged them as pirates anyway.

Feeling was running high in both England and Scotland.

**Harley** (afterward the Earl of Oxford), leader of the House of Commons, said: “This means war or union.” Taking time by the forelock, he subsidised **Daniel Defoe** (later author of *Robinson Crusoe*, *Moll Flanders* and *The History of Colonel Jack*) to publish the *Review of London*, an eight-page paper and the *Chronicle of Edinburgh*. Defoe wrote editorials for each of these papers every day, and then often wrote a letter signed by a pseudonym criticising his editorial in order to cover another point in his next edition.

In the latter part of the year 1706 Harley appointed him chief advisor to the commissioners appointed by Parliament and convened at Edinburgh to discuss terms of union with Scottish officials. When in Edinburgh Defoe went so far as to pay Scottish printers not to print the anti-union pamphlets some Scots were writing. When his father died while he was there he could not receive permission to leave to attend the funeral.

Defoe, although famous as an author, deserved more fame as a statesman. The best records we have of the union of England and Scotland are to be found in Defoe's letters.

In the history of Nations, oftentimes the moving of a lowly pawn on the chessboard of fate brings about an entirely unforeseen result.

The colonising of Newfoundland brought an end to the feudal system of England, and a lost Scottish colony coupled with the loss of the *Speedy Return* (her ribs were later found on the shores of Madagascar) were the main events which brought about the signing of a Treaty of Union creating the greatest Empire the world had ever known.

The Treaty of Union was signed by the representatives of England and Scotland in the reign of Queen Anne, on January 14, 1707.



## Chapter 3

# THE CITIZEN AND THE FLAG

For many years I have been both intrigued and secretly amused by the antics of British subjects resident in Canada who ostensibly have been advocating the adoption of a national flag for Canada.

Why? Because this is so illogical. Consider their preferred position. They have a flag -- the Union Jack --

and they exclusively have the privilege or right to vote in Canada. School trustees must be British subjects, and only British subjects are eligible to cast a vote at an election of a school trustee.

All members of a municipal or city council or the legislatures of the provinces, members of the House of Commons, members of a jury, lawyers, judges, members of the armed forces - - in fact, all professional positions can be filled only by British subjects.

The Dominion Elections Act is adamant upon this point; it reiterates eleven times in its various sections that the right to vote is exclusively the prerogative of a British subject.

The British flag, the Union Jack, was adopted upon the signing of the Treaty of Union uniting England and Scotland in 1707. This flag was first flown from St. Paul's Cathedral in London at a celebration to commemorate the Union, May 1, 1707.

The cross of St. Patrick was added to the crosses of St. George and St. Andrew when the legislative union with Ireland was confirmed; the new flag was first flown in Dublin on January 1, 1801.

On July 28, 1707, "Queen Anne decreed

that the Merchant Marine of Britain, in order to show their peaceful intentions, should fly a Red Ensign, with the Union Jack in the upper left-hand corner, next the staff." This flag is exclusively the property of the British Merchant Marine. This association is not a part or department of the government but an organisation of British ship-owners for commercial purposes.

The Canadian Merchant Marine, which in a similar way is not a department of the Canadian Government, requested permission from the British Merchant Marine for the privilege of flying their flag. This was courteously granted in 1892.

Since 1900 this flag has been flown from flag-poles across Canada on the land without express permission; but there has been no protest or hindrance or opposition on the part of the British Merchant Marine.

Naturally, this ensign cannot be flown in wartime without destroying its value, for the purpose for which it was created was as a peace-flag to be flown as a protection to the British Merchant Marine.

In 1935 some 2695 designs of a national flag for Canada were submitted by British subjects to a committee of their peers appointed by the Rt. Hon. W.L. Mackenzie King.

We should explain that the expression *right honourable* means that the individual referred to is a member of Her Majesty's Imperial Privy Council, which comprises some 320 members and which is the executive government of the United Kingdom. All members entitled to the use of the designation are eligible to receive their remuneration from the British Treasury,

the lowest salary being £ 2,000 per annum.

A committee of nine such are appointed to assist the Governor-General in the government of Canada. The British government is responsible for their actions, and they are responsible for their actions to the British Government.

The Rt. Hon. Lester B. Pearson now occupies the position formerly held by the Rt. Hon. John Diefenbaker, the Rt. Hon. Louis St. Laurent and, previously to him, held by the Rt. Hon. W.L. Mackenzie King.

It was amusing for me to learn that many Canadian citizens were confident that they would adopt as a National Flag one of the designs submitted to the committee appointed. This committee, composed of British subjects, was to select one or more which would in turn be submitted to a House of Commons elected by British subjects and an Upper House composed of British subjects appointed by a Governor-General who is a member of Her Majesty's Imperial Privy Council.

It will doubtless be conceded that if the Parliament of Canada was composed of Canadians, in the first session a national flag would be adopted, together with a bill of rights, and a national anthem would be read and recommended.

It will be further conceded that the first right of the citizen is the right to vote. [...] Why discuss a bill of rights for Canada when no provision has yet been made for a Canadian to exercise his franchise as a "Canadian"?

In Russia, even though the Russian is restricted to voting for one party, he votes as a Russian.

Instead, here in Canada, the British subjects who compose the House of Commons enacted a measure entitled the Canadian Citizenship Act on June 20, 1946, which stated in Section 4, subsection 26, [ [Been modified since, to read at Sec. 31, par. 2, that a British subject is a citizen of the Commonwealth of Nations. R.S. 1977. Ed.](#)]

Today **no** British subject may vote in Great Britain.

On July 20, 1948, the British Parliament enacted the British Nationality Act. This Act provides that the citizens of England, Scotland, Northern Ireland and Wales are now British citizens; they only are the electors of the House of Commons, the members of which enact the laws to govern not only British citizens but also British subjects who dwell in their colonies.

The Act further states that Canada, Australia, South Africa, New Zealand, the Irish Free State and Newfoundland are no longer colonies.

Does this not make sense ?

To state that "A Canadian Citizen is a British Subject" is therefore not true and constitutes an intentional misrepresentation of fact.

A friend and his wife were informed by the purser as their ship entered the English Channel that the immigration officials had come aboard with the pilot and they could save some time by filling out their forms to enter before the ship docked.

In filling out their forms, his wife under the item wrote "Canadian Nationality." He wrote on his form "British Subject - Canadian." The Immigration official, using a heavy black pencil, crossed off the words "British Subject" and said: "As Canada is not governed by British law, we hold that you are not subject to our government. You are Canadian."

Recently a member of the House of Commons (a British subject) said he intended at the next sitting of the House to introduce a measure to request the government to declare December 11 a national holiday, to be known as Independence Day, to commemorate the enactment of the Statute of Westminster on December 11, 1931.

Is this just another "red herring" to be dragged across the trail to divert the attention of Canadian citizens from the fact that they are



excluded from exercising their franchise as Canadians ?

It is a matter of common knowledge that an individual who owns one share of stock in a corporation has the right to cast his vote for election of the directors, though he may hold shares in other companies.

In a syndicate, all members may be assessed to pay any debts contracted by the syndicate or by any of the members thereof.

In a corporation (and Canada is a corporation), members or shareholders in the corporation are only those who own a share of that corporation.

Does a Canadian own one share of stock in Canada? Or does Canada belong to British subjects ?

Abraham Lincoln said that you can fool all the people some of the time, and some of the people all of the time, but not all the people all the time. *[It took 2800 years for Gelileo to straighten out Joshua at Jericho. Ed.]*

National disgust has been expressed by the press and the people concerning the exposure of deceit in connection with “The \$64,000 Question” on TV Those responsible for this fiasco cannot be prosecuted, as no law has been enacted to provide a penalty. The people were free to watch the show or turn it off. Even if they continued to view the program, common sense would tell them it was a fake.

The action taken to reduce the people *[sovereignly cuckolded]* of Canada to the position of British subjects is treasonable and involves all the responsible members of the House of Commons and Senate of Canada, the Governor-General, and the legislatures of the provinces as well. All these have had a part in enacting this measure or enforcing it.

The fake on television caused a ripple of sensation which will not be long remembered except by a handful of individuals whose reputation for veracity was torpedoed.

The Canadian Citizenship Act is, however, a horse of another colour. It affects every Canadian of voting age. As it has been incorporated into the statutes of Canada, it is an instrument intended by those who sponsored it to keep Canada and her citizens in thralldom, and it is diametrically opposed to the *raison d'être* of the Statute of Westminster.

Naturally, the officials in Ottawa are amused and beam with unaffected pleasure when presented with a new design for a national flag. It keeps Canadians busy and helps to keep their minds off matters of **more importance**.<sup>9</sup>

*[If you recall how the soldier hoisted the newly adopted flag for the first time, officially the 18th of February 1965; he did it from a staff off the Parliament buildings in Ottawa. The land under those buildings is Ontarian, and is rented. And a flag in the language of all nations is a display of property, except in Canada. Ed.]*

Even if a design should be *[and was]* accepted by a House of Commons and ratified by a Senate composed of British subjects appointed by a Governor-General who is a member of Her Majesty's Imperial Privy Council, would this be a Canadian flag ?

In the past fifty years, gallons of ink and reams of paper have been expended on articles advocating the problem of a distinctive national flag for Canada, when a moment's serious reflection would have supplied the obvious answer to the question. *[Let's call it an exercise of sincerity. Ed.]*

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<sup>9</sup>. Margaret Mitchell's only book has been “*Gone With the Wind*” ; and she never mentions Canada as payment for all that pageantry of destruction. *Ed.*



## Chapter 4

# THE CONSTITUTION OF THE GOVERNMENT OF ENGLAND

Historians herald conflicts of the nations and decisive battles which occur. None of these are more important than the bloodless revolution accomplished by Queen Elizabeth when, with a scratch of her pen, she placed her signature upon the Thirty-nine Articles, changing the constitutional position of England from that of the feudal system to that of a limited monarchy. Whether this was done of her own volition or not is immaterial.

It unfettered the latent abilities of the people, producing an upsurge of activity in the arts, science, literature and exploration, and resulting in a period of prosperity and liberty hitherto unknown which is cited as the Golden Age of England.

It is important for the student of constitutional law to observe and always to hold in mind that **the ownership of land and sovereignty are inseparable**. *Eminent domain* is defined as:

“The unrestrained ownership of land; independent of all action from without and paramount over all action within.”<sup>10</sup>

“Discovery” does not grant any legal title to land. When the Phoenicians discovered England and traded for tin, did they claim any title to England? Certainly not. Did the Romans own England after building a network of roads and elegant cities? No! When the Romans left, the land was the property of the native tribes, the same as before they came.

Does Persia own Egypt? No! But there was a time when Egypt paid a tribute to the Court of

**Darius:** “A jar of Earth and a jar of Water.”<sup>11</sup>

Neither Spain nor England claimed any title to North America by discovery. The Spanish title was granted by **Pope Alexander VI** (Rodrigo Borgia). England’s title was obtained by treaties with native tribes.

England was England and Scotland was Scotland for over a hundred years after James I became Monarch of England in 1603. During his reign, as we have said, he was also Sovereign of Scotland. Under the feudal system he was what is called a “**corporation sole**”; he possessed title to all lands in Scotland, and his will was absolute. He was the law. James I was careful not to come into conflict with the English Parliament; he contented himself with using his influence to help elect members who were favourable to his policies.

When **Charles I** (James’ son) ascended the throne as Monarch of England, he also became recipient of the hereditary title of Sovereign of Scotland.

He made the mistake of attempting to govern England as he did Scotland. He was cornered by a committee from Parliament, and as a temporary measure signed thirty-one articles which were a condensation of the Thirty-nine Articles signed by Queen Elizabeth.

If Charles had not been Sovereign of Scotland, it is quite probable that he would have been content to conform to the regulations of the Parliament of England.

He was well educated, and was the author of several volumes. But he knowingly persisted in violating the laws of England until his actions precipitated a Civil War in which many lives were lost.

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<sup>10</sup>. James Cacroft, *Encyclopaedia of American and British Law*.

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<sup>11</sup>. Herodotus, *History*.

He was captured by **Cromwell** who had been appointed by Parliament as Commander in Chief of the Army. At his trial on London he was adjudged guilty and ordered executed.

His reign lasted from 1623 to 1640. Oliver Cromwell was appointed Lord Protector of England, and was busy for ten years repairing the damages incurred by the Civil War.

When Parliament suggested that he be crowned King of England, Cromwell refused but said that England should have a written constitution.

He convened a constituent assembly and commissioned the leaders of the different religious sects to draft a constitution. Minor religious organisations were invited to seat delegates.

After the assembly had sat for some time, Cromwell called the leaders together and asked what progress they had made. They replied, “We are not getting anywhere.”

Cromwell said, “In that case, gentlemen, I think you should return your commissions to me.”

Later, Cromwell was informed that there were still some members sitting in the House of Commons. Cromwell called a sergeant and said, “Take a squad of soldiers to the House, turn those who are there out and lock the door.”

When the sergeant asked them what they were doing, they answered, “We are waiting for the Lord Jesus.” “Well,” he said, “I think you had better go, for he has not been here for a long time to my certain knowledge.”

He turned them out and locked the door. Cromwell then commissioned **General John Lambert**, an Army officer who was a lawyer in civil life, to draft a constitution to be presented to Parliament.

This constitution, which is called the Instrument of Government, was adopted by the Parliament on December 18, 1653. There are

none who would say this was not a written constitution from 1653 to 1660.

Cromwell suffered a stroke in 1659 from which he did not recover, even to be able to talk. Upon his demise his son Richard was sworn in as Lord Protector. Richard, however, was not interested in holding this position and soon resigned.

At this juncture, the House of Commons sent a representative to **Charles II** to know if he would be willing to take the oath as Lord Protector.

He accepted, and arrived in Dover on May 29, 1660. As soon as he reached London he was sworn in, and agreed to sign the vouchers to pay the arrears owing to the members of the Army and Navy.

According to the Constitution the Commons could vote the money, but it was necessary that the vouchers be signed by a person who had taken the oath as Lord Protector.

Since then every Monarch of England on ascending the throne takes the aforesaid oath as Lord Protector.

I have neglected to state that the House of Commons requested Cromwell to convene a House of Lords to assist them in the government. BUT, and this is a big *BUT* indeed, as the Upper House was convened at the request of the House of Commons, the House of Lords can be dissolved at any time by the present House of Commons.

Upon the signing of the Treaty of Union in Edinburgh on January 14, 1707, Scotland agreed to the Constitution which now became the British Constitution. Only one amendment has been made to the Constitution. In 1838 when Queen Victoria came to the throne, Section 3 of the Constitution was amended by striking out the “power of pardons,” known as the “Prerogative of Mercy,” which since then has been exercised by the Home Secretary.

Two prerogatives remain to be exercised by

the Lord Protector or Monarch. The Monarch may call upon any British citizen to form a Council in the event that, for example, a disaster should wipe out the present Cabinet. The

other is a courtesy prerogative stipulating that if a warrant is issued for the arrest of any person of the King's household or servants, the Monarch's assent is requested before it is served.

## THE ENGLISH CONSTITUTION

The English Constitution drafted by General Lambert contains forty-two sections and is dated December 18, 1653.

Called the Instrument of Government by historians, it is to be found *in extenso* in *Acts of the Interregnum* published by Firth and Rait. These two men were delegated by the British Law Society to gather together and to publish the Laws and Orders enacted by the Commonwealth (1640 - 1660).

It is regretted that space does not permit the publishing here of this Constitution *in toto*. It is clear, concise and without ambiguity, and that the British people have adhered to it so closely is a silent tribute to its author more eloquent than mere words.

SECTION 1. THAT the Supreme Legislative Authority of the Commonwealth of England, Scotland and Ireland, and the Dominions thereunto belonging, shall be and reside in one Person, and the People assembled in Parliament, the Style of which Person shall be the Lord Protector of the Commonwealth of England, Scotland and Ireland.

SECTION 2. THAT the Exercise of the chief Magistracy, and the Administration of the Government over the said Countries and Dominions, and the People thereof, shall be in the Lord Protector, assisted with a Council, the Number whereof shall not exceed 21, nor be less than 13.

SECTION 3. THAT all Writs, Process, Commissions, **Patents**, Grants and other Things, which now run in the Name and Style of the Keepers of the Liberty of England, by

Authority of Parliament, shall run in the Name and Style of the Lord Protector, from whom, for the future, shall be derived all Magistracy and Honours in these three Nations; and have the Power of Pardons (except in the case of Murders and Treason) and Benefit of all Forfeitures for the public Use; and shall govern the said Countries and Dominions in all Things by the Advice of the Council, and according to these Presents and Laws.

SECTION 4. THAT the Lord Protector, the Parliament sitting, shall dispose and order the Militia and Forces, both by Sea and Land, for the Peace and Good of the three Nations, by Consent of Parliament; and that the Lord Protector, with the Advice and consent of the major part of the Council, shall dispose and order the Militia for the Ends aforesaid in the Intervals of Parliament.

SECTION 5. THAT the Lord Protector, by the Advice aforesaid, shall direct all Things concerning the keeping and holding of a good Correspondency with foreign Kings, Princes, and States; and also, with the consent of the major Part of the Council, the Power of War and Peace.

SECTION 6. THAT the Laws shall not be altered, suspended, abrogated, or repealed, nor any new Law made, nor any Tax, Charge, or Imposition laid upon the People, but by common consent in Parliament, save only as is expressed in the 30th Article.

SECTION 7. THAT there shall be a Parliament summoned to meet at Westminster upon the third Day of September, 1654, and

that successively a Parliament shall be summoned once in every third Year, to be accounted from the Dissolution of the present Parliament.

SECTION 8. THAT neither the Parliament to be next summoned, nor any successive Parliaments, shall during the Time of Five Months, to be accounted from the day of their first Meeting, be adjourned, prolonged, or dissolved, without their own consent.

SECTION 9. THAT as well as all other successive Parliaments shall be summoned and elected in Manner hereafter expressed; that is to say, the Persons to be chosen within England, Wales, and the Isles of Jersey, Guernsey, and the Town of Berwick upon Tweed, to sit and serve in Parliament, shall be, and not exceed, the Number of 30; and the Persons to be chosen and sit in Parliament for Ireland, shall be and not exceed, the Number of 30.

SECTION 11. THAT the summons to Parliament shall be by Writ under the Great Seal of England...

SECTION 22. THAT the persons so chosen and assembled in manner aforesaid, or any sixty of them, shall be, and be deemed the Parliament of England, Scotland and Ireland, and the Supreme Legislative Power to be and reside in the Lord Protector and such Parliament, in Manner herein expressed.

SECTION 23. THAT the Lord Protector, with the advice of the major part of the Council, shall at any other Time, that is before expressed, when necessities of the State shall require it, summon Parliament in manner before expressed, which shall not be adjourned, prolonged, or dissolved without their own Consent, during the first three months of their sitting. And in future War with any foreign State, a Parliament shall be forthwith summoned for their advice concerning the same.

SECTION 24. THAT all bills agreed unto by the Parliament, shall be presented to the Lord Protector for his consent; and in case he

shall not give his consent thereto, within twenty days after they shall be presented to him, or give satisfaction to the Parliament within the time limited, that then, upon declaration of the Parliament that the Lord Protector hath not consented nor given satisfaction, such Bills shall pass into and become Laws, although he shall not give his consent thereunto; provided such Bills contain nothing in them contrary to the Matters contained in these Presents.

SECTION 41. THAT every successive Lord Protector over these Nations shall take and subscribe a Solemn Oath, in the Presence of the Council, and such others as they shall call on them, that he will seek the Peace, Quiet and Welfare of these Nations, cause Law and Justice to be equally administered; and that he will not violate or infringe the Matters and Things contained in this Writing; and, in all other Things, will, to his power, and to the best of his understanding, govern these Nations according to the Laws, Statutes, and Customs thereof.

SECTION 42. THAT each Person of the Council shall, before they enter upon their Trust, take and subscribe an Oath, that they will be true and faithful to their Trust, according to the best of their knowledge; and that in the Election of every successive Lord Protector, they shall proceed therein impartially, and do nothing therein for any Promise, favour or Reward.

On the demise of Oliver Cromwell, Richard Cromwell took the oath of Lord Protector. Not being fitted by temperament for this position, he, on the advice of his Ministers, resigned, leaving the way open for the Parliament to invite Charles II to return.

**Samuel Pepys** was at this time Secretary of the Navy, and he tells us that he accompanied the fleet which escorted Charles II from the shores of Belgium. The King disembarked at Dover and entered London on May 29, which was his birthday. Charles was sworn in as Lord Protector, and thenceforth England was gov-

erned as a limited monarchy under the constitution established by Oliver Cromwell.

Enthusiasm ran high. Charles proved a popular ruler. To please the people and as a gesture to the return of the royal line, Cromwell was disinterred and his head placed upon a pike. The Constitution and the journals, records, and laws enacted during the twenty years of the Commonwealth were ordered to be burned by the public hangman. However, disinterring Cromwell did not rob him of his life, nor did the burning of the Constitution abrogate it. The Parliament, which was constituted by Cromwell on December 18, 1653, invited Charles II to return and carries on to this day.

During the reign of Charles a constitutional question was precipitated by the House of Lords attempting to interfere with the sole right of the Commons to enact legislation regarding money bills. The King dissolved Parliament. The House of Lords never again contested or attempted to interfere with this constitutional right. Hallsbury says that the statement “*the King can do no wrong*” is an immunity by way of compensation for the absence of despotic power. This is instanced by the following passage recorded by **David Hume**: “It has been remarked of Charles that he never said a foolish thing or did a wise one...” When the King was informed of this saying, he observed that the matter was easily accounted for. “For his discourse was his own, but his actions were his Ministry’s.”<sup>12</sup>

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<sup>12</sup>. David Hume, *History of England*, Vol. VII, p. 212.

## *THE BURNING OF THE CONSTITUTION (1661)*

The covenant itself, together with the acts for erecting the High Court of Justice, for fabricating the arrangement and for declaring England a **Commonwealth**, were ordered burnt by the hangman. The people assisted with great enthusiasm on this occasion.<sup>13</sup>

The burning of the Constitution, whether by accident or design, does not abrogate it. To destroy the Constitution, it would be necessary for Parliament to do away with itself and for the people and the King to adopt a new constitution. This has not occurred. The Instrument of Government as adopted by the Commonwealth is the Constitution.

Samuel Pepys tells us that on May 28, 1661, ...thence with Mr. Shepley to the exchange about business, and there by Mr. Rawlinson's favour got into a balcony over against the Exchange; and there saw the Hangman burn by a vote of Parliament two old Acts, one for Constituting us a Commonwealth, and the other I have forgot. Which do make me think of the greatness of this late turn, and what people will do tomorrow against what they all, through profit or fear, did promise and practice this day.<sup>14</sup>

Apparently the burning was simply a flattering gesture to His Majesty, as the next day was the King's birthday.

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<sup>13</sup>. *Diary of Samuel Pepys* (Wheatley), Vol. I, p. 40.

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<sup>14</sup>. *Ibid.*, Vol. VII, p. 371.



## Chapter 5

# REBELLION OF 1835 - 1837

A hundred feet to the east and overshadowed by the approach to the north end of the Jacques Cartier Bridge <sup>15</sup> which spans the St. Lawrence River at Montreal stands a monument erected to the memory of **twelve criminals** who were hanged.

What was their heinous crime? They had publicly expressed their desire to be governed by laws of their own making.

The leader in Quebec, **Louis Joseph Papineau**, was, and had been, a member of the Lower Canada legislative assembly since 1809, taking the seat which had previously been held by his father who had been elected to the first Legislative Assembly of Quebec, 1791.

Papineau was a rabble-rouser; he was well educated and a most popular, fluent speaker. He appealed to the electorate when his suggestions for the redress of their grievances were frustrated by the Governor who was the government of Quebec appointed by the Secretary of the Colonies.

The Sons of Freedom was organised with headquarters in Montreal East; the newspaper which supported their views, called the *Vindicator*, was published in English.

The **Doric Club**, with headquarters on McGill Street in Montreal West, opposed the Sons of Freedom.

Louis Papineau with his secretary, **Wilfred Nelson**, had left for the country to spend the

Christmas holidays.

**Governor Gosford** had spent some time in Montreal; finding everything normal he had left for Quebec City. It was rumoured that a warrant had been issued for the arrest of Papineau - which afterward was found to be correct, but as there were no telegraphs or telephones as yet, there was no way of knowing whether he had been arrested or knew of the warrant being issued.

In protest, the Sons of Freedom decided to parade. As they marched along St. James Street, they were met by members of the Doric Club and a fight ensued in which there were a number of casualties.

**General Colborne**, Commander of the British forces in Quebec, was in Montreal and this was all he needed to justify his actions: he had been instructed by the Colonial Office that if there was any trouble he was not to wait for the rebels to attack, but to shoot first.

General Colborne was well equipped to cope with what he considered to be a hydra-headed monster which aimed to separate the colonies from Great Britain as had been done sixty years before by the thirteen states.

He had ample forces accompanied by batteries of cannon which had in mind the lessons they had learned from the treatment they had received at Concord and Lexington.

General Colborne decided to lead the troops himself against a hot-bed of the Sons of Freedom who, he was informed, had gathered at St. Eustache for the Christmas celebrations.

When the action commenced on December 23, 1837, the Sons of Freedom barricaded themselves in the church. Batteries were wheeled into position and the cannon, which were trained on the massive doors, opened fire. The cannonading reduced the doors to matchwood within but a few minutes.

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<sup>15</sup>. This bridge did not land on the island of Montreal as planned. The factory on the surveyer's line... did not allow the Canadian Government to expropriate space with the power of *Eminent Domain*. For this reason, the bridge takes on a curve coming into Montreal. Had the farmers of St. Hermas and Ste. Scholastique informed their attorney, **Guy Bertrand**, the Canadian Government could not use the power of *Eminent Domain* to expropriate their land to create what is known as Mirabel Airport, they would have saved themselves some valuable farms. *Ed.*

The troops charged into the church where the fighting was hand to hand. **Dr. Chenier**, the leader, fell fighting on a gallery

There is a monument to his memory on Place Viger Square facing Craig Street.

General Colborne then proceeded to raze nine villages in the area with fire and sword. Six hundred farms were destroyed; the houses and barns which held the hay and grain for the live-stock were burned.

This section of Quebec is a fertile district, but in the dead of winter the live-stock (horses, cattle, sheep, hogs and poultry) would soon perish without food to feed them.

Sixty of the Sons of Freedom were arrested. Twelve were sentenced to be hanged and the balance to be deported, some to the Bahama Islands, others to a prison in Tasmania, for the term of their natural lives.

Prior to this, two columns of troops began a march from Three Rivers to Montreal. One column under **Colonel Gore**, crossed on the ice from Berthierville to Sorel. They encountered a group of patriots at St. Denis on the Richelieu and were defeated. They retreated to St. Charles where they stood their ground. Another group of patriots marching to reinforce their comrades on the Richelieu were defeated at Napierville by a local British police force.

**Colonel Wethrell**, commanding the other column which had parted with Colonel Gore at Berthierville, marched his troops west and, crossing the Terrebonne, joined General Colborne and took part in the battle at St. Eustache.

In Ontario, the main grievances were the "clergy reserve" and the "family compact."

The Church of England was supported by the government, and large blocks of land in the settlements were withheld from homesteading and granted to the Church. This meant that the settlers were enhancing the value of these lands by their industry in improving the district, and

yet they were paying all the taxes for roads and schools. They wanted these lands opened for settlement.

It was an **open secret** that all offices connected with the government were filled with relatives of the officials.

Three hundred men were armed with rifles and proceeded under **William L. Mackenzie** to the outskirts of Toronto, where they halted to await news from the Province of Quebec.

At this time there were no railroads, no steamships, no telegraphs or telephones, and at certain periods of each year the roads were almost impassable.

Each colony had a separate governor; Gosford in Quebec and **Sir Francis Bone** in Ontario. Quebec posted a \$5,000 reward for Louis Papineau and Ontario offered a \$5,000 reward for William Mackenzie, dead or alive. The rebels in Ontario considered further effort useless and disbanded. William Mackenzie escaped to New York State by crossing the Niagara River in a skiff. Louis Papineau and his lieutenant also escaped down Lake Champlain.

An old farmer arrived at St. John's Quebec, at the head of the lake with six casks of maple syrup. A young lad had gone ahead to request the American captain to hold the boat as his father was anxious to have the syrup shipped to catch the market in New York.

The farmer arrived after dark with his ox-team. The casks of syrup were passed by the guards and rushed aboard, and as the wind was in the right quarter, the ship cast off lines and headed down the lake. It was true that four of the casks contained maple syrup, but in the other two, sitting on chairs, were Papineau and his lieutenant.

Although the rebels in Ontario had disbanded, many of those who had taken part in the march on Toronto were arrested. They were sentenced to penal servitude in Tasmania for the term of their natural life.

Although some of the men who were deported to the Bahama Islands from Quebec were years later allowed to return, none of those who were deported to Tasmania ever got back. It is only the ghosts of those who perished there which have returned for vindication.

The names of those inscribed upon the monument in Montreal which stands a hundred feet from where they were executed are:

Sir Charles de Lorimier; *de Lorimier Street in Montreal is named after the family.*

Ambroise Sanguinet; *Sanguinet Street is named after his family.*

Charles Hindelang, a writer from Switzerland, who had come to Canada via Paris and New York. He was the youngest (22) of the group executed, and the only foreigner.

Joseph Narcisse Cardinal, who had been a notary public in Chateauguay.

Pierre Rémy Narbonne was a wealthy farmer and businessman of Montreal.

Joseph Duquette, real estate and notary public.

Amable Daunais, farmer.

François Nicholas, farmer.

François Xavier Hamelin, farmer from south of Montreal.

Pierre Théophile Decoigne, from Montreal.

Joseph Robert.

One was pardoned. He was a young farmboy, Félix Pontrie, who feigned insanity.

From the landing of the Pilgrims at Plymouth Rock to the recognition of their independence by Great Britain, the thirteen colonies were under the administration of the Lords of Trade and Plantations.

Over the years this name was altered to the Board of Trade and Plantations and, finally, to

simply the Board of Trade.

They had no power to govern, any more than the Chamber of Commerce has today. As the name indicates, their function was in the orbit of trade.

As the colonies were under the Crown in Chancery, administrative powers were granted to them by the Lord High Chancellor.

The British Parliament had enacted the Navigation Acts to assist them. Briefly, these Acts stated that anything and everything of a manufactured nature must be imported from England and everything raised or produced in the colonies must be exported to England.

It was to the best interests of the Board of Trade that their representatives should be always on good terms with the colonists.

These years were known as “the old smuggling days,” as the colonists found that more profit could often be obtained by trading with the Spaniards, French or the Dutch. This acted as a deterrent to them. Nor could the Board of Trade be said to be any more in favour of the Stamp Tax or the Tax on Tea put on the colonies by the British Parliament than were the colonists themselves. Their main objective was to derive as much profit as they could for the merchants of London who were members of the Board.

Naturally, the British Parliament was furious at the loss of the American colonies, and to save the face of the party in power, the Executive Council blamed the Board of Trade.

This is exemplified in the language used in excoriating them in **Burke’s Act, 1782**; they were utterly banished from taking any part in the administration of the colonies.

All colonies which remained were placed under the Colonial Office (except India). The Secretary of State for the colonies was to have a seat in the Cabinet.

Thus in 1837 there was an entirely different situation in Canada.

Now, if Canada were lost as a colony, it would be the Colonial Secretary who would face the responsibility.

If Canada were lost, not only would the Secretary lose his political head but also the party to which he belonged would be defeated at the polls.

Although both governors of Quebec and Ontario were appointed by the Colonial Secretary, orders were also given to General Colborne to shoot first — to take no chances with these rebels. The General was an old veteran of the battle of Waterloo, and no doubt he was convinced that if the Lords of Trade and Plantations had taken the proper action and attacked the rebels when they were encamped for the winter at Valley Forge, they could have been routed and the now independent New England states would still be colonies of Great Britain.

It was a comparatively easy matter to have the Doric Club meet the Sons of Freedom when they paraded on St. James Street and thus give him the excuse he needed to declare Montreal under martial law.

Nothing that happened in Hungary exceeds the ruthlessness with which General Colborne destroyed the nine villages and six hundred farms in the colony of Quebec. In fact, some of those deported to Siberia from Hungary may come back, but, as we have noted, none of those deported to the penal colony of Tasmania ever returned. Nor is it conceivable that the records from Hungary will be erased from the pages of history as the Rebellion of 1835-1837 has been.

To save his position and his party, Khrushchev had to act ruthlessly. He simply lifted a page from the book of General Colborne, who was known in Quebec as *Vieux Brûlot*, the Old Burner.

## Chapter 6

### THE BRITISH NORTH AMERICA ACT, 1867<sup>16</sup>

Following is a synopsis of evidence presented before the Special Committee convened to investigate the British North America Act at the House of Commons, Ottawa, February 26, 1935. F. W. Turnbull was Chairman.

Excerpts are taken from the evidence of:

Dr. O. D. Skelton, Under-Secretary of State for External Affairs.

Dr. Maurice Ollivier, K.C., Joint Law Clerk, House of Commons.

Dr. W. P. M. Kennedy, Professor of Law, University of Toronto.

Dr. Norman McL. Rogers, Professor of Political Science, Queens University.

Dr. Arthur Beauchesne, K.C., C.M.C., LL.D., Clerk of the House of Commons.

Dr. Skelton, Under Secretary of State for External Affairs:

Now it might be said, why not trust the growth of convention or custom for the necessary changes in our Constitution? The obvious answer, I think, is that the process is too slow, and is applicable only in cases where unanimity has been reached.

No other country in the world looks to the Parliament of another country for the shaping of its constitution. This solution should only be supported if we believe that Canadians are the only people so incompetent that they cannot work out a solution of their constitutional problem, and so biased that they alone among the peoples of the world cannot be trusted to deal

fairly with the various domestic interests concerned.

It is not safe to leave the question open and ambiguous indefinitely, for at any time a dispute on a concrete issue may arise.

To retain permanently the intervention of the Parliament of the United Kingdom is either superfluous or dangerous.

Dr. Ollivier, Joint Law Clerk of the House of Commons:

Further, our Constitution is a law adopted by the British Parliament exercising its incontestable right of sovereignty toward its Colonies. This explains the fact that the British North America Act is not a reproduction of the Quebec Resolutions... England was free to agree to the resolutions or to disregard them entirely.

Dr. Kennedy, Professor of Law, University of Toronto:

I think we have got to get away from the idea that the British North America Act is a "Contract" or "treaty." I do not want to go into that, but it is true neither in history nor in law. The British North America Act is a Statute and has always been interpreted as a Statute.

Suppose now we assume that it is necessary to have constituent powers in Canada, powers to change the Constitution, I approach the problem from two angles... First of all, I want to break the British North America Act up. We have got to ask ourselves, is the dead hand of the past to be constantly laid with numbing effect on the body politic. That is really what it

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<sup>16</sup> Cf. Lord Thring's *Practical Legislation*, p. 9, published in 1902. Also *Confederation Papers*, by Sir Joseph Pope, AD 1905, to witness the copy left by our well-beloved John A. Macdonald and his desired corrections about the Act. *Ed.*

amounts to... If we, in Canada, are not capable of interpreting our own Constitution, we should not have a Legislature at all.

Dr. Rogers, Professor of Political Science, Queens University:

I am thoroughly convinced that the British North America Act is not a pact or a contract either in the historical or legal sense.

*Question by Mr. Cowan:* You get back to this; your start is another interprovincial Conference ?

Answer: I am afraid it is . I see no feasible alternative.

*Hon. Mr. Lapointe:* There is no doubt about it.

Dr. Beauséne, Clerk of the House of Commons:

It is quite true that if we apply to the British North America Act the principles followed in the interpretation of Statutes it is not a compact between the Provinces; it is an Act of Parliament, which does not even embody all the resolutions passed in Canada and in London prior to its passage in the British Parliament, where certain clauses that had not been recommended by the Canadian Provinces were added. ...The Statute of Westminster has altered our Status. ... What we want is a new Constitution.

The new Constitution must leave nobody with a grievance. A spirit of conciliation should predominate. For these reasons, the task must be entrusted to an independent body, in which all the elements of the country will be represented.

I want the assembly to sit in a City in the West. It would not be necessary for a delegate to be a member of Parliament or a Provincial Legislature. I would suggest that the assembly do not sit in Ottawa, in order that it may not have the appearance of being dominated, or even influenced by the Dominion power; and, as the Western Provinces are of such paramount importance in the country, I suggest that the best City for the representatives to gather in

would be Winnipeg.

Whether our country should be changed from a Dominion to Kingdom is also a subject which might be discussed. I would suggest that the country could be called “*The Federated States of Canada.*”

There have been many disputes about Provincial rights since 1867 and it seems certain that when a new Constitution is drawn up the distribution of Federal and Provincial powers will have to be modified.

I submit that appeals to the Privy Council should be dealt with by our Constitution. This method would preserve the principle of taking our case to the highest tribunal without going out of our country.

If you will allow me, Mr. Chairman, I will just make another suggestion; if we have a constituent assembly and if we discuss the making of a new constitution, I think it is an anomaly that Dominion affairs should, to a certain extent, be subject to Provincial authority. I would suggest that we have a Federal District, taking about 25 square miles on each side of the Ottawa River. [*Its been in progress for a few years. Ed.*]

I would not have any minority rights discussed. There is nothing more dangerous in Canada than a discussion of minority rights. A discussion of them would wreck the whole Constituent Assembly.

I think the time is ripe for a change in the Constitution. I do not think you would need much publicity in order to draw attention of the people of this country [to the fact] that the British North America Act is inadequate.

As one who has had lengthy discussions with all those who had submitted their findings to the Commission, as well as with F. W. Turnbull, K.C., and the Hon. Ernest Lapointe who were members of the panel, I consider it *à propos* that remarks made when the act was passed be included in this chapter.

It should be noted that all of those who submitted briefs to the Commission were members of the Dominion Government, and could have gone much further, if they had not been restrained by the positions they held, or shall we say by the remuneration they received.

The British North America Act did not constitute the Dominion Government. The Dominion Government was constituted by Sessional Papers 18, drafted and signed by Yorke and Yorke, and to be found in the Dominion Archives. Mr. Adderly said in the House of Commons: “*The Act is designed to strengthen the hands of the Governor-General as much as possible.*” This remark was made, no doubt, to quiet the fears of the members that Canada would be self-governing.

The Quebec Resolutions open by stating: “*The best interests in present and future prosperity of British North America will be promoted by a Federal Union...*”

Mr. Adderly’s statement therefore shows that not only is the Act not a reproduction of the Quebec Resolutions, but is diametrically opposed to any idea of self-government.

Lord Campbell added his bit in the House of Lords when he said: “*It would scarcely be possible to break the **artificial unity** we now propose to organize.*” Professor Norman McL. Rogers (afterward Minister of Labour) said, “There was no Confederation.” Hon. Ernest Lapointe agreed with him. Dr. Beauséne also agreed when he said, “...it is not a compact between the Provinces.” He further stated that “I would suggest that we have a Federal District, taking in about 25 square miles on each side of the Ottawa River.” Why?

Dr. Arthur Beauséne was the foremost constitutional authority in Canada and the author of *Beauséne’s Parliamentary Rules and Forms* by which all members of the Commons and Senate are governed in their conduct, their deliberations and their speeches. He knew that there could not be any **sovereignty** without the ownership of land. **Those who own the land**

## **make the law of the land.**<sup>17</sup>

Prior to 1931, Great Britain owned the land and leased it to the provinces. In the Statute of Westminster of December 11, 1931, Britain grants to the provinces (*not the Dominion*) the exclusive ownership of land. The sovereign power exercisable by the British Government until 1931 is now exercisable by the provinces. (*This is explained in Chapter 8, **The Statute of Westminster.***)

In order to enact laws which can be enforced the Dominion Government must own enough land on which to erect a flagpole.

At present the Parliament buildings in Ottawa are as much a possession of Ontario as any other asset within the boundaries of Ontario. Would a flag erected on a flagpole in Ottawa not be a possession of Ontario?

In order to comply with this fundamental law, the United States, Australia and South Africa have granted land to the central authority. The only people today who cannot enforce a law are the Gypsies; they own no land. The Dominion is in the same category.

In Chapter 2 we quoted the definition of **Eminent Domain** from James Cacroft’s *Encyclopedia of American and British Law*. The British Government was the source by which the Dominion was governed until 1931. The Provinces of Canada have not yet reached an agreement whereby the necessary power rising from “**the unrestrained ownership of land**” can be transferred to the Dominion.

How important is this power may be gathered from the experience of the United States.

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<sup>17</sup>. [Reference was made to the Bible to confirm this statement. Gen. 2, 16, offers the answer in between the lines. The first two citizens never voted any law, but the Creator of Eden was compelled to make a law the moment He established residents on His territory. Those residents proved the law valid, they hid from the lawmaker. Forget not there were only two citizens in that garden, yet four were talking, but only the landowner legislated! *Ed.*]



Each state, being independent, was reluctant to relinquish all sovereign rights over its lands to a supreme power. The states compromised by granting to the central government a small state, the District of Columbia. They thereby granted to the central government the power to exercise the right of **eminent domain** on behalf of the nation, retaining each severally the right of eminent domain over the lands within the boundaries of their own respective states.

The Federal Government has the sovereign power in the United States. This power was conferred by the thirteen states which formed the Union, drafted the Constitution, and donated the land which is the District of Columbia.

Mexico City is the federal district of Mexico, Brasilia of Brazil, Santiago of Chili, and Buenos Aires of Argentina. Venezuela has two, Amazonas and Amaguero.

We all know that the western farmers are both deaf and dumb, but living amongst the Indians they understand sign language. If then it should ever percolate into their consciousness that the stories of Confederation are a myth and that their property is not considered an asset in the security of the bonded **national debt**, they may decide to let Ontario and Quebec keep the Parliament buildings and also pay the **interest on the bonds**.

Before **Mr. Dunning** resigned as Minister of Finance and also resigned his seat in the House of Commons, he said, "*No securities issued by this Dominion constitutes a mortgage upon any of the business assets of the Dominion.*"<sup>18</sup>

The next three Ministers of Finance also resigned: **Mr. Ralston, Mr. Isley, Mr. Abbott**.

Ontario and Quebec seem to get along together; at least neither have changed anything pertaining to their prospective in the last hundred years.

Neither of them could or would have any foundation (in the absence of an agreement) to object to the western provinces forming a federal union.<sup>19</sup>

It will be noted in the excerpts from the text of the Act which follow that the Act itself does not create a government.

It states in Section 11 that there shall be a Council to aid and advise, appointed by the Governor-General, who can remove them and appoint others.

"An order in Council has the same force and the effect as an Act of Parliament."

Section 12: "The Governor-General can issue an Order in Council individually as the case requires." Section 14: and 58 provide a means whereby the Governor-General may appoint lieutenant-governors of the provinces.

The Act provides that the Governor-General has the power to appoint senators (2d) and issue writs for the election of a House of Commons (88).

The Act is (as Mr. Adderly stated) "*designed to strengthen the hands of the Governor-General as much as possible.*"

Canada could not have two central governments. As has been previously stated, the Governor-General is constituted as the sole government of Canada by Sessional Papers 18. This is recognised by the Governor-General's Act, Chapter 85 R.S.

The **first page** of the British North America Act was deleted after passing the House of Lords and before it was assented by the Commons. This page stated: "*By reason of the request of the Colonies for Federal Government. It is expedient therefore that they have laws and regulations to guide them.*"

Here we have the reason for and the purpose of the Act. If this page had not been deleted,

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<sup>18</sup>. *Hansard*, February 16, 1939.

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<sup>19</sup>. *Cf. Confederation of Regions* by Elmer Knutson of 99th Street in Edmonton, AB. Ed.



Canada would ere this have formed a Federal  
Government. [... .. How ? *Ed.*]



## Chapter 7

### SEVEN TRAGIC YEARS, 1860 - 1867

Although enormous losses were sustained were sustained by both the North and South in the Civil War, they are far outweighed by the losses sustained by Canada. The whys and wherefores of this seeming paradox are recounted and explained in the following pages. The highlights of the year 1860 are the nomination of Abraham Lincoln, the visit to America of the Prince of Wales, and the completion of the telegraph to San Francisco.

The Prince of Wales was welcomed and received with acclaim and lionised by the local dignitaries in all the centres he visited in the United States. He was widely travelled and proved a ready and gracious speaker at dedications of public buildings and on ceremonious occasions. The Prince was also a popular patron of sports, particularly of horse-racing. He gave the impression that he was not interested in serious affairs or the activities of his government, and was generally considered a good-natured play-boy.

We learn from British sources that although he was allowed a generous stipend by the government, his mother, Queen Victoria, and the Cabinet assiduously kept all matters of import from him, and that it was not until 1882 that he was permitted even the inspection of important documents pertaining to the actions and policies of the executive.

There is little doubt, however, that among the members of his entourage there were well-qualified men who knew the score and would be unshackled in transmitting to their government information of importance concerning the situation in North America.

Abraham Lincoln was nominated on May 16, 1860, by the Republican Party convened in the Wigwam, Chicago. South Carolina, at the

time, was the only remaining state whose presidential electors were chosen by vote of the State Legislature rather than by popular vote. The Legislature was in session to select the State's electors when the news was received that Abraham Lincoln had been nominated.

Four days later the Legislature passed an act calling for the assembling of a secession convention to be held in Charleston on December 17.

By unanimous vote of its 169 members, it enacted its Ordinance of Secession, which declared: "The 1788 Act of South Carolina convention, whereby the Constitution of the United States was ratified, is hereby repealed, and the union now subsisting between South Carolina and the other states under the name of the United States of America is hereby dissolved."

In the evening a ceremony was held of the signing by the delegates of this historic document in the presence of the governor and officials of the State. Mississippi, Florida, Alabama, Louisiana, Georgia, and then Texas followed and for a brief time were independent republics. Delegates from these states were convened at Montgomery, Alabama, on February 4, 1861, and organised the **Confederate States of America**.

It is most evident that South Carolina **knew** before any action was taken that a scheme had been developed in Europe to assist them and the other states provided they decided to secede.

**Napoleon III** may not have been the author of the scheme, for **Disraeli** is quoted as saying, "*Napoleon will do anything I want him to do.*"

Disraeli had a plan to take over the controlling interest of the Suez Canal, and had taken Napoleon into his confidence; in any case, they

were the best of friends.

It is a matter of common knowledge that the sympathies of the landed and titled gentry and monied interests of Great Britain were with the Southern states. Furthermore, the agreement to put the scheme into effect was signed in London. Five-score years had come and gone since France had lost Canada to the British on the Plains of Abraham. In 1776 Great Britain had lost her New England colonies with the assistance provided by France. By warring with Britain, Spain had become so anaemic that she could not muster the forces to control her colonies, or to prevent them from declaring their independence.

Each of these European powers had lost their most valued possessions by fighting each other; why not join their forces and recover what they had lost was the argument of Napoleon III.

Now was the opportune time. The Southern states were planning to secede. Why not help them?

The uncouth rail-splitter named by the Republican party was no match for the Southern gentlemen with all their wealth and erudition. He would be defeated if the combined armed forces of Europe were arrayed against him.

Mexico owed a ten million dollar debt to British and French bankers which could be the proper excuse for an invasion. Napoleon III's Foreign Legion alone was sufficient to conquer Mexico, which was governed by an ignorant Indian, Benito Juarez, who had no armed forces worthy of the name.

When the Americans were defeated, France would be able to recover Louisiana which Napoleon Bonaparte had sold in 1805 without the consent of the government or the French people.

The Northern states would have become so exhausted by the war that they would be pleased to end hostilities by joining up with Canada, and again be a part of the British Em-

pire; or they might be more satisfied with crowning the Prince of Wales as King of America.

Following is the agreement signed by England, France, and Spain.

Article 1. *Her Majesty the Queen of the United Kingdom of Great Britain and Ireland; Her Majesty the Queen of Spain and His Majesty the Emperor of the French, engage to make immediately after the signature of the present convention, the necessary arrangements for dispatching to the coast of Mexico, combined naval and military forces, the strength of which shall be determined by a further interchange of communications between their Governments, but of which the total shall be sufficient to seize and occupy the several fortresses and military positions on the Mexican Coast.*

Article 2. *The commanders of the allied forces shall be moreover authorised to execute the other operations which may be considered on the spot, most suitable to effect the object specified in the preamble of the present convention, and specifically to ensure the security of foreign residents.*<sup>20</sup>

It could not have been the Mexican debt that caused these traditional enemies to forget their animosities and to become allies in an invasion of Mexico. For when it was noised about that an invasion was contemplated, Lincoln offered to pay the debt rather than have any country in the Americas invaded. Lincoln's offer was discounted. The European powers were informed that the Southern states were in any case seceding from the Union, and that Lincoln had made the offer not for humanitarian reasons, but because he was afraid to fight. Lincoln was vilified and abused. How could this uncouth rail-splitter from the North hope to defeat Southern gentlemen?

Napoleon III contacted his friend Maximilian, brother of Emperor Francis Joseph of Aus-

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<sup>20</sup>. *Annual Register* (British), 1861, p. 216.

tria, and offered him Mexico and the forces to place him on the throne as Emperor of Mexico.

Maximilian was a tall, handsome prince who but a short time previously had married Carlota, the sixteen-year-old Belgian beauty. They resided in their villa in Italy. Twice Maximilian turned the offer down; but when approached the third time, he agreed, but said that he would accept only on the condition that it was the desire of the Mexican people themselves.

This did not prove a difficult matter to arrange. A group of Mexican grandees made a visit to Italy and Maximilian was crowned Emperor of Mexico by them in Italy. Napoleon was jubilant; everything was proceeding according to plan. As the Mexican people had wrested the right to govern themselves from Spain, it would never do to attempt to put a Spaniard on the throne, but this was different.

Here was a handsome Prince who had been crowned Emperor, ostensibly by the Mexican people themselves. None could say this was not so. Napoleon had completed the groundwork. On his part he had promised to dispatch thirty thousand troops of the Foreign Legion to Mexico to be at Maximilian's disposal. Napoleon himself came over to America where he lived in his yacht anchored off St. Helen's Island in the harbour of Montreal, just where the present seaway has been opened.

He was in constant communication by telegraph with the forces he had dispatched to Mexico. Msgr. Roy of Montreal stated that Napoleon appeared well informed regarding the political situation in North America.

A Spanish fleet stationed at Cuba when the agreement was signed immediately invested Vera Cruz in Mexico. This fleet was shortly joined by squadrons of the British and French fleets.

The British Admiralty received a typical English letter from a rear admiral; he wanted to know if Spain was to have all the choice pieces

of North America as the Spaniards had commandeered all the first-class hotel accommodations in Vera Cruz.

To pay the troops in Mexico, Napoleon sent three millions in gold under guard which was intercepted by a Mexican force.

In 1863, exactly a month after the Foreign Legion landed in Vera Cruz to pave the way for the ill-fated Emperor Maximilian and his Belgian bride, Carlota, the incident at **Camerone** occurred. The Legion, warned that a French convoy carried food, arms and three millions in gold was nearing Pueblo, was asked to provide protection. A patrol of 62 Légionnaires and two officers, led by Captain Danjou, a veteran of Sebastopol, who had a wooden hand, set forth on the assignment. At ten in the morning, Danjou and his company ran smack into a Mexican detachment of 800 Cavalry and 1200 Infantry, and hurriedly holed up behind the wall of a wayside inn.

Throughout most of the day, the 62 Légionnaires successfully held off the 1500 Mexicans. Finally the survivors assembled and took oath on Danjou's wooden hand to fight until death. When dusk fell only five Légionnaires remained. They had one bullet left. They fixed their bayonets, and as the Mexicans poured through the breaches in the wall, the Légionnaires charged. All gave their lives, after inflicting 580 casualties upon the Mexicans, but the convoy to Pueblo was saved. This was France's Alamo.

Today, on every anniversary of **Camerone**, after the music is done and the parades are over, the oldest Legionnaire in Bel-Abbes unwraps Captain Danjou's wooden hand and displays it to the men. Even those who have seen it April after April are moved.<sup>21</sup>

The first shot fired at Fort Sumter was from a Blakeley and Whitworth rifled cannon. The garrison at the Fort remarked on its extraordi-

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<sup>21</sup>. Irving Wallace, "Army Anonymous," *Collier's*, Feb. 1, 1947.

nary accuracy. This cannon has the distinction of being the first breech-loading cannon to be fired in actual war. The manufacturers sent a squad of men to show the Southerners how to operate its mechanism.

In the charge of the Light Brigade at Balaklava in the Crimean War [1854-1856), the batteries were muzzle-loading, with round shot.

**Colonel A. R. Dunn**, who won the Victoria Cross in this charge, was sent from England to Toronto, Ont. with eight thousand men aboard the *Great Eastern*. He was to await orders, but to be prepared to attack Lincoln from the north.

**Charles Bruce**, British Consul at Charleston, SC., was the go-between to arrange the marketing of Confederated **bonds** in Britain; these were to provide the funds to build a navy of privateers for the Confederacy.

Most of these ships were constructed by **Laird and Son** at Birkenhead, and included the *Alabama*, *Florida*, *Georgia*, *Shenandoah*, *Tallahassee*, *Chickamauga*, *Clustee* and *Sea King*. with their auxiliaries.

They were British from keel to mast-head, armed with British guns, manned with British tars and outfitted with British supplies.

The headquarters and pay office of the Confederate Navy was in Liverpool. When the war was over Charles Bruce was promoted to be Consul-General of Cuba, a Spanish possession.

## RUSSIA'S INTERVENTION

Let me not omit to explain the Russian position and the assistance Russia tended to Lincoln in this conflict.

**Peter the Great** well deserved his title. As a young man he arrived incognito in England and applied for work as a common labourer in the British shipyards. Britain was then the foremost shipbuilding country, and Peter, by his willingness and industry, was gradually promoted until he became a ship-wright.

Vast forests of fir and pine covered the shores of the Baltic, and here Peter established his shipyards. Over the next two decades there was no letup in the launching of ships until the Russian navy became the equal of the British fleet.

The Bering Sea is named after a Russian sea-captain who was the discoverer. Immediately the Russian American Fur Company was chartered to trade for furs with the natives of Alaska.

Needing supplies for the trappers and their employees, the Company negotiated an agreement with Spain, and for a small yearly payment received a concession of land at Russian River, Bodego Bay, California, on the shores of the Pacific, a short distance up the coast from the **Golden Gate**.

Here for many years they farmed the land, raised their own beans, peas, corn, hogs and cattle.

When Mexico, including California, declared independence from Spain, the Company lost this concession and thereafter purchased their supplies from the **Hudson Bay Company** which had stores at Masset, on the Queen Charlotte Islands, and at Port Simpson, near Prince Rupert. Naturally the Czar, because of his interests in Alaska, was keenly watching events in North America. He was in sympathy with

Lincoln, having himself freed the slaves of Russia in 1860.

These powers arrayed against Lincoln were his erstwhile enemies. Britain, France, Sardinia and Turkey were the allies which he had defeated in the Crimea. He knew he could not hold Alaska if Lincoln were defeated. He dispatched his Baltic squadron under the command of Admiral Livofsky to New York and his Pacific fleet under Rear-Admiral Popov to San Francisco with instructions that they were to take orders from Lincoln.

Considering the tremendous losses sustained in the Crimea, the last thing that Britain wanted was another war with Russia. Britain also knew that it would mean war if she continued to assist the Confederacy.

It would be best to let the North and South fight it out. The arrival of the Russian fleets was coincident with the tide of war favouring the Northern states.

In the mean time the privateers which had been built in British shipyards had driven the merchant ships of America from the sea.

Even after the war was over the *Shenandoah*, which had put into Australia for repairs, recruited 50 men from Botany Bay and, sailing to the Arctic, sank fourteen whalers. The *Shenandoah* was unaware that the war was over.

Many speeches were made in the House of Commons against the sinking of merchant ships, among them one by Mr. Cobden:

What did Russia do? She sent her fleets immediately to America, and knowing the astute and long-headed man who rules at St. Petersburg, does anybody doubt what the motive was?... No doubt with the intention of putting those crews in the swiftest vessels that could be obtained both on the Atlantic and Pacific side,

in order that they may be employed against our commerce... Recollect her geographical position.

She has one sea-coast on the Atlantic and another on the Pacific, and the Pacific coast is within about a fortnight's steaming of the China trade.

Let any man read the shipping list from Shanghai and it is almost like reading the Liverpool shipping list. Suppose then, you were at war with any other power and you had laid down this doctrine for other countries to imitate; why, let the Americans be as true and loyal to their principle of neutrality as they have been, can you doubt, if American nature is English nature, that out of their innumerable creeks and harbours, there will not be persons to send forth fleet steamers to prey upon our commerce?

Why, many Americans will think it an act of absolute patriotism to do this. They will say: We have lost our Mercantile Marine through you doing this, and by doing the same thing toward you we will recover it again, and you will be placed in the same position we were.

You will have a high rate of insurance, and you will be obliged to sell your ships. You have the profits before, now we shall have it, for this game is one that two can play at.<sup>22</sup>

Great Britain finally agreed to an impartial Tribunal of Arbitration only after the United States threatened to **annex Canada**.

Previously Great Britain had been most emphatic in denying any responsibility for damages resulting from the activities of the privateers.

It was true that these ships were constructed in British yards by private citizens, but as Britain had not declared war, the government was not responsible.

Would Great Britain be willing that the evidence be submitted to an impartial Tribunal of Arbitration?

The answer was: "Couldn't think of it, you know," or words to that effect.

At this juncture the clever suggestion was made that an independent organisation be formed with the avowed purpose of annexing Canada.

Who and what were the **Fenians**? **Mr. Watkin** gave us an answer to this question when he addressed the House of Commons in London, Feb. 23, 1866. This was five months prior to the fight at Ridgeway, Ont., where **General John O'Neil** leading the Fenians was met by a regiment from Toronto.

**Mr. Watkin:** He had recently been in the United States. He was in Philadelphia when the Fenian Congress was sitting there in October last. He was in New York when the Headquarters of the Fenian Organisation was removed from Duane St. to one of the largest houses in Union Square, which was set up as what they called the Fenian Capitol and surmounted by what they called their adopted flag. He was also in Canada when rumours more or less serious arrived of intended Fenian raids into British Territory, and knew preparations had been made to resist attack... No one in the United States could plead that he did not know that there existed a vast ramifications all over the States, having war with a peaceful ally for its avowed object. With regard to the Congress at Philadelphia he might mention one peculiar feature was the presence of a large number of officers in the employment and pay of the Government of the United States. He had in his hand a list of a very small committee of the Congress and yet it contained the names of no less than ten volunteer officers belonging to the United States. Three of these were Generals, five were Colonels, one was a Captain and the last one was a Lieutenant.

Colonel William R. Roberts was chosen as the President of the Organisation and General

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<sup>22</sup>. *Parliamentary Debates*, Vol. 175, pp. 500-505.



T. W. Sweeney (who was then Commanding Officer of the 116th United States Infantry) as Secretary of War. His staff was composed of the following officers, all of whom had seen service in the Civil War. Chief of Staff: Brig. Gen. C. Carroll Tavish... Chief of Engineering Corps: Col. John Meehan... Chief of Ordnance: Col. C.H. Rundell... Engineer Corps: Lieut. C.H. Treslier... Asst. Adj.-Gen.: Major E.G. Courtney... Ordnance Dept.: Major M. O'Reilly... Quartermaster: Major M.H. Van Brunt... Aide de Camp: Capt. D.W. Greeley and Capt. Daniel O'Connell...

*The Chancellor of the Exchequer:* It may be perfectly true, and is unhappily too true that Fenianism in the main is the thing imported from America.

As the regulars were mustered out in 1865 they were permitted to retain their rifles and knapsacks. These trained and armed veterans were welcomed by the Fenian organisation and largely were the nucleus of the 184,000 volunteers. To embarrass Great Britain a squad of Fenians under Stevens was dispatched to Ireland, and because of their activities in fomenting rebellion there most of them were arrested and sentenced to life imprisonment.

Ten thousand Fenians were encamped at Buffalo and a raid was made into Ontario by Gen. John O'Neil with 1500 men. This force was met at Ridgeway by a regiment of Canadians from Toronto. The engagement lasted most of the day, with few casualties.

When news of the mission was flashed to Britain, the Government agreed to negotiate. The force under O'Neil was recalled, and to carry out the **fiction** that raid had been made without the knowledge of the United States, most of them were arrested. However, a Bill had been introduced into the House of Representatives to annex Canada.

The following Bill to annex Canada was introduced into the House by Representative Banks. Later, when Great Britain had agreed to arbitration, this Bill was recommitted to the

Committee of Foreign Affairs (July 2, 1866).

A bill for the admission of the States of Nova Scotia, New Brunswick, Canada East and Canada West and for the reorganisation of the Territories of Selkirk, Saskatchewan and Columbia.

### **Sec. 1.**

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the President of the United States is hereby authorised and directed, whenever notice shall be deposited in the Department of State, that the Governments of Great Britain and the Provinces of New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland, Canada, British Columbia, and Vancouver's Island, have accepted the proposition hereinafter made by the United States, to publish by **proclamation** that, from the date thereof, the States of Nova Scotia, New Brunswick, Canada East and Canada West, and the Territories of Selkirk, Saskatchewan, and Columbia, with limits and rights as by this Act defined are constituted and admitted as States and Territories of the United States of America.

### **Sec. 2.**

Be it further enacted... That the following articles are hereby proposed, and from the date of the **proclamation** of the President of the United States shall take effect, as irrevocable conditions of the admission of the States of Nova Scotia, New Brunswick, Canada East and Canada West, and the future States of Selkirk, Saskatchewan and Columbia, to-wit:

### **Article 1.**

All public lands not sold or granted; canals, public harbours, lighthouses and piers; river and lake improvements; railways, mortgages and other debts due by railway companies to the Provinces; custom houses and post offices shall vest in the United States; but all other

public works and property shall belong to the State Governments respectively, hereby constituted, together with all sums due from purchasers or lessees of lands, mines, or mineral at the time of the union.

### ***Article II.***

In consideration of public lands, works, and property vested as aforesaid in the United States, the United States will assume and discharge the funded debt and contingent liabilities of the late Provinces at rates of interest not exceeding five per centum, to the amount of \$85,800,000; apportioned as follows: To Canada West, \$36,500,00; to Canada East, \$29,000,000; to Nova Scotia, \$8,000,000; to New Brunswick, \$7,000,000; to Newfoundland, \$3,300,000; and to Prince Edward Island, \$2,000,000; and in further consideration of the transfer by said Provinces to the United States of the power to levy import and export duties, the United States will make an annual grant of \$1,646,000 in aid of local expenditures, to be apportioned as follows: To Canada West, \$700,00; to Canada East, \$550,000; to Nova Scotia, \$165,000; to Newfoundland, \$65,000; to Prince Edward Island, \$40,000.

### ***Article III.***

For all purposes of State organisation and representation in the Congress of the United States, Newfoundland shall be a part of Canada East, and Prince Edward Island shall be a part of Nova Scotia, except that each shall always be a separate representative district and entitled to elect at least one member of the House of Representatives, and except also that the municipal authorities of Newfoundland and Prince Edward Island shall receive the indemnities agreed to be paid by the United States in Article II.

### ***Article IV.***

Territorial divisions are established as follows: (1) New Brunswick, with its present limits; (2) Nova Scotia, with the addition of Prince Edward Island; (3) Canada East, with the addition of Newfoundland and all territory east of longitude 80 deg. and south of Hudson Straits; (4) Canada West, with the addition of territory south of Hudson's Bay, and between longitude 80 deg. and 90 deg.; (5) Selkirk Territory bounded east by longitude 90 deg., south by the late boundary of the United States, west by longitude 105 deg., and north by the Arctic Circle; (6) Saskatchewan Territory, bounded east by longitude 105 deg., south by latitude 49 degrees, west by the Rocky Mountains, and north by latitude 70 deg.; (7) Columbia Territory, including Vancouver Island and Rocky Mountains, south by latitude 40 deg., and west by the Pacific Ocean and Russian America. But Congress reserves the right of changing the limits and subdividing the areas of the western territories at discretion.

### ***Article V.***

Until the next decennial revision, representation in the House of Representatives shall be as follows: Canada West, 12 members; Canada East, including Newfoundland, 11 members; New Brunswick, 2 members; Nova Scotia, including Prince Edward Island, 4 members.

### ***Article VI.***

The Congress of the United States shall enact, in favour of the proposed Territories of Selkirk, Saskatchewan and Columbia, all the provisions of the Act organising the Territory of Montana, so far as they can be made applicable.

### ***Article VII.***

The United States, by the construction of new canals, the enlargement of existing canals, and by the improvement of shoals, will so aid

the navigation of the St. Lawrence River and the Great Lakes that vessels of fifteen hundred tons' burden shall pass from the Gulf of St. Lawrence to Lakes Superior and Michigan; provided that the expenditure under this Article shall not exceed \$50,000,000.

**Article VIII.**

The United States will appropriate and pay to "The European and North American **Railway** Company of Maine" the sum of \$2,000,000 upon the construction of a continuous line of railroad from Bangor, in Maine, to St. John, in New Brunswick; provided said "The European and North American **Railroad** Company of Maine" shall release the Government of United States from all claims held by its assignees of the States of Maine and Massachusetts.

**Article IX.**

To aid the construction of a **railway** from Truro, in Nova Scotia, to Rivière du Loup, in Canada East, and a railway from the City of Ottawa, Pembina and Fort Gary, on the Red River of the North, and the Valley of North Saskatchewan River, to some point on the Pacific Ocean north of latitude 49 deg., the United States will grant lands along the lines of said roads to the amount of twenty sections, or 12,800 acres, per mile, to be selected and sold in the manner prescribed in the Act to aid the construction of the Northern Pacific **Railroad**, approved July 2, 1862, and Acts amendatory thereof; and, in addition to said grants of land, the United States will further guarantee dividends of five per centum upon the stock of the company or companies which may be authorised by Congress to undertake the construction of said **railways**; provided that such guarantee of stock shall not exceed the sum of \$30,000 per mile, and Congress shall regulate the securities for advances on account thereof.

**Article X.**

The public lands in the late Provinces, as far

as practicable, shall be surveyed according to the rectangular system of the General Land Office of the United States; and in the territories west of longitude 90 degrees, or western boundary of Canada West, Sections sixteen and thirty-six shall be granted for the encouragement of schools, and after the organisation of the territories into the States, 5 per centum of the net proceeds of sales of public lands shall be paid into their treasuries as a fund for the improvement of roads and rivers.

**Article XI.**

The United States will pay \$10,000,000 to the Hudson Bay Company in full discharge of all claims to territory or jurisdiction in North America, whether founded on the charter of the company or any treaty, law or usage.

**Article XII.**

It shall be developed upon the Legislatures of New Brunswick, Nova Scotia, Canada East and Canada West, to conjoin the tenure of the office and the local institutions of said States to the Constitution, and laws of the United states, subject to revision by Congress.

**Section 3.**

Be it further enacted... If Prince Edward Island or Newfoundland, or either of those Provinces, shall decline union with the United States, and the remaining Provinces, with the consent of Great Britain, shall accept the proposition of the United States, the foregoing stipulations in favour of Prince Edward Island and Newfoundland, or either of them, will be omitted; but in all other respects the United States will give full effect to the plan of union. If Prince Edward Island, Newfoundland, Nova Scotia and New Brunswick shall decline the proposition, but Canada, British Columbia and Vancouver Island shall, with the consent of Great Britain, accept the same, the construction of a **railway** from Truro to Rivière du Loup,

with all stipulations relating to the Maritime Provinces, will form no part of the proposed plan of union, but the same will be consummated in all other respects. If Canada shall decline the proposition, then the stipulations in regard to the St. Lawrence canals and a railway from Ottawa to Sault St. Marie, with the Canadian clause of debt and revenue indemnity, will be relinquished. If the plan of union shall only be accepted in regard to the North-western territory and the Pacific Provinces, the United States will aid the construction on the terms named, of a **railway** from the western extremity of Lake Superior in the State of Minnesota, by way of Pembina, Fort Garry and the Valley of Saskatchewan, to the Pacific Coast, north of latitude 49 deg., besides securing all the rights and privileges of an American territory to the proposed Territories of Selkirk, Saskatchewan and Columbia.

By accepting to negotiate, Great Britain admitted that the government was responsible for the losses sustained by the American Merchant Marine.

The **Earl of Derby**, under the pseudonym of **Lord Stanley**, visited Washington and held a conference with President **Andrew Jackson**, resulting in the signing of the Stanley-Johnson Convention, which was promptly rejected by the Foreign Relations Committee of the Senate for the reason that it did not include an apology.

When the Earl of Derby had to admit in London that his mission had been unsuccessful, the **Earl of Clarendon** was accredited; the result of his visit was the Clarendon-Johnson convention. Although better than the Stanley-Johnson convention, neither this include an apology, and again it was rejected by the Senate.

We had to apologise after the Trent Affair, so we insist upon an apology.

In 1871 it was finally mutually agreed that the case be decided by an impartial Tribunal of Arbitration to be held in Washington. In the meantime a thorough discussion of the question

was aired in the House of Commons.

In *Parliamentary Debates* under the heading " Debate on **Colonel Jervois' Report** ," most of the leaders on both sides of the House had something to submit. The debate which commenced on March 13, 1865, covers approximately a **hundred pages** of British *Hansard*. Excerpts only are quoted here as this is sufficient for our purpose. Parliamentary debates from Queen Elizabeth to date are to be found in the Parliamentary Library in Ottawa, [and most provincial legislatures's Libraries. Ed.]

It should be noted that the British Government had refused to acknowledge any responsibility for the sinking of the ships of the American Merchant Marine, and for the past two years had consistently refused to consider the suggestion of the United States that the war claims be settled by an impartial Tribunal of Arbitration.

**Mr. Thomas Hughes:** He did not wonder at the soreness of the Americans, or at their saying that the lion's paw was the only law with John Bull. That, whether right or wrong, we would have our way and would not submit to an Impartial Tribunal. It has been said that the American Government had treated France and Spain in a very different manner to that in which they have treated this country and he believed that to have been the case, but France and Spain had treated America in a different manner than that pursued by this country and had allowed no *Alabama* to leave their shores. (Cries of OH! OH!)

Hon. Gentlemen might say Oh! Oh! - but he had believed, taken more trouble to understand America than most Gentlemen in that House. He could not see what reason we had to refuse to go to arbitration, though he refrained from expressing an opinion as to whether that Tribunal would decide we were right or wrong. The complaint of America was simply this, and that we somehow or other, whether rightly or

wrongly, allowed certain vessels to escape from our ports, and to prey upon their commerce, and when they asked for an Impartial Tribunal of Arbitration, we refused it.<sup>23</sup>

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<sup>23</sup>. *Parliamentary Debates*, Vol. 181, pp. 1027-1028.

**John Bright:** Well now if there comes a war, in which Canada shall suffer and be made a victim, it will be a war got up between the Government in Washington and the Government in London... I say there is no generous and high-minded man who could look back upon the transactions of the past four years without a feeling of sorrow at the course we have pursued on some particular occasions. Going back nearly four years we recollect what occurred when the news arrived of the first shot having been fired at Fort Sumter. That I think was about April 12th. Immediately after that time it was announced that a new Minister was coming to this country. **Mr. Dallas** had intimated to the Government that he did not represent the new President; he would rather not undertake anything of importance; but that his successor was on his way and would arrive on such a day. When a man leaves New York on a given day you can calculate to about 12 hours when he will arrive in London.

**Mr. Adams** I think arrived in London about May 13th, and when he opened his paper the next morning he found the proclamation of neutrality acknowledging the belligerent rights of the South. I say the proper course to have taken would have been to wait until Mr. Adams arrived here, and to have discussed the matter with him in a friendly manner.

Then I come to the last thing I shall mention... to the question of the ships which have been preying on the commerce of the United States. I shall confine myself to that one ship the *Alabama*. She was built in this country. All her munitions of war were from this country. Almost every man aboard her was a subject of His Majesty.

She sailed from one of our chief ports. She is reported to have been built by a firm in whom the Member of this House was and I presume is interested ...that the Member for Birkenhead (Mr. Laird) looks admiringly upon the greatest example which men have ever seen of the **greatest crime** which men have ever

committed.<sup>24</sup>

**Mr. Laing:** There could be no doubt that after what had passed during the late contest in America, we should be at the mercy of any maritime power with which we might enter into war, it would be impossible for us to engage in such a war without exposing our great mercantile fleet to destruction. The operation of the *Alabama* had caused one-third of the whole tonnage of New York to be transferred to foreign flags; and what he would ask would be our position with a hundred *Alabamas* issuing from a variety of ports to prey upon our commerce.<sup>25</sup>

**Mr. Lowe:** I cannot conceive why we should enter into arrangements to keep these troops in Canada. There is another consideration which to me seems a most powerful one. When we once go to war with America it may be about Canada; will Canada be the best place to carry on the war? In such a struggle we must consider not merely local but Imperial interests; we must wage war in the mode least likely to injure the forces of the Empire, and strike at points which are vital to the interest of our antagonist. If we allow the Americans to lead us, if we follow them to the points they choose to attack; points after all only of local and subordinate interest leaving unguarded other places which are of Imperial importance, such a policy would end in certain failure and disaster... As far as military considerations go, therefore, my conclusion is that it would be unwise and indeed impossible for us to retain any force worth speaking of in Canada, in the event of so great and awful a struggle as that between this country and America, that we should want all our troops for the defence of these Islands, or for other points more essential to us, and partaking more of the "*arx imperii*" than Canada... I should think that Bermuda and Halifax were much more important than any point in Canada,

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<sup>24</sup>. *Ibid.*, p. 1028

<sup>25</sup>. *Ibid.*, p. 1040.

not for the sake of the places themselves, but because the whole safety of our fleets in North American waters would depend on these two places. In the same way it would be necessary to defend certain points in the West Indies for the protection of our ships. I apprehend, therefore, that we should act imprudently in case of war in keeping our troops in Canada. But if we would not be prudent to keep our troops there in time of war, is it right or is it wise to keep them there in time of peace, thereby encouraging the Canadians to believe that they will have these troops if war should break out, though we know, at least those who take my view know, that the necessary result of a war, which begins with the invasion of Canada, must, if we are true to Imperial interests, be the speedy withdrawal of these troops. I say, that unless you are prepared to maintain that the same force should be kept in Canada in war as in peace. It is wrong to retain our troops there now because we are thereby urging the Canadians under false pretences. Better they should know the truth at once, know that they and not we are to fight the Americans; that, with our small army, we should, as we did in the Crimean campaign, soon feel the wear and tear to be so severe that we should be compelled to withdraw our troops from Canada for our own protection.<sup>26</sup>

**Mr. White:** ...The Rt. Hon. Gentleman for Calne (Mr. Lowe) represented the opinion of every one whose opinion was worth having, when he spoke of the utter impossibility of holding Canada without an expenditure of money and blood on the part of Great Britain fearful to contemplate.<sup>27</sup>

**Lord Robert Cecil:** In discussing this question it seems to me we have not thought of the interests of the people of Canada.

Now, the people of Canada have a solid and real danger before them. What presses on them

is not the question of the British Empire, whether British honour shall be maintained or not, but the question of their own lives, their own homesteads, their own property; and what they want to know is whether England is prepared to back them up, or whether she is not prepared to do so. And what answer do they receive? The Secretary for the Colonies gives generous and large spoken promises, destitute as it seems to me of any definite value, but still showing most amiable intentions... The Hon. Member for Stockport (Watkin) says: "You are bound to defend the frontier of Canada." Another Hon. Member says: "The Government are merely bound to protect a few fortified points." The Rt. Hon. for Calne (Mr. Lowe) says: "Canada will best be defended by abandoning her altogether and attacking the Americans somewhere else, or defending the British Empire somewhere else; so that if we amassed a force to defend the Isle of Wight we should be defending Canada." But the Hon. Member for the Tower Hamlets (Mr. Ayerton) says: "The best way to defend Canada is never to quarrel with the United States." But what the people of Canada want to know is, suppose we do quarrel with the United States, what will happen to them? They know that the House of Commons is the source of all political power, that it directs the policy of this country, and they will study the records of this debate with the anxious interest of men whose lives and interests are at stake.<sup>28</sup>

**Mr. Bright:** Let us "take care of ourselves." That is a fifth suggestion. The Hon. Member for Birmingham says: "The best course for this country would be to take care of ourselves." What I desire to impress upon the House is that ambiguity and uncertainty is more dangerous to the interests, more fatal to the honour of England than any other course you could adopt.

You are bound to let the Canadians know, not by any vague generalities, not by mere generous and amiable sentiments, but in a busi-

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<sup>26</sup>. *Ibid.*, p. 1582.

<sup>27</sup>. *Ibid.*, p. 1589.

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<sup>28</sup>. *Ibid.*, p. 1611.

ness-like manner, and in accurate debate, what is the precise assistance they may expect from you, so that they may know how to conduct themselves accordingly. If you say you will defend them abandoning them altogether, perhaps they may think the best means of defending themselves is by abandoning you. If you tell them you will defend them on condition of their giving you the power to call out auxiliary forces from amongst them, they will know exactly what you require and what they must do to earn your aid. But, as the matter now stands, as far as I understand from the Secretary for the Colonies, we are not going to defend Canada as we should defend Scotland, as being an integral part of the British Empire, but with the admission to Canada that her defenses must depend mainly upon herself. That seems to me an indefinite liability contingent on a perfectly indefinite condition.

If Canada now trusts to the vague promises of the Secretary of the Colonies, and allows herself to be drawn into a quarrel with the United States... and I agree with the Hon. Member for Horsham, the quarrel will not be with Canada but with England, I fear that the disastrous scenes of last year will be repeated over again. We shall see the enormous danger, we shall have 300,000 men at the frontier, with a nucleus of 10,000 to oppose them, and 20,000 volunteers.

And when we are face to face with the difficulty we shall inquire what amount of obligation we have to Canada and what we have promised; the Secretary for the Colonies will then open *Hansard*, and find his speech delightfully vague, and then we shall look back to our dispatches on the subject, and find there is no definite promise that can be diplomatically enforced; and then perhaps shall persuade ourselves that Canada is best defended by abandoning Canada altogether, and the best is to leave her inhabitants to the mild and paternal rule of the United States. Whatever you do, let Canada know distinctly the conditions under which you are prepared to aid her, the extent to

which you will go, and how far you do not regard her as an integral portion of the British Empire.

When you have made up your minds on that point and recorded your determination in some formal document, you will be able to look forward without fear to any change the future may bring, you will be prepared to do your duty as you have defined it, and act up to the pledges you have given.<sup>29</sup>

Later **Mr. Seymour Fitzgerald** was heard again. He said:

I ask the House to consider what has been our position during the last three years... During that time at any moment, in consequence of the intemperate order of an injudicious commander, or of some event striking alarm into the minds of the American people, war might have at any time broken out between this country and the United States, and once such a war commenced who could say where it would end? You have in Canada the Guards, the flower of our army; you have there, troops not only bearing the prestige of the Royal name, attached personally to the Sovereign, but counting amongst their members the scion of the nobles and the best blood; and what is nobler and better still, the annals of these regiments are illustrated by deeds of glory and heroism achieved at Waterloo and in the Crimea. But what was the position of these men during all this time? If war had unexpectedly broken out, Col. Jervois tells you, the only council you could have given them, could have been to fly as fast as possible to their ships; to leave Canada, and take refuge in this country.<sup>30</sup>

**Mr. W. E. Foster:** We all know that a Statesman who is not only respected by his own party, but by Members sitting on this side of the House, has taken occasion to express fears of an immediate war with the United States in a

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<sup>29</sup>. *Ibid.*, p. 1612.

<sup>30</sup>. *Ibid.*, pp. 1027-1028.



more urgent manner and with a much less conciliatory spirit than the Hon. Gentleman, the Earl of Derby in the House of Lords. "Order" - Well! When eminent statesmen in the position of Lord Derby come forward and express their fears in such language as this, can we wonder that they are felt throughout the country.

**Mr. Oliphant:** It was perfectly true that Fenianism had its origin in America. But it should be borne in mind that it originated out of the policy pursued by this country toward America. In other words if there were no outstanding claims between England and America, Fenianism would cease to exist.<sup>31</sup>

Possibly the best evidence that the Fenians were neither Catholic nor Irish is that when a convict was released he was sent back to his own country. When Great Britain belatedly and reluctantly agreed to a board of arbitration to be composed of ten men (five to be appointed by Great Britain and five by the United States, with an outstanding personage as arbitrator, to be chosen later), then those arrested for disturbances in Ireland received an unconditional release. This was refused by those convicted until they were assured that their passage would be paid back to New York.<sup>32</sup>

**Lord Oramore and Brown:** But the other day when Her Majesty's Government sent the Fenian convicts in State Cabins to America, the Congress passed an address of sympathy and congratulations to them and the President gave them a public reception.<sup>33</sup>

The Fenian organisation and the Bill for the admission of the provinces of Canada as states and territories of the United States of America had served the purpose for which they were originated, and we hear no more of them. How-

ever, neither were an idle threat. Ten thousand troops were encamped at Buffalo ready to cross Lake Ontario in case Great Britain refused to submit their differences to an impartial Tribunal of Arbitration.

Sir John A. Macdonald and Georges Etienne Cartier were now enabled to proceed with their delegations to present the Quebec Resolutions to the House of Commons. Leaving the end of November they arrived in London on December 3, 1866.

As the year 1870 closed the outlook for Great Britain was grave indeed: if the United States persisted in its threats to annex Canada, the War Office was convinced that Canada could not be defended against a force from the United States.

If this could not be prevented then Russia and the United States together would control the world from the shores of the Baltic Sea to the Atlantic, and furthermore the entire Western Hemisphere would be their sphere of influence.

In the House of Lords Lord Derby stated his opinion that war with the United States was inevitable. No time was now lost in appointing the members who were to represent Great Britain on the Tribunal of Arbitration to convene in Washington in May of 1871.

So far our narrative has been to relate from documents the relationship between the British government and the government of the United States. How about Canada? Canada is a vast country with resources estimated by reliable engineers as exceeding the natural resources of the United States. Most economists would agree that the country with the greatest resources could best sustain the largest population.

Canada, however, is a colony. Let us suppose that instead of being a colony she had been an independent nation for the past hundred years and the United States were the col-

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<sup>31</sup> *Ibid.*, p. 1040.

<sup>32</sup> *Ibid.*, p. 1049.

<sup>33</sup> *Ibid.*, Vol. 206, p. 734.

ony of Great Britain for the same period, then the larger population would be in Canada and the lesser in the United States. I think most would agree. The unanimous conclusion of the British Parliament was that dark clouds of war obscured the national horizon.

What to do was the question. Some solution had to be found. War with the United States, in which Canada would either become independent or become a part of the United States, was a disaster too fearful to contemplate. The solution to this dilemma was to enact the British North America Act, to keep Canada as a *colony*; and then to convene or rather to appoint representatives to an impartial Board of Arbitration instructed to reach an agreement with the United States.

Lord Campbell in the Lords and Mr. Adderly in the Commons almost gave the show away. Lord Campbell said: "It would scarcely be possible to break the **artificial unity** we now propose to organize," In the Commons, Mr. Adderly said: "The Act is designed to strengthen the hands of the Governor-General as much as possible."

The Act previously passed by the Lords was assented to by the Commons on March 29, 1867, to become effective in Canada on July 1, 1867. In the meantime a petition was circulated in Nova Scotia and signed by 30,000, a third of the voting population, "**That Nova Scotia be relieved of this measure, or that a Royal Commission or inquiry be appointed.**" Delegates were appointed, headed by Joseph Howe, to present this petition to the British Parliament.

John Bright (member for Birmingham) presented this to the House of Commons, where it was rejected. Nova Scotia was compelled against her strongest protests to become a member of the united colony, called the **Dominion of Canada**. As the delegation left England, Joseph Howe said: "**We go home to share the perils of our native land, in whose service we consider it an honour to labour**

**and whose fortunes in this, the darkest hour of her history, it would be cowardice to desert.**"

Regarding the Board of Arbitration whose decisions were incorporated into the Treaty of Washington, May 8, 1871, it will doubtless be conceded that if the United States were compelled to relinquish equal rights to navigation of the Mississippi River, or if Britain were compelled to relinquish equal rights to navigation of the Thames, it would be sufficient cause to declare war. Yet Canada was compelled by the terms of this Treaty to relinquish equal rights to navigation of the St. Lawrence, where it traverses the Province of Quebec; to relinquish the territories of the Lake of the Woods, Point Roberts and the San Juan Islands; and to grant equal rights for ten years to the fisheries.

Twenty-two years after the British North America Act was passed in 1867, the British Parliament itself admitted, when it enacted the Interpretations Act in 1889, that *the Act of 1867 was an intentional misrepresentation of fact*: "The expression *Colony* shall mean any of Her Majesty's Dominions (exclusive of the British Islands and of British India) and where parts of such Dominions are under both a Central Legislature and local legislatures, all parts under the Central Legislature shall for the purposes of this definition be deemed to be *One Colony*." As Canada in 1889 was the only Dominion with a central legislature and local legislatures, the inference is obvious. Canada was a colony.

Although it is admitted that Canada has enormous resources and could support a large population, the meagre citizenship is due to the policy of the Colonial Office. Since Canadians are not permitted to vote as Canadians, 3,508,730 have emigrated to the United States.<sup>34</sup>

Statistics are not available for other countries. This exceeds the entire population of the two largest cities in Canada, Montreal and Toronto. In a survey in 1935 it was noted that 98%

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<sup>34</sup>. Department of Immigration, Table 13. [196 ?..Ed.]

of the druggists of New York State were Canadians. In the maritime provinces, farms were for sale for less than the cost of the buildings, as there were left not enough young people to farm the land. Naturally the most ambitious, the most intelligent and the best educated emigrated. Canadians rank high among the leaders in art, the sciences and in industry.

Estimates are that it costs \$10,000 to feed, clothe and educate a young man until he is able to support himself. At this rate it has cost Canada some \$35,087,300,000 for the Canadians who have emigrated to the United States [in 1965]. This is what the writer meant in the opening paragraph of this chapter — the Civil War cost Canada more than the combined losses of the North and South.

Various acts have been passed by the British Parliament regarding Canada. It can be said without fear of contradiction that there is nothing in the Quebec Act (1774), the Constitutional Act (1791), the Union Act (1840), or the British North America Act (1867) to alter in any essential the colonial relationship or to weaken the headship of the Crown in Chancery. And there is nothing in any of these acts to alter in any essential respect that cardinal principle of British policy: **the supreme legislative authority of the British Parliament over and throughout the Empire.**

It will be noted that our trusty and well-loved Sir John Alexander Macdonald had been appointed one of the high Commissioners to be representative of Great Britain on the Tribunal of Arbitration to settle the claims of the United States regarding the depredations of the privateers. In ten days of August, 1864, the *Chickamauga* and the *Tallahassee* sank thirty-three merchant ships in the shipping lanes from Halifax, Nova Scotia, and St. John's, New Brunswick. Although these were American vessels, they were engaged in carrying the produce of the maritime areas to the West Indies.

Public feeling was enraged at these sinkings. Meetings were called and delegates appointed to a conference to be held in Charlottetown,

Prince Edward Island, September 1, 1864. A resolution was put that the three maritime provinces form a federal union. Before it was acted upon the conference was joined by delegates from Quebec and Ontario. Among them was John A. Macdonald, Attorney-General for Ontario, and Georges Etienne Cartier, Attorney-General of Quebec.

They suggested that meeting be adjourned to meet in Quebec in thirty days, which would provide time to appoint delegates from the other British colonies in North America who would all be in favour of forming a larger federal union. As arranged, the delegates were convened in Quebec City, and the Quebec Resolutions, dated October 10, 1864, were drafted to provide for a federal union.

Fourteen delegates were appointed to present the Resolutions to the Imperial Parliament, with John A. Macdonald and Georges-Etienne Cartier as joint-chairmen of the delegation. In the meantime, the Fenian raid in Ontario disrupted their plans, and it was not until December 3, 1866, that the delegates were convened in the Westminster Palace Hotel in London. They sat until December 24 and adjourned for the Christmas holidays.

When they re-convened in January, 1867, the Earl of Carnarvon, Secretary of the Colonies, acted as chairman. Great Britain now faced the most crucial decision which had arisen in the past hundred years. The government was on the horns of a dilemma. **What to do was the question.** If the United States annexed Canada, and it was admitted Britain could not defend the boundary of Canada, Britain would still have to pay the indemnity demanded by the United States for the loss of her Merchant Marine. This was ruinous. If Britain conceded to Canada the right to form a federal union, this would mean that Canada would have a democratic government on a par with the United States.

This was unthinkable. Canada would most probably join with the United States against Britain. This would be worse. The feeling was

that Britain had to retain Canada as far as possible to satisfy the claims of the United States; therefore, Britain would be compelled to buy off John A. Macdonald.

Before emigrating to Canada, John A. Macdonald had started his schooling in Scotland. He was now fifty-four and a widower. Naturally he was elated when the Rt. Hon. Montague Bernard invited him to his home to meet a number of the titled nobility. He was wined and dined and lionised by the elite and soon engaged to be married to Susan Agnes Bernard. They were married on February 16, 1867.

What man of fifty-four would or could resist attentions showered upon him by a young and titled lady who had consented to be his bride? His future brother-in-law now found John sufficiently softened up to be not invulnerable to the explanations and suggestions he would make to him. He explained that because of the likelihood of war with the United States, in which no doubt a number of Canadians would be killed, it would be impossible for the House of Commons to accede to the request of Canada for a federal union.

How would it be if John would first use his best endeavours to settle with the United States before pressing for a federal union? John would be made a member of the Tribunal of Arbitration. He would also be appointed Premier of Canada by Lord Monck, the Governor-General; be made a member of Her Majesty's Imperial Privy Council; and have a title. **John yielded.**

Years later when a new Governor-General asked John if he had a list of names to be honoured upon Her Majesty's birthday, he wrote: "*...honours should be granted only for a service performed for the Imperial Government... All these honours were conferred upon myself and the other gentlemen on account of the prominent part we had taken in carrying out the Imperial policy...*"<sup>35</sup>

The plan for a federal union or a confederation of the provinces was set aside. There is no

historic fact nor is there any law or agreement to support the stories of confederation. When the troops were encamped at Valley Forge, had George Washington, Benjamin Franklin, and John Hancock accepted titles from the King and relinquished the idea of a federal government for the New England states, then we would have had a parallel to the situation in Canada. The fairest thing which can be said of the Rt. Hon. Sir John A. Macdonald is that he would be more at home in the company of **Benedict Arnold** than he could be in the presence of such men as George Washington.

Following is the recorded document granting full power to the five representatives of the Tribunal of Arbitration.

### **Victoria R:**

Victoria, by the Grace of God, Queen of the United Kingdom of Great Britain and Ireland, Defender of the Faith... To all and singular to whom these Presents shall come, Greeting. Whereas, for the purpose of discussing in a friendly spirit with Commissioners to be appointed on the part of our Good Friends, the United States of America, the various questions on which differences have arisen between Us and Our said Good Friends, and of treating for an Agreement as to the mode of their amicable settlement. We have judged it expedient to invest fit persons with full power to conduct on Our part the discussions on this behalf. Know ye, therefore, that We, reposing a special trust and confidence in the wisdom, loyalty, diligence, and circumspection of Our right and trusty and right well-loved Cousin and Councillor George Frederick Samuel, Earl de Grey and Ripon, Viscount Goderick, a Peer of Our United Kingdom, President of Our Most Honourable Privy Council, Knight of Our Most Noble Order of the Garter, ...of our right trusty and well beloved Councillor Sir Stafford Henry Northcote, Baronet, a Member of Parliament, Companion of Our Most Honourable Order of the Bath, ...of Our Trusty and well-beloved Sir Edward Thornton, Knight Commander of Our

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<sup>35</sup>. Dominion Archives.

Most Honourable Order of the Bath, Our Envoy Extraordinary and Minister Plenipotentiary to Our Good Friends, the United States of America, ...of Our Trusty and well-beloved Sir John Alexander Macdonald, Knight Commander of Our Most Honourable Order of the Bath, a Member of Our Privy Council for Canada, and Minister of Justice and Attorney-General in Our Dominion of Canada, ...and of Our Trusty and well-beloved Montague Bernard, Esquire, Chichele Professor of International Law in the University of Oxford: Have named, made, constituted, and appointed, as We do by these presents name, make, constitute, and appoint them Our undoubted High Commissioners, Procurators, and Plenipotentiaries; Giving to them, to any three or more of them, all manner of power and authority to treat, adjust, and conclude with such Minister or Ministers as may be vested with similar power and authority on the part of Our Good Friends, the United States of America, any Treaties, Conventions, or Agreements that may tend to the attainment of the above mentioned end, and to sign for Us and in Our Name, everything so agreed upon and concluded, and to do and transact all such other matters as may appertain to the finishing of the aforesaid work, in as ample manner and form, and with equal force and efficacy, as We Ourselves could do if personally present; Engaging and promising upon Our Royal Word that whatever things shall be so transacted and concluded by Our said High Commissioners,

Procurators, and Plenipotentiaries shall be agreed to, acknowledged, and accepted by Us in the fullest manner, and that We will never suffer, either in the whole or in part, any person whatsoever to infringe the same, or to act contrary thereto, as far as it lies in Our power.

In witness whereof We have caused the Great Seal of Our United Kingdom of Great Britain and Ireland to be affixed to these Presents, which We have signed with Our Royal Hand. Given at Our Court at Windsor Castle, the sixteenth day of February, in the Year of Our Lord One Thousand Eight Hundred and Seventy-One, and in the Thirty-fourth year of Our Reign.<sup>36</sup>

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<sup>36</sup>. *Parliamentary Debates*, Vol. 204, p. 2046.



# TREATY OF WASHINGTON 1871

*It was mutually agreed:*

1. That Great Britain tender the United States an apology.
2. That Britain pay a direct indemnity of \$37,500,000.
3. That Britain pay for shipping sunk, to be determined by an Admiralty Court sitting in New York City: \$225,000,000.
4. That Britain grant the United States equal rights with British subjects of the fisheries on the Grand Banks for ten years.
5. That Britain grant equal rights to the navigation of the St. Lawrence River through Quebec to the Gulf of St. Lawrence in **perpetuity**.<sup>37</sup>
6. That boundary disputes be decided in favour of the United States (Lake of the Woods, Point Roberts, etc.).
7. That the ownership of the San Juan Islands be decided by the Emperor of Germany (the arbitrator).

On October 21, 1872, Emperor William of Germany decided that the San Juan Islands should belong to the United States and that another \$15,000,000 be paid for the expenditures incurred by Federal cruisers in chasing the privateers.

It would doubtless be conceded that when Emperor William of Germany acted as the arbitrator in this dispute, he never thought that within fifty years the principals in this affair would become allies to make war upon his country and to drive his grandson to exile in Holland.

**Viscount Bury, M.P.**, said of the **apology** :

**A** national expression of regret is an Act of the gravest importance. If England had been clearly in the wrong an expression of regret would be consistent with her dignity. It has not hitherto been usual for nations of the highest rank to apologise for acts which they never committed. The same Englishmen who offered the apology framed the British case. The case is an elaborate statement that Britain is in the right. It is hard to escape from this dilemma. Either the apology was unnecessary or the English case is the tissue of misstatements.

*Never have so many known so little about so much.*

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<sup>37</sup>. The British troops left the Citadelle in **Quebec City** on May 10, 1871, and were replaced by Canadian militia. The latter till this day occupy these barracks to sleep and for tourist attractions. British soldiers kept an eye on the navigation going over the river instead. *Ed.*

## Chapter 8

# THE STATUTE OF WESTMINSTER

For many years I have had much to do with the question of the right of Canada to self-government. It is almost forty years since I drafted the following Resolution, the original of which is in the Parliamentary Library in Ottawa.

This Resolution, the first to come to the attention of the Imperial Conference, in 1926, was presented by the Rt. Hon. William Lyon Mackenzie King, Prime Minister of Canada, without amendment or alteration and after being seconded by **Premier Hertzog** of South Africa. It was unanimously adopted by the assembled delegates from Australia, New Zealand, South Africa, the Irish Free State and Newfoundland.

This Resolution, together with another short Resolution presented to the 1930 Conference by the Rt. Hon. **Richard B. Bennett**, Prime Minister of Canada, to the effect that the "British North America Act should be retained by Canada," was drafted by the Parliamentary Secretary and the law officers of Parliament into legal terms in the sections of a Bill to be presented to Parliament. When enacted, the Bill was entitled "The Statute of Westminster" (December 11, 1931).

In the years that have gone by, the feeling of satisfaction which I experienced that all sections of the Resolution were incorporated into the Statute has been replaced by a sensation of profound regret that Canada has not taken advantage of her enhanced position. It is evident that either the Statute has not been **correctly** interpreted or that it has been purposely **pi-geon-holed**.

*Notes from the Imperial Conference of 1926*

As regards general principles, the report stated equality of status was the root principle governing Inter-Imperial Relations so far as concerned Great Britain and the Dominions, which is described as "Autonomous Communities within the British Empire," equal in status, in no way subordinate one to another, in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the "British Commonwealth of Nations." It pointed out, however, that the principle of equality of and similarity, appropriate to status, did not universally extend to function.

*The First Resolution Presented to the Imperial Conference of 1926*

The following Resolution was presented without alteration by the Rt. Hon. Wm. Lyon Mackenzie King, and seconded by Premier Hertzog of South Africa.

THE DOMINIONS: that is to say, Commonwealth of Australia; the Dominion of New Zealand; the Union of South Africa; the Irish Free State and Newfoundland, did concur in the adoption of this Resolution in the Imperial Conference holden at Westminster in the year of Our Lord nineteen hundred and twenty-six.

### **Resolutions from Assembly No. 2, Native Sons of Canada**

*Adopted September, 1926 - Preamble Omitted*

BE IT RESOLVED: That, this Assembly do herewith submit its views to the Right Honourable, Prime Minister of Canada and his colleagues on the following matters of national concern, namely:

#### **1. SOVEREIGN STATUS:**



Recognising this question as being of outstanding and paramount importance, this Assembly urges upon the Government of Canada the necessity of elevating CANADA constitutionally to the dignity and status of a NATION, with international recognition, enjoying SOVEREIGN RIGHTS AND POWERS, under the CROWN, and thereby confer on Canada an equality of Status with Great Britain, together with all the advantages incident thereto now exclusively enjoyed by Great Britain as the only sovereign nation in the British Commonwealth. No subject that may come before the conference can possibly approach this question of status in importance. Our objective should be clear and unambiguous, an absolutely equal and independent sovereignty under the Crown of Canada, internationally communicated and internationally recognised.

## **2. IMMIGRATION :**

This Assembly is unalterably opposed to assisted Imperial immigration in any form, and in particular is opposed to a Policy designed to unload on Canada immigrants from Great Britain as alleged settlers, who are mentally, morally and physically unfit, thereby tending to lower the high standard of Canadian Citizenship.

We hereby urge on the Government of Canada the need for closer restriction rather than relaxing the tests and standards for admission to Canada.

In this connection, this Assembly respectfully begs to draw the attention of the Prime Minister and his colleagues to the pernicious and incessant Imperial propaganda constantly issued both in Great Britain and in Canada, which is aimed at unloading deserters and other undesirables into Canada, with the designed object of relieving the British taxpayer at the expense of the Canadian taxpayer.

This Assembly CONDEMNS such anti-Canadian propaganda as being distinctly inimical to the national welfare of Canada.

We emphatically declare that the question of Immigration into Canada is, by terms of the British North America Act, exclusively CANADA'S OWN BUSINESS, that is not an Empire matter, that it is not a partisan or political matter as the Bishop of London suggests, that it is entirely a matter at present of administration, and that all CANADIANS, irrespective of party, approve of the intent and purpose of the present Canadian Immigration Act in respect of its broad principles. We declare our resentment and indignation at the persistent anti-Canadian campaign, emanating from Imperial quarters, to offset, and overcome the present rapid growth of Canadian NATIONAL feeling by schemes of assisted Immigration of types that are unsuited to this country and foreign to its history and background.

We believe that the time has come when the long brooding sense of NATIONAL CONSCIOUSNESS is about to be realised, and that it is vital to the National interest that our national bloodstream should be conserved, and not diluted by the admission of elements that will weaken or delay our national unity or foster a divided loyalty. The present Canadian stock should be the basis in selection of all applicants for privilege of admission to Canada.

## **3. IMPERIAL DEFENCE:**

This Assembly is emphatically opposed to involving Canada in any schemes of Imperial commitments or engagements, which tend to devolve upon Canada any part of cost of any alleged obligation of so-called Imperial Defence.

## **4. CANADIAN RESOURCES:**

This Assembly is further opposed to any Imperial Scheme, proposal or policy, which would seek to appropriate Canada's great natural resources as an Imperial asset, but on the contrary, holds to the view that such resources are exclusively the property of the Canadian people and should be at all times developed on broad lines of national policy for the primary benefit of Canada, and Canadians.

## 5. GOVERNOR-GENERAL:

This Assembly re-affirms its attitude previously expressed that the method of appointment of the Governor-General is ripe for a radical change more in consonance with national dignity; the appointment should be the completely unfettered act of the Government of Canada. The appointee should be a distinguished citizen of this country. In respect of personnel, and in respect of initiative of nomination, the present procedure is an expression of colonialism which should no longer be permitted to survive. Further, the channels of communication between the Government of Canada and any other country should be direct, via our Department of External Affairs.

We particularly object to the suggestion that in respect to the future appointments of Governor-Generals, the unanimous approval of other Dominions must be obtained before there be any change in policy.

## 6. PRIVY COUNCIL APPEALS:

The decision of the Judicial Committee of the Privy Council in **Rex vs. Nadan** is fraught with humiliation for the people and Parliament of Canada. We cannot think it possible that Canada will rest satisfied with a decision that prevents her from dealing exclusively with her own laws, particularly in a matter of CRIMINAL PROCEDURE. Canadian statesmen who make speeches about Canada's "PROUD POSITION" as a "self-governing independent nation" cannot be aware of the terms and implications of this judgement.

This Assembly expresses surprise and regret that during the past Session of Parliament this matter was not even referred to by any Member of the two great parties in the House.

That decision stands as an effective barrier to the full development of Canadian National consciousness. We favour the entire abolition of appeals to the Privy Council.

## 7. LOCARNO, WAR, NEUTRALITY...:

This Assembly is convinced that so long as the present anomalies of Canada's status continue the advantages to Canada from participation in Imperial Conferences are largely negative. The Conference is built on a Constitutional fiction, that all the representatives meet as equals. The test - "What is Canada internationally?" is the true test.

And until Canada, either by her own act, or by Imperial concession, attains SOVEREIGNTY as an independent nation under the Crown, with international recognition, her position in respect of Britain's Wars, neutrality, and her international relationships in general, will remain clouded and obscure. That position will be and remain, both constitutionally and internationally, that of a colonial status. Mere rhetoric cannot overcome this inescapable fact.

/s/ R. R. SMITH

*Note with Reference to Resolution Sent the Prime Minister Prior to the Imperial Conference of 1926*<sup>38</sup>

### **Extract from Executive Minutes of September 1, 1926.**

On motion of Conlin Reid, a resolution presented on behalf of Brother R.R. SMITH was referred to the Resolutions Committee.

The Assembly sent, on September 24th the following wire to Prime Minister King:

*Native Sons of Canada, Assembly No. 2, begs to tender congratulations and to express its satisfaction that for the future relationship of the Crown, in Canada, to its Ministerial advisers shall be identical with its relations to its ministry in England. Forwarding by mail our submission on opinion of subjects likely to be considered as forthcoming Imperial Confer-*

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<sup>38</sup>. The original of this paper is to be found in the Parliamentary Library, Ottawa.

ence.

*Compiled by D.H. Elliot,  
Custodian of Records,  
Assembly No. 2, Native Sons of Canada,  
1212 Melville Street, VANCOUVER, B.C.*

The Quebec Resolutions were drafted October 10, 1864: "The best interests and present and future prosperity of British North America will be promoted by a Federal Union..." This was debated in the legislature of the Provinces. The last debate before it was endorsed by the

United Legislature of Upper and Lower Canada occurred March 13, 1865.

Three months later, on June 29, 1865, the Colonial Validity Act was enacted by the British Parliament. This was done in order to show the colonial legislatures that they were not competent to enact any law or regulation which was repugnant to the law of England, and that as far as the Quebec Resolutions were concerned, they would not be approved by Parliament.

### **The Colonial Laws Validity Act, 1865,**

Section 61, reads:

...and any proclamation purporting to be published by the authority of the Governor, in any newspaper in the Colony to which such law or bill may relate, and signifying Her Majesty's disallowance of any such colonial law, or Her Majesty's assent to any such reserved bill as aforesaid shall be prima facie evidence of such disallowance or assent.

This excerpt from the Act is, or should be, suf-

ficient to show that the Governor had the power to say "No!"

In order to comply with paragraph 1 of the 1926 Resolutions, referring to "National Status," it was necessary to state that this law would not apply to the Dominions which were convened in London that year. But the Colonial Laws Validity Act was not abrogated. It is effective in those colonies which were not represented at this Conference.

### ***The Statute of Westminster, 1931***

22 George V, Chapter 4

*An Act to give effect to certain resolutions passed by Imperial Conferences held in the years 1926 and 1930 (11<sup>th</sup> December, 1931):*

**WHEREAS** the delegates to His Majesty's Governments in the United Kingdom, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, at Imperial Conferences holden at Westminster in the years of Our Lord nineteen hundred and twenty-six and nineteen hundred and thirty did concur in making the declarations and resolutions set forth in the Reports of the said Conferences:

And whereas it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the assent as well of the Parliaments of

all the Dominions as of the Parliament of the United Kingdom:

And whereas it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion:

And whereas it is necessary for the ratifying, confirming and establishing of certain of the said declarations and resolutions of the said Conferences that a law be made and enacted in due form by authority of the Parliament of the United Kingdom:

And whereas the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland have severally requested and consented to the submission of a measure to the Parliament of the United Kingdom for making such provision with regard to the matters aforesaid as is hereafter in this Act contained:

Now, therefore, be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

**1.** In this Act the expression "Dominion" means any of the following Dominions, that is to say, The Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland.

**2.** (1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion.

(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to

the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule, or regulation made under any such Act, and the power of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion.

**3.** It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.

**4.** No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend, or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.

**5.** Without prejudice to the generality of the foregoing provisions of this Act, sections seven hundred and thirty-five and seven hundred and thirty-six (735-736) of the Merchant Shipping Act, 1894, shall be construed as though reference therein to the Legislature of a British possession did not include reference to the Parliament of a Dominion

**6.** Without prejudice to a generality of the foregoing provisions of this Act, section four (4) of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause), and so much of section (7) of that Act as requires the approval of His Majesty in Council to any rules of Court for regulating the practice and procedure of a Colonial Court of Admiralty, shall cease to have effect in any Dominion as from the commencement of this Act.

**7.** (1) Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of the British North America Acts, 1867 to 1930, or to any order, rule or regulation made thereunder.

**(2) The provisions of section two (2) of this**

**Act shall extend to laws made by any of the Provinces of Canada and to the powers of the legislatures of such Provinces.**

(3) The powers conferred by this Act upon the Parliament of Canada or upon the legislatures of the Provinces shall be restricted to the enactment of laws in relation to matters within the competence of the Parliament of Canada or of any of the legislatures of the Provinces respectively.

**8.** Nothing in this Act shall be deemed to confer any power to repeal or alter the Constitution or the Constitution Act of the Commonwealth of Australia or the Constitution act of the Dominion of New Zealand otherwise than in accordance with the law existing before the commencement of this Act.

**9.** (1) Nothing in this Act shall be deemed to authorise the Parliament of the Commonwealth of Australia to make laws on any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia.

(2) Nothing in this Act shall be deemed to require the concurrence of the Parliament or the Government of the Commonwealth of Australia, in any case where it would have been in United Kingdom with respect to any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia, in any case where it would have been in accordance with the constitutional practice existing before the commencement of this Act that the Parliament of the United Kingdom should make that law without such concurrence.

(3) In the application of this Act to the Commonwealth of Australia the request consent referred to in section four (4) shall mean the request and consent of the Parliament and Government of the Commonwealth.

**10.** (1) None of the following sections of this

Act, that is to say, sections two, three, four, five and six, shall extend to a Dominion to which this section applies as part of the law of that Dominion unless that section is adopted by the Parliament of the Dominion, and any Act of that Parliament adopting any section of this Act may provide that the adoption shall have effect either from the commencement of this Act or from such later date as is specified in the adopting Act.

(2) The Parliament of any such Dominion as aforesaid may at any time revoke the adoption of any section referred to in subsection (1) of this section.

(3) The Dominions to which this section applies are the Commonwealth of Australia, the Dominion of New Zealand and Newfoundland.

**11.** Notwithstanding anything in the Interpretations Act, 1889, the expression “ Colony ” shall not in any Act of the Parliament of the United Kingdom passed after the commencement of this Act, include a Dominion or any Province or State forming part of a Dominion.

**12.** This Act may be cited as the Statute of Westminster, 1931.

Sections 3, 4, 5 and 6 are readily understood, and need no elaboration. The next section, however, seems to be the stumbling block, mainly because the British North America Act is misinterpreted: “ *Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of the British North America Acts, 1867 to 1930, or to any order, rule or regulation made thereunder.* ”

Why ? It is for the reason that the B.N.A. Act was simply a **guide** to the provinces in creating a federal union.

The page which was **deleted** after being enacted by the House of Lords and before it was brought to the attention of the members of the House of Commons states: “ ***By reason of the request of the colonies for Federal Government, it is expedient that they have laws and regulations to guide them.*** ”

As this was the intent and purpose of this Act, there was no need nor reason that it should be repealed. Section 7, subsection 2 reads: “The provisions of section two (2) of this Act shall extend to laws made by any of the Provinces of Canada and to the powers of the legislatures of such Provinces.”

Why do provisions of Section 2 extend to the provinces of Canada and not to the States of Australia or to the States of South Africa? For the reason that the Commonwealth, or Federal Union of Australia, had been created by the States of Australia to be effective from January 1, 1901. The States of South Africa had created the Federal Union of South Africa in 1909.

As the lawyers who drafted the Statute of Westminster **knew**, and all constitutional authorities **agree**, that no confederation of the provinces **had occurred**, it was imperative that the provinces of Canada should have an equality of status with the Dominions, in order that they could convene a conference and **create** a federal union.

*Section 2, therefore, reads as follows when applied to Canada:*

- **2. (1)** The Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of this Act by any of the *Provinces of Canada*, or to the powers of the *legislatures of such Provinces*.
- **(2)** No law and no provision of any law made after the commencement of this Act by the *Legislature of any Province of Canada* shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of the Parliament of the United Kingdom, or to any order, rule, or regulation made under any such Act, and the powers of any of the *Provinces of Canada* shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of *the law of such Province*.

I know of no way in which **independence** could be conferred in more adequate language

than that used to confer **sovereignty** upon the provinces of Canada. [The problem is with *provincials* who still think they were of age to contract a union in 1867, but were only *colonials*. Exactly like those who sincerely believed the sun was revolving around the earth from Josuha to Galileo. Ed.]

It will be noted that Newfoundland is mentioned as one of the Dominions which has an equality of status no less than the others mentioned.

Today Newfoundland is one of the provinces of Canada. Is it to be held that Newfoundland holds a status superior to that of other provinces? NO! Such is not the case. The provisions of section 2 apply equally to each and every province, the same as Newfoundland.

Section 8, 9 and 10 do not refer to Canada.

In order to understand Section 11, I will again quote Section 18 (3) of the Interpretations Act, 1889. It should be noted that **twenty-two** years after the British North America Act was passed Canada was a colony, and remained a colony until December 11, 1931, when her status was altered by the enactment of the Statute of Westminster.

**Section 18 (3)** reads: “The expression ‘*Colony*’ shall mean any of Her Majesty’s Dominions (exclusive of the British Islands and of British India) and where parts of such Dominions are under both a Central Legislature and local legislatures, all parts under the Central Legislature shall for the purpose of this definition be deemed to be ‘*One Colony*’.”

There is no intermediate status between a colony and a sovereign state. If the provinces are no longer colonies they are independent sovereign states. [The citizen ignoring such, remains a colonial orphan and a political cuckold, a flunkey with the capacity of popular sovereignty. This should put an end to the need for another referendum by Mr. Bouchard of Quebec unless he has other ambitions than those he states. Ed.]

This gives lie to the stories of confederation.

As a **federal union** is a “**Union of Sovereign States mutually adopting a Constitution,**” it was essential that the provinces should be granted their independence and sovereignty in order that they could create a federal union.

Unless or until such union is consummated, Canada is merely a geographical expression, not a political entity.<sup>39</sup>

The original of the 1926 Resolution signed by Brother R.R. Smith, together with the affidavit signed by R.H. Elliot, Custodian of the Records of Assembly No. 2, Native Sons of Canada, is in the Parliamentary Library, Ottawa, Ontario.

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<sup>39</sup>. Walter F. Kuhl of Spruce Grove, AB, wrote to Premier René Levesque in 1979 to remind him that the provinces are living a common law union. No divorce or secession procedures apply to such unions. *Ed.*





## Chapter 9

# CORRESPONDENCE ON INCOME TAX

C. Fraser Elliott, collector of taxes, resigned as Deputy Minister of Finance in 1945.

Visiting Ottawa early in 1945, I called on Mr. Elliott in his office in an imposing edifice on Sussex Street, south of the Parliament buildings and around the corner from the Château Laurier.

Presenting my credentials to his secretary, I was shortly ushered into his presence. Mr. Elliott sat behind an imposing mahogany desk on which were three telephones and nothing else besides a scratch pad. As Mr. Elliott was responsible for the collection of some four billion in taxes for the Consolidated Revenue Fund of Canada, these telephones were essential for him to keep in touch with his lieutenants who were engaged in harvesting distant fields of taxation. During the interview he was constantly interrupted by the ringing of phones, and I was impressed with the efficiency with which he answered the questions put to him. I could gather something of the problems he was posed by the answers he gave.

Between times, I had the opportunity to question him regarding his source of authority to collect taxes. “You state that you receive no authority from Great Britain to collect taxes.” “Certainly not, Canada now governs herself.”

“Well, in my humble opinion, if the Prime Minister, Mackenzie King, had a scratch of a pen to show that the provinces were united, he would drive a tunnel under those Parliament buildings (which we could see from his windows) and line it with concrete, and in a bomb-proof vault at the far end he would deposit this most valuable document in a gold casket studded with jewels, for without this I cannot conceive where you have the authority to issue a postage stamp.

“I am aware that the prevalent assumption is that Canada governs herself, but do you not

think it strange that the Dominion Elections Act states that only a *British subject* can exercise the franchise in Canada, and no provision has been made for a Canadian to vote as a Canadian?”

“Yes! That is true; I think it is high time that the Constitution should be altered. But as I do not claim to be a constitutional authority, I suggest that your questions should more properly be put to Mr. Coleman, our Under-Secretary of State.”

“I have met Mr. Coleman, and will be pleased to comply if I may say that it is at your request.” “Certainly, you may do that.”

Not finding Mr. Coleman in his office when I called upon him, I decided to write and include in the letter the questions to which Mr. Elliott required an answer.

Having to wait some ten days for a reply, Mr. Elliott in the meantime had put his questions as to the **source of his authority** to collect taxes to the Department of Justice.

Mr. Coleman’s reply to my letter stated: “It is not within the orbit or function of my department to answer questions pertaining to constitutional law. If you want an answer to your questions, you should consult some attorney in whom you have confidence or take the case to the courts.”

My problem was this: suppose I took this case to the courts, **could I expect that the judges** would decide that the Dominion had not the right to collect taxes and thereby admit that the Dominion was equally incompetent to appoint judges to dispense justice? If I am any judge of human nature, that would be carrying optimism too far.

Not having received any adequate response to his questions from the Department of Justice,

Mr. Elliott personally presented a brief to the Banking and Commerce Committee of the Senate, saying, among other things: "I would like the astute minds of this Committee to use all their faculties upon this problem, for I find I am restricted to advise from members of my own department."

Returning west to the Cariboo District of British Columbia, where I was engaged in mining, I saw a press release which stated that Mr. C. Fraser Elliott had resigned his post as **Deputy Minister** of Finance. I was elated; If I had his address, I would have called Diogenes, on long distance, and told him he could blow out his lantern.

Consider how great this man was. Although Mr. Elliott did not profess to be a constitutional authority, he was well versed in the fundamentals of constitutional law and was among the few in the legal profession (I include Dr. Arthur **Beauchesne**) who could discuss the problems to be encountered in constitutional and international law.

My letter to Mr. Coleman and further correspondence with Mr. Elliott follow. The correspondence with Mr. Elliott is preceded by a demand for Income Tax Return, signed C.F. Elliott nearly a year after Mr. Elliott was appointed to Chile. This correspondence is self explanatory.

Box 165, Viscount, Sask.

April 11th, 1945

Under-Secretary of State,  
West Block,  
Parliament Buildings,  
Ottawa, Ont.

Attention : Mr. Coleman.

Sir,

The Deputy Minister of Revenue, Mr. C.F. Elliott, has referred me to you as he is unable to answer questions regarding the competency of the department he represents to collect the Income Tax.

He agrees with me, as you will see by his

letter, which I enclose, that the "OFFICE" of Governor-General was the government of Canada, prior to the enactment of the Statute of Westminster.

We know from the decisions handed down by the Judicial Committee of His Majesty's Imperial Council that -- "In totality of legislative powers, Dominion and Provincial together, Canada is fully equipped." In other words, Canada is no longer governed by the British Government.

Further, no Province of Canada is to be considered a "Colony." (*Section 11 of the Statute of Westminster.*)

Section 7, Par. 2 states that: "The provisions of Section 2 of this Act shall extend to laws made by any of the Provinces of Canada and to the powers of the Legislatures of such Provinces."

The Rt. Hon. W.L. Mackenzie King has drawn the attention of the public to the statement of the Hon. Louis St. Laurent, Minister of Justice, "That the courts have held that the Provinces are Sovereign States." [*Hansard, [1943], unrevised, July 5, p. 4459, O.O.*]

It cannot be held that the Minister of Justice is unaware of the difference between autonomy and sovereignty. It appears to me that if Canada is not under the British Government and no agreement has been signed by the Provinces to create a Central Government,... the convention between the Province of Saskatchewan and the Dominion regarding the collection of Income Taxes **lacks validity**.

You are aware that the Rt. Hon. Ernest La-pointe was created a Minister Plenipotentiary by the British Government in order that he would be competent to sign an agreement with the United States regarding the Fisheries. These papers are in the records of your office.

It has always been held that the Dominion is incompetent to sign an agreement as the Judicial Committee pointed out, "There is a vast difference between the power to sign an agreement and the powers conferred to carry out the

terms of a Treaty.”<sup>40</sup>

My question to Mr. Elliott is simply, what is your source of authority to impose an Income Tax? As he is not in position to answer, he has referred me to you.

Thanking you for a reply at your earliest convenience, Sir, I am

Yours truly, /s/ R.R. Smith,

*Black Bear Creek,*  
Likely Post Office, B. C.  
Oct. 2<sup>nd</sup>, 1947

Mr. C. F. Elliott,  
Santiago, Chile.

Dear Mr. Elliott:

I am in receipt of a letter, either signed or franked by yourself. This is demand for information. Return for Calendar year 1946, on Form T.4.

[It] seems funny to me... that I received this registered letter from you, when I had been under the impression for some time, that you were now our Canadian Representative to Chile.

Likely, B.C.  
Cariboo District,  
Nov. 6, 1947

Hon. C. Fraser Elliott,  
Canadian Embassy, Santiago, Chile.

My Dear Mr. Elliott:

Naturally I was delighted to receive your very kind letter of the 20th ultimo. Particularly your congratulations on my becoming a Chief of the Crees.

There is so much to tell you that I feel that this letter will be inadequate. However, I will do my best. You will understand when I explain that I prize the honour done me by my induction into the Crees. Further I now have an

international status, which I previously lacked.

I had done my best to qualify as a Canadian, but found this impossible. Although since Dec. 11, 1931, Canadians are no longer British Subjects, the Dominion Government has made no provision for a Canadian to exercise his franchise at the polls as a Canadian.

Attempting to overcome this apparent anomaly, the Dominion last year enacted a measure, called the Canadian Citizen's Act, stating that a Canadian Citizen is a British subject. **Is it a joke ?** As the dictum of the Imperial Parliament is that Canadians are no longer subject to their enactments or laws, God Almighty could not make a Canadian a **British Subject** against the desire of the Imperial Government.

Once upon a time, a little war was fought by thirteen colonies. Since then it has been internationally recognised... in fact, we may say it is axiomatic - that no individual can be taxed unless he has representation in the political body which **taxes** him.

Canadians should recognise the finality of the words of the British Parliament, that they are no longer governed by **the law of England**, or by the provisions of any existing or future Act of the Parliament of the United Kingdom, or any order, rule or regulation made under any such Act. **They are, therefore, definitely not British Subjects.**

You mentioned a ruling of the Minister of Justice, *re* the exemption of an Indian living upon a Reserve, from the payment of Income Tax. Although his ruling is in accordance with the facts, as far as he went, he could have said that the treaties with the Indians provide that the *Indian is not to be taxed*, whether upon the Reserve or not.

Of course, if WE, Indians choose to live in a municipality, we do not contest the municipality collecting taxes from us for the services they render. Does the municipality pay us rent for the land they occupy, according to **our treaties ?**

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<sup>40</sup>. The dominion cannot, merely by making promises to foreign countries clothe itself with a legislative authority inconsistent with the constitution which gave it birth. *Appeal Cases, 1937, p. 352. Ed.*

I am enclosing a clipping on the rights of *Eminent Domain*, which I think explains our position. We Indians of Canada, are not in the same category as Indians of the United States. We ourselves **reserved our lands**, whereas the Indians of the United States hold their lands *in tenure* from the Federal Government.

You will agree that we were equals when Great Britain signed treaties with us? This position has not been prescribed or altered. In these treaties we granted Great Britain an *emphyteutic lease of the lands we did not RESERVE*, which tenure is perpetual as long as both parties adhere to the terms. Great Britain (is) to pay yearly \$25.00 to each Chief, and \$5.00 to each member of the tribe. Great Britain has given no intimation that she is dissatisfied, or would desire to repudiate any of these treaties, nor has she failed to pay her rent.

It could not be considered a matter of our concern or of protest by us that Great Britain placed the onus of responsibility of carrying out the terms of these treaties upon her subsidiary, the Dominion Government. Until Canada achieves the competency to sign treaties with us regarding our mutual affairs, we are, I think, justified in holding inviolate the treaties signed by Great Britain and ourselves. The creation of the Department of Indian Affairs, instigated by a Royal Commission sent to Canada by Great Britain, headed by Mr. Olophant, we consider a reasonable action by the Imperial authorities, to more adequately provide supervision to carry out the terms of our treaties, and as a gesture of friendliness to us; as at the time white men were encroaching upon our lands. But this should not deter us in any way from exercising our sovereignty, or make us wards of the Dominion Government, as many have asserted. Nor is it primarily a Dominion law that liquor shall not be sold to Indians, but a part of our treaties. In signing an Old Chief said: "I now take off my glove and give you my hand, and I hope none will say that anything done here was done in secret, but openly before the Great Spirit and the Nation, and I hope you will keep

your word as I intend to keep mine. However, if any house is built within a mile of the Reserve to sell liquor to the Indians, I will break the Treaty."

The Indians I found to be good Samaritans. I came to them clothed in rags and tatters of the British North America Act. They clothed me in a soft white buck-skin suit, (gave) me an international status, and said: *Hereafter your name shall be 'Wapanatak'*. If I remember correctly one of the apostles had his name changed in much the same way.

I must say that I was pleasantly surprised when shown a **passport** issued at Oswegan by the Six Nations to an Indian, which was counter-signed by the Government of Switzerland. Proof that we, as Indians, have international recognition.

Four years ago, after my address to my fellow tribesmen at a meeting convened by Chief Swimmer, assisted by Chief Tootosis (Grandson of Pound-maker) in the Eagle Hills, an old Chief shouted in Cree: "Your name is **Morning Star**. This is the first light we have seen in the dawn of a new day for the Indian."

I explained to them that we have the right to carry on export from or import to the Reserve, in bond, of any commodity with any foreign Nation, that we have the right to our own Courts, our own police force, our own army and navy, if we choose. We can issue our own automobile and drivers' licenses. We can, last but not least, adopt a Flag.

There are two peoples who cannot adopt a Flag: the Gypsies of Europe, and the Canadian people. Both lack the **Right of Eminent Domain**.

On July 28, 1707, Queen Anne decreed that, as a sign to other Nations of their peaceful pursuits (that they were not battleships), the Merchant Marine of Great Britain "*should fly a Red Ensign with the Union Jack in the upper*

*right hand corner next the staff.* ”<sup>41</sup>

Is it not a travesty on the intentions of Queen Anne, and internationally ridiculous, for a Canadian battleship or destroyer to enter a Chilean port flying this Flag? Some rights of Eminent Domain in my opinion should be granted by the Provinces of Canada to the Dominion, in order that they, at least, be competent to adopt a Flag.<sup>42</sup>

From a white mark half-way on the bridge connecting Ottawa and Hull to the borders of New Brunswick, the territory belongs to the Province of Quebec. From this mark to Manitoba is the property of Ontario. The Dominion Government, devoid of the rights of **Eminent domain**, pays the City of Ottawa \$2,775,000 yearly rent.

You have now a distinct advantage over your contemporaries in Ottawa in not being bothered by so many petty affairs. You are now able to soar over the Andes on the plane of contemplation and not be inhibited by the stigmatic viewpoint of party politics. Being an Indian Chief, I too, am able, to some extent, to view the deplorable state of our country objectively. Canada, in my opinion, should be a political entity, not merely a geographical expression. It is possible that I may be duly accredited by the Indians of Canada as their Chilean Ambassador. If so, I must surely brush up on my Spanish.

Adios, Señor,

/s/ Chief Wapanatak (R.R. Smith)

Western Hotel,            Saskatoon, Sask.,

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<sup>41</sup>. Now flown by the Province of Ontario, but formerly by the Dominion. *Ed.*

<sup>42</sup>. The official hoisting of the Red Maple Leaf was from a staff off the Parliament buildings. These buildings, in turn, are renting on Ontario territory. *It seems certain bureaucrats were steering Canadian soldiers that day in 1965, so they could do the appropriate thing for those circumstances. In civilised nations, the national flag is a symbol of territorial property.* Ed.

Dec. 26, 1947.

Hon. C. Fraser Elliott,  
Canadian Ambassador,  
Santiago, Chile.

Dear Mr. Elliott:

Your kind letter of the 21st ultimo was forwarded to me here, where I am spending the Xmas holidays. As it would, no doubt, make you homesick for me to describe the festivities, I will abstain.

However, I cannot agree with your view that all residents of Canada are British subjects owing allegiance to the Crown.

What is the Crown? Hallsbury states that: “The Crown is composed of all great departments of state wherever they may be or exist and the servitors of the Crown when acting within the orbit of their authority.”

You were the Crown when acting as Minister of National Revenue. Yet you admit that you did not get any power from the British Government to collect taxes from the Canadian people. My opinion, naturally, is that we could be British subjects only if you and other Dominion officials concede that Canadians are governed by laws enacted by the British government.

May I add that it has been reiterated many times in Canada that “Canada governs herself” or that “Great Britain does not govern in Canada.”

Our first British King was a *subject* of Hanover, both before and after he was adopted by the British people as their King. Further, an eminent British Jurist stated: “*The King is a Subject the same as the man who sweeps the street.*” Therefore, there is (in my opinion) no anomaly in my being a Canadian and at the same time, an adopted brother of the Crees.

The Crees inform me a Chief can have two wives. The white man’s law says only one. I observe both by having none. It will be conceded that I cannot deduct anything from my



Income Tax on the score of dependants, but you will admit it is at least peculiar for me to receive a registered letter demanding a "Return for Income Tax" and threatening me with dire penalties if I do not comply... (signed) "C. Fraser Elliott."

The Department of National Revenue (is) evidently not acting on behalf of the **Crown**, but upon the illustrious distinction you lent this office when acting as its head.

In the last paragraph of your letter, you leave the impression (that) you consider it anachronistic for a Nation to exist within a Nation. May I instance two, Andorra in the Pyrenees, and San Marino in Italy.

Disregarding other factors, it will doubtless be conceded that: "*The competency to negotiate and conclude a Treaty is the sine qua non of a Nation*". Further, if the Indian did not enhance his power, he accentuated his rights by signing Treaties with the United Kingdom. Britain is anything but precipitate. She signs no Treaties with irresponsible persons. Therefore, it matters little what you or I, or the Dominion officials, think of the Indian Nation. What Britain concedes is a "*fait accompli*."

I am a **third generation Canadian**, and insofar as I am concerned, I shall make a Return for Income Tax only when provision is made whereby I may exercise my franchise at the polls as a Canadian. At present [1965] the Elections Act is explicit in stating **eleven times** that only a British subject can vote in Canada. [*It does no more. Ed.*]

In Ottawa we have a House of Commons and Senate, the members British subjects, elected by British subjects. It is mandatory that a Bill passing both Houses must be assented to by a Governor-General before it becomes law. The Department of External Affairs informs me that he is not (an) accredited representative of the British Government. He, therefore, does not represent the **Crown**, nor is he a Viceroy of His

Majesty. <sup>43</sup>

Is this Canada? If such a political body as this can sentence me to jail for insisting on being known as a Canadian, to jail I will go. This would be something for Dorothy Thompson. Imagine a native of Chile being sentenced to jail for insisting on being a Chilean.

As the subject matter for our correspondence cannot be said to be either private or confidential and it is interesting to Canadians in particular, I request your permission to make copies or publish *in extenso*.

My best wishes to you for a very happy New Year, and thanking you for your kind letter on behalf of myself, the Indians and the Canadian People, I remain,

Yours sincerely,

/s/ Wapanatak (R.R. Smith)

**April 17, 1948.**

The following article, **Affairs of State** by Arthur Blakely, appeared in the *Montreal Gazette*

Ottawa, April 16... To the list of Indian heroes... Brant the great Iroquois... Pontiac, of the Ottawas... Tecumseh, the immortal Shawnee... and Sitting Bull, war Chief of the Sioux... add one more name. In the musty centuries of the past, these defied with shining, if impermanent success the superior armament of the white man. But in the fiscal year 1947-1948, the Cree Chieftain Wapanatak, or Morning Star, has been even more daring. He had brandished his tomahawk and shouted his war whoops at the all-powerful medicine men before whom even the most courageous palefaces have quailed in abject terror... The Taxation Division of the Department of National Revenue. From his mountain stronghold at Black Bear Creek, Cariboo District, B.C., Wapanatak, more prosaically known as R. Rogers Smith has engi-

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<sup>43</sup>. The tract *Doit-on me fusiller?* published in 1942, accused Lord Athlone of being an impostor. Like Lord Tweedsmuir, Athlone arrived without Patents from anybody. What less could he be but an impostor? *Ed*

neered a series of ambushes in the best Indian tradition. The startled Taxation Division has been subjected to a withering fire of adjectives, nouns, verbs, clauses, chapter and verse from a stealthy... well skilled in the use of these deadly weapons... who has waged a beautiful running fight taking advantage of every conceivable bit of cover. The Income Tax tribe, quite frankly, wish that they had never heard of Chief Morning Star of the Crees. They also wish that they had never sent him a demand over the signature of C. Fraser Elliott, that he submit an income tax return for 1946. Mr. Elliott had long since left the Department of National Revenue. But, then, who would expect a Cree to know that Mr. Elliott had become Canada's diplomatic representative in Chile? Whatever the odds against it, Chief Morning Star was well posted. He wrote to the Hon. Mr. Elliott in Santiago to ask about his status and give reason for his understandable confusion and did so, quite obviously, with tongue in cheek.

He ended on a friendly note.

"Since I last saw you," he wrote the doubtless startled Mr. Elliott, "I have been made an Indian Chief of the Crees, *Chief Wapanatak*, meaning Morning Star. You understand, of course, that according to our treaties **with** Great Britain, we, Indians, neither pay taxes nor make a return. What I desire to know is: Are you in any way responsible for sending me this letter? Hoping it isn't as chilly in Chile as here, I remain, yours sincerely, R.R. Smith."

The earnest and Honourable Mr. Elliott's reply from Santiago has not, regrettably, been preserved for posterity, though its contents are known. He thought (Heh—Heh) that the letter had probably been sent over his signature by error, since he was no longer a Taxation Deputy Minister but a member of the diplomatic corps. Presumably an old form, which he had signed way-back when it had been used by some careless clerk, he suggested. As far as the Taxation question was concerned, he made it plain that he didn't want to be drawn into any

controversy, but he indicated a belief that Wapanatak—R.R. Smith, that is—would have to pay up. He added polite congratulations to Wapanatak on his elevation to Chieftainship. He probably thought he'd heard the end of it. He hadn't.

Back at Black Bear Creek, Likely Post Office, Cariboo District, B.C., Wapanatak decided that Mr. Elliott was a nice reasonable man, even if subject to certain illusions, and that he could do worse than put his Income Tax case before the Canadian Ambassador to Chile.

The letter, which reached the astonished Mr. Elliott, reads like the creation of a Philadelphia lawyer. It abounds in *Ultimos*, words [like] *Emphyteutic* and citations from hoary treaties and the Statutes of Canada — all used in the right spot, as far as this writer, innocent in such matters, is aware. It reads, in a word, like a Supreme Court Judgement. He made out a good case for the assertion that legally there is no such animal as a Canadian Citizen. He told Mr. Elliott that he'd tried to qualify as such "But this I found impossible" since there was no provision whereby a Canadian could "exercise his franchise at the polls as a Canadian." He also noted a statement in the Canadian Citizenship Act that Canadians are British Subjects.

Is this a joke? he demanded. "As the dictum of the Imperial Parliament is that Canadians are no longer subject to their enactment or laws, God Almighty could not make a Canadian a British Subject."

Further, it was a recognised principle that there could be no Taxation without representation so how could there be Taxation? "Once upon a time, a little war was fought by 13 Colonies"... he added grimly.

He asserted that the ancient treaties signed by Great Britain with the Indians proved the special, but equal status of the latter. Indians possessed the **right of Eminent Domain**, he argued, and he sent along a clipping on this legal point to substantiate his case. The Treaties

said, Wapanatak found, *that Indians were not to be taxed whether they lived on reserves or not*. And he hinted a belief that Canadian pale-faces were mere tenants of the Indians, under the old agreements. He said boldly that the Indians had *the [right to export or import to the reserve in bond ]*... that we have the right to our own Courts, our own police force, our own army and navy if we choose. We can issue our own automobile and driver's licenses. We can, last but not least, adopt a Flag." He insisted that his latter was the one thing which the Federal Government, lacking the right of Eminent domain, could not do, and that in this respect it was in the same spot as the Gypsies. "You have now a distinct advantage over your contemporaries in Ottawa in not being bothered by so many petty affairs." Wapanatak, in conclusion, informed Mr. Elliott, who must have required reassurance.

"You are now able to soar over the Andes on the plane of contemplation and not be inhibited by the astigmatic viewpoint of party politics. Being now an Indian Chief, I, too, am able, to some extent, to view the deplorable state of our country objectively. Canada, in my opinion, should be a political entity, not merely a geographical expression. It is possible that I may be duly accredited by the Indians of Canada as their Chilean Ambassador. If so, I must brush up on my Spanish

*Adios Señor,  
Chief Wapanatak*

What are you going to do with that sort of thing? Canada's Chilean Ambassador quite apparently didn't know. [Would Mr. Bouchard have known more, he is a former ambassador? *Ed.*] His answering letter from Santiago, as cautious as it is courteous, gives thanks for your very interesting letter and adds that it is not for Mr. Elliott to develop the several points you make particularly as to the inefficiency of the Canadian Citizenship Act.

The Ambassador said he had thought that the orthodox view of the Status of Canadians as

being at once Canadian Citizens and subjects of the British Crown was pretty well accepted everywhere, but as stated, it is not up to me to enter upon the matter in any controversial sense. I only express these thoughts to indicate my views.

The **broad points** raised by Wapanatak were *interesting* and the Chief should find much interest in developing them to a conclusion that is appreciated by the Dominion Government as well as by yourself and your friends. Even more hesitantly, he expressed doubt that the Indians' power to exercise the rights mentioned free of the white man's tax and with a separate Flag could be attained in the foreseeable future by the people for whom you speak. May I again thank you for your most informative letter, Mr. Elliott assured Morning Star in closing.



On December 26th, Wapanatak who had moved his tepee to Saskatchewan for Christmas, penned to the Ambassador in Chile, a moving letter which opens: “Your kind letter of the 21st ultimo was forwarded to me here. As it would, no doubt, make you homesick for me to describe the festivities, I will abstain...” The letter, a long one, is more replete than the earlier ones in citations from eminent British and Canadian Jurists to back the Morning Star position.

The core of the letter is in the stubborn words: “That I shall make a return for Income Tax only when the provision is made whereby I may exercise my franchise at the polls as a Canadian.” At present the Elections Act is explicit in stating 11 times that only a British Subject can vote in Canada.

Was a Canadian to be jailed for insisting on voting as a Canadian, Wapanatak demanded? Surely this was absurd. He hinted darkly at bringing Dorothy Thompson into the case. But if it were a case of pay or go to jail, “to jail I will go,” the Chieftain wrote. Here he took his hand.

He concluded with “my best wishes to you for a very Happy New Year and thanking you for your kind letter on behalf of myself, the Indians, and the Canadian People.”

The Santiago-Black Bear Creek correspondence in the hands of the writer ends on this pleasantry. There are reports that the all powerful Taxation Division has given up the fight and called it a day.

In any event, Mr. Elliott, at least, has abandoned the field to the Cree Chieftain from Likely Post Office, B.C.



## Chapter 10

### COURT TRIALS, 1942-1947

*Doit-on me Fusiller ? (Must I Be Shot ?)* was the title of a pamphlet written in 1942 which was highly critical of the government.<sup>44</sup>

The pamphlet contained but a short synopsis of the information found in this volume. I admit it was written in a rather racy tempo, in order to draw the attention of Canadians to the fact that their rights were in jeopardy. Among some of the statements I asked were, "Can I be put in prison or shot for stating that the Governor-General, the **Earl of Athlone**, is officially an impostor?" and, "Can I be put in prison or shot for stating that **no Bank in Canada** has subscribed for any issue of **bonds** since war was declared?"

Of course I was well aware that the Earl of Athlone was not accredited or authorised by the British Government to be Governor-General of Canada. Also I knew, since I had had talks with the President of the **Bankers Association**, that no bank had subscribed to any issue of bonds.

As soon as the pamphlet was issued, the Mounted Police sized 3500 copies. What could the authorities do when the Governor-General could not produce any credentials and the banks had to admit that they had not subscribed to any issue of Dominion bonds ? While they

were pondering what action could be taken, I wrote the Hon. Louis St. Laurent the following letter, with my bill enclosed.

1605, Amherst Street, Montreal, Que. —  
March 30, 1942

Hon. Louis St. Laurent,  
Minister of Justice of the Dominion,  
Ottawa, Ont.

In account with: R. ROGERS SMITH

3500 Copies of *Doit-on me Fusiller ?* at .10 ¢  
= \$350.00

Honourable Sir:

Recently your correspondent has been disturbed by the Actions of the **Royal Canadian Mounted Police**. They have appropriated thirty-five hundred copies of *Doit-on me Fusiller?* to distribute to members of the force.

It will doubtless be conceded that the search for truth is one of the strongest impulses in mankind. It will also be conceded that the Mounted Police have until now been denied the opportunity to satisfy their thirst for knowledge on matters pertaining to the Constitution.

The spirit and zeal they have shown in their search is commendable. However, the knowledge can be obtained without resorting to gunpoint. The writer spent three years in researches in the Parliamentary Library and the Dominion Archives, collecting the data which is condensed in this pamphlet. It was written for the Canadian people as a whole, not simply for the edification of the Police Force. Had the writer known before-hand that the demand would exceed the supply, he would have had more copies printed. The retail price of the pamphlet (of which I enclose a copy) is .25¢, which includes the .01¢ tax to the Province of Quebec. Whole sale prices are .10¢ in lots of 1000 or over, with the usual discount for cash.

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<sup>44</sup>. The pamphlet was drafted in an excellent French probably because Mr. Jean Drapeau, former Mayor of Montreal, then student of constitutional law, was secretary of the movement "The Federated States of Canada." Their address was near the Municipal Library. In 1972, the present editor re-edited that pamphlet in Quebec City and as it was listed on the Cardex of Laval University, but absent from the shelves, four copies were placed appropriately there. Those copies disappeared with time. To remedy the situation, 25 copies were inserted on the shelves of the Law Library of the same University. A year later visiting Laval's General Library, the Law library had moved to a different local. *Ed.*

As the Dominion Government has recently voted a gift of one billion dollars for a less worthy purpose, it should be evident to those in charge of the Police Force, that the Government is in a position to purchase any information they desire. As the Writer states in *Doit-on me Fusiller?* that no organisation is back of him, it is, to say the least, inconsiderate of them to expect him to keep them supplied with copies at his own expense. Enclosed you will find a bill for the 3500 copies received at the reduced rate of .10¢ .

Unless this bill is promptly paid, it may be impossible for me to get out a second edition. The printer is a practical person, and demands cash on the nail. Trusting that I may have an early and favourable reply, I am,

Yours truly,

/s/ R. Rogers Smith

The reply received was penned by the Secretary of the Minister, who wished to inform me that “the pamphlets were not seized to distribute to the personnel of the Mounted Police, but were seized for the reason that they were considered subversive.” Of course, one could hardly expect the staid Department of Justice to tell the difference between a joke and a bale of hay.

After deliberation they concluded that I should be prosecuted upon the charge of writing *Doit-on me Fusiller?* in wartime on the grounds that it violated the Defence of Canada Regulations.

Hearing by grape-vine that a warrant had been issued for my arrest, I presented myself to the Sergeant of the Mounted Police in Montreal. The Sergeant was startled when I mentioned who I was, but recovered his aplomb in a minute to produce the warrant and have my numbered photographs and fingerprints duly posted in the rogues' gallery.

When I was arraigned before the magistrate,

I was let out on \$1,000 bail,<sup>45</sup> and trial was arranged for the following week. Judge Perreault, who presided, fined me \$50 and costs or thirty days, after stating that it made no difference whether what I said is true or not, the Defence of Canada Regulations made no mention of this point. I appealed the case to the Superior Court, and when Judge Lazure upheld the decision of the lower Court, I paid the fine. When I was leaving the Superior Court, a lawyer who was not connected with the case clapped me on the shoulder and said, “**Fifty-dollar fine. It's worth that.** Why I can call the Governor-General an **impostor** on the street and it would only cost me fifty dollars. That's a precedent. That's his price”.<sup>46</sup> The *Montreal Gazette* published a fair résumé of the trial.

In 1947 I was summoned in Montreal for non-payment of Income Tax for five years. My defence in this case was similar to the statements made in Chapter 9, “**Correspondence on Income Tax,**” so there is no need to repeat it here. I stated that I would go to jail rather than pay any fine, but that I would comply by making a return as soon as I were officially recognised as a Canadian. I received a sentence of a **\$1,200 fine or five months in jail.** One lawyer remarked that I had made monkeys out of the judges. I deny this, as I was carefully polite and bowed to the judges after being sentenced, and the police at the door bowed me out.<sup>47</sup>

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<sup>45</sup>. Dr. Gabriel Lambert bailed the author out. *Court of King's Bench*, 1942, File 4446. Ed.

<sup>46</sup>. Since that date, not much has changed, nor the Commission that puts him there. Sincerity has only got thicker. Ed.

<sup>47</sup>. A full afternoon at the old Court House on the corner of St. Laurent and Notre-Dame Streets, in old Montreal, was devoted to the search of that particular case. Aided by the clerk at the Registrar, there employed in 1947, the search proved useless. The clerk suggested to return in a week's time for further information. A week later, in April 1972, the same clerk mentioned his friend, on a higher level had advised him to mind his business. On parting, we agreed the case must have been touchy. Ed.

I have not filled out any Income Tax form, nor have I been bothered since then.

Evidently the judges considered that it would be too risky for them to incarcerate a Canadian in jail simply for requesting to be officially recognised as a Canadian. I would not know whether the judges expected me to go to jail and request admission or not. But in any case I cannot be held responsible for the judges' making monkeys of themselves; this was their own funeral.

## Chapter 11

# THE GOVERNOR - GENERAL

British rule in Canada dates from 1759,—*the battle of the plains of Abraham*. The French forces were defeated. General James Wolfe, commander of the British army, fell on the field and his position as leader was filled by General James Murray.

When Montreal capitulated in 1760 and the Treaty of Paris was negotiated by the British and French, General James Murray was appointed governor by the Board of Trade. The powers creating General Murray an absolute dictator are stated to be the Constitution of the Government of Canada, and are preserved for posterity in Sessional Papers 18, Dominion Archives.

It should be explained that as each colony came under British rule, the area, with a map of the title, was placed in the custody of the Crown in Chancery or the Department of Lands of Great Britain. Henceforth this Crown in Chancery had the responsibility of retaining the conquered territory as an asset of the British people. It was the custom then and until 1782 to transfer the exercise of authority and the administration of affairs to the Lords of Trade and Plantations. After 1782 the Crown in Chancery granted these powers to the Colonial Office, the affairs of which were administered by the Secretary of State to the Colonies.

It is also necessary to explain that no governor has ever been appointed by the Parliament of Great Britain or by the King or Queen. The name of the Lords of Trade and Plantations was altered by custom to the Board of Trade and Plantations and finally to the Board of Trade.

A scape-goat was needed for the loss of the thirteen New England colonies: Burke's Act, 1782, abolished the Lords of Trade and Plantations, and the governors of all colonies were

instructed to make their returns to the Colonial Office. All governors were henceforth appointed by the Secretary for the Colonies, who was made a member of the British Cabinet.

Sir George Fiddes, in his book, *The Dominions and Colonial Offices*, states: "It is equivalent to a rejection of any person as a Governor that his name be even mentioned to the Secretary to the Colonies prior to his appointment." The Secretary for the Colonies being a member of the Cabinet, it would be an outrageous *faux pas* for any other cabinet minister to intimate or suggest any action to him, as to any other minister, regarding the discharge of his duties.

The retention of the colony as a British possession is the sole responsibility of the Colonial Secretary, and therefore he cannot be interfered with in the exercise of his duties. As mentioned earlier, the first Colonial Secretary, being anxious to confer as much power as possible to his governor appointee, was professionally enamoured of the power granted to Governor Murray by Yorke and Yorke, attorneys for the Board of Trade, and these powers were made the model of the constitutions granted to future governors of colonies.

The power granted to the Governor is all inclusive: he is a "**corporation sole**." A ruling was further made "that members of the Royal Family, when in Canada, *take precedence next after the Governor-General*".<sup>48</sup>

The procedure in the appointment of a governor is that after he is chosen and appointed by the Colonial Secretary, he is introduced to the Lord High Chancellor, whose Clerk of the Crown in Chancery grants to him "Letters Patent" which constitute him the "**Sole**" gov-

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<sup>48</sup>. *Parliamentary Guide*.

ernment of the Colony. Next he is introduced to His Majesty at the Court of St. James and is issued “**Instructions**” to open and close sessions of the legislatures, assent to acts, and other powers, in the name of the King or Queen as the case may be — but he is not a **vicero**oy. Further, if the King or Queen are in Canada they take precedence next after the Governor-General, as we said.

An Imperial Privy Council for Canada composed of nine members bearing the title of “**right honourable**” is appointed to assist the Governor-General in the government. The Imperial Privy Council for Great Britain is formed by 320 “right honourables,” who form the executive government of Britain, and all of whom are eligible to receive their remuneration from the British Treasury.

I have stated previously that there has been no alteration in the government of Canada since the first appointment of a governor for Canada in 1763. Following is an excerpt taken from the Constitution drafted by Yorke and Yorke of the Board of Trade and Plantations, and in a following column are the powers which he can exercise today, dated 1947.

The Colonial Secretary was firmly convinced that the revolt in the New England colonies was due not to the restrictions placed upon them but too much liberty. If the revolt in the first instance had been ruthlessly handled, the colonies would now be in the possession of Great Britain.

### ***George R (1763)***

George III, by the Grace of God... We have thought fit to constitute... And We do authorise and Empower to keep and use the Public Seal, which will herewith be delivered to you, or shall hereafter be sent to you, sealing all things whatsoever that shall pass the Seal. And We do hereby give and grant unto (you) full-power and authority to constitute and appoint Judges and in cases requisite commissioners of Oyer and Terminer, Justices of Peace, Sheriffs and

other necessary Officers and Ministers in the said province...

(7) And it is Our will and pleasure that you do, and are hereby authorised and empowered to suspend and remove any of the Members of the said Council from sitting, voting and assisting therein, and also in like manner to SUSPEND any of Our Lieutenant-Governors of Our said Province from the execution of their commands. And We do hereby command all Officers and Ministers, Civil and Military and all other inhabitants of Our said Province to be obedient, aiding and assisting unto you, the said James Murray, in the Execution of this Our Commission.

IN WITNESS whereof WE have caused these “OUR LETTERS PATENT” to be made Patent. Witness Ourselves at Westminster, the twenty-first day of November, One Thousand Seven Hundred and Sixty-three and in the Fourth Year of Our Reign,

By writ of Privy Seal,

YORKE and YORKE.

### ***George R (1947)***

George VI, by the Grace of God...

III. And We do hereby constitute to keep and use Our Great Seal of Canada for sealing all things whatsoever that may be passed under the Great Seal of Canada.

IV. And We do further authorise and empower Our Governor-General to constitute and appoint, in Our name and on Our behalf, all such Judges, Commissioners, Justices of Peace and other necessary Officers (including Diplomatic and Consular Officers) and Ministers of Canada, as may be lawfully constituted and appointed by Us.

V. And We do further authorise and empower Our Governor-General, so far as We lawfully may upon sufficient cause to him ap-

pearing, to remove from office or suspend from the exercise of the same any person exercising any office within Canada under or by virtue of any commission or warrant granted or which may be granted in Our name under Our authority.

IX. And We hereby require and command all Our Officers and Ministers, Civil and Military and all the other inhabitants of Canada to be obedient, aiding and assisting unto Our Governor-General, or, in the event of his death, incapacity, or absence, to such person as may, from time to time, under the provisions of these Our Letters Patent administer the Government of Canada.

IN WITNESS whereof, We have caused these Our Letters Patent to be made Patent, and for the greater testimony and validity thereof, We have caused Our Great Seal of Canada to be affixed to these presents, which We have signed with Our Royal Hand.

Given this eighth day of September, in the Year of our Lord, One Thousand Nine Hundred and Forty-Seven and in the eleventh year of Our Reign,

By His Majesty's Command,  
W. L. Mackenzie King,  
Prime Minister of Canada.

## *The Governor - General's Act*

### *R. S. 1927 - Chapter 85.*

An Act respecting the Governor-General, *Short Title*

- 1) This Act may be cited as the Governor-General's Act - R. S., Ch. 3., Sec. 1.
- 2) The Governor-General of Canada *for the time being* or other chief executive officer or administrator carrying on the Government of Canada, on *behalf* or in the *name* of the King, by whatsoever title he is designated, and his successors shall be a **Corporation Sole**.
- 3) All bonds, recognizances and other instruments by law required to be taken to the Governor-General in his public capacity, shall be taken to him and his successors by his name of office, and may be sued and recovered by him or his successors by his or their name of office as such.  
  
(2) Such bonds, recognizances and other instruments shall, however, in no case go to or vest in the personal representatives of the Governor-General, Chief executive officer or administrator of the Government — in whose name they were so taken.

- 4) There shall be payable yearly, and pro rata for period less than a year to the Governor-General of Canada *for the time being*, a salary of ten thousand pounds sterling, equal to and of the value of forty-eight thousand, six hundred and sixty-six dollars and sixty-three cents.
- 5) (2) Such salary shall be payable out of the Consolidated Revenue Fund of Canada and shall form the second charge thereon.

R.S., Ch. 3, Sec. 4.

So you thought the governor-general was a figurehead? Well! Mind you, whether you are in Canada, Great Britain or the United States the same holds true: “**When custom conflicts with the words of a statute the words of the statute prevail.**”<sup>49</sup>

If the governor-general does not have the power, then neither the “Letters Patent” which grant the power or the Governor-General's Act should be upon the Statutes of Canada. The Statute states that his salary shall be the second

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<sup>49</sup>. The words of the Treaty of Paris, 1763, Sec. 4, must have the same consideration. *Ed.*



charge upon the Consolidated Revenue Fund of Canada. This includes not only his personal salary but the salaries of the ten deputy governors of the provinces.

The first charge against the Consolidated Revenue Fund is the cost of the collection.<sup>50</sup> Then before any money vote for any purpose can come before the House of Commons or the Senate, his salary must first be paid.

Can the governor-general declare war? The answer to this question is in the negative.<sup>51</sup> The reason is that this is a prerogative held only by the British government. If Great Britain allowed her governors to declare war, she could well be at war all the time. The governor-general is a British subject, and no British subject can negotiate a treaty or even ratify a trade agreement unless he is accredited and authorised by the British government for that purpose. The Rt. Hon. Sir John A. Macdonald was accredited as a minister plenipotentiary to sign the Treaty of Washington, May 8, 1871. The Rt. Hon. Ernest Lapointe was accredited as a minister plenipotentiary to sign the Fisheries Treaty with the U.S.A., in 1911.

On April 28, 1946, the Rt. Hon. W.L. Mackenzie King, with the Rt. Hon. Louis St. Laurent, were created ministers plenipotentiary to sign the Charter of the United Nations at San Francisco, June 4, 1946.

In 1878 a ruling was made by the British government that British subjects could sign a trade agreement on behalf of Canada, *provided it had the assent of the British ambassador to that country.*

Although the Pan-American Union has invited Canada to join, this is not possible for British subjects, who could not be seated; nor could the Union Jack be flown in the halls of the Organisation of American States. Only an American citizen could sign an agreement on behalf of the United States. Only a British citi-

zen or British subject could sign an agreement on behalf of Great Britain. Only a Canadian could sign an agreement on behalf of Canada — but as yet *Canada is merely a geographical expression*, not a political entity. The governor-general and the members of the Imperial Privy Council (the “right honourables”) know that as soon as a Canadian can vote, *their rule is ended.*

On the Thursday after Britain declared war upon Germany in 1939, the Parliament was convened in Ottawa, and in the Governor-General’s speech from the Throne, which was read by the Rt. Hon. Ernest Lapointe, it was stated that “**when Britain is at war, Canada is at war.**” The House adopted the “Speech from the Throne” but no declaration of war was made upon Germany.

Under different sections of the rules governing warfare which were adopted by The Hague Tribunal and later incorporated into the Geneva Conventions, it is provided that when one country has a grievance against another, it shall notify the offending country by letter; then if no reply is forthcoming in twenty-four hours, war may be declared. It is further provided that if any person is captured upon the battlefield fighting in the uniform or under the flag of a country which has not declared war, he may immediately be shot as a spy.

Great Britain, the United States, France and Germany are among the nations who affixed their signatures to these Conventions. When eighteen Canadian airmen, in Canadian uniforms with Canada upon their shoulder straps and caps, parachuted down unharmed upon a sector of the front occupied by [Colonel] Kurt Meyer and his forces, they were captured and were lined up and shot as spies.

At the war trials held at the close of the war, a demand was made by representatives of Canada that [Colonel] Kurt Meyer be executed as a war criminal. If he had been convicted of having committed a crime, it would have been equivalent to a repudiation of the signatories to

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<sup>50</sup>. Section 103, B.N.A. Act.

<sup>51</sup>. [The Constitution of England, Sec. 5. Ed.](#)

the Geneva Convention, including Britain, the United States and their allies.<sup>52</sup>

Kurt Meyer was held in Dartmouth Penitentiary in Nova Scotia as a prisoner of war until peace was made possible. Today **General Meyer** is an honoured leader of the forces of **West Germany**. The eighteen young volunteers who willingly risked their lives to fight for what they thought was their country were left unprotected upon the field of battle by an irresponsible government which does not represent Canada or its people.

Prior to this war the Governor-General ordered an issue of \$950,000,000 in Dominion of Canada bonds at 3½ %. When the Minister of Finance introduced the Bill in the House he was asked, “ ‘Would it be fair to say that the wealth and natural resources of Canada are back of these bonds?’ ‘No!’ Mr. Dunning said. ‘**No securities** issued by the Dominion **constitute a mortgage** upon any of the business assets of the Dominion’ . ”<sup>53</sup>

Why did Mr. Dunning state this? Because it was the truth. Prior to the enactment of the Statute of Westminster, the provinces had the lands on lease from the Crown in Chancery. Nova Scotia paid three Indian arrowheads, British Columbia two percent of the gold and silver mined; Manitoba, Alberta and Saskatchewan, two elk and two black beaver. This is termed an **emphyteutic lease**, one drawn not for the purpose of revenue, but simply to show that the provinces did not have complete **title to the lands**. After the Statute of Westminster, the provinces paid no lease.

Everything within the boundaries of the province is the possession of the province (Section 109 of the B.N.A. Act). Only the owner can mortgage the property, and the provinces

have not granted the Dominion any right to their property, or the right to issue securities backed by the property. The Dominion Government has no department of lands; even the land under the Parliament buildings belongs to the Province of Ontario.<sup>54</sup>

Mr. Dunning resigned his post as Finance Minister, and also his seat in the House. He was followed by Mr. Ralston, who after some correspondence with the writer resigned after three months. Mr. Isley was next, and after he found out that he was marketing **bonds** which had no backing, he resigned. Mr. Abbot was next to resign. When it is generally assumed that the position of Finance Minister is heir apparent to the premiership, why did these officials resign? **Because** they did not wish to be held responsible for an issue of securities which is not backed by the wealth or natural resources of Canada.<sup>55</sup>

If the Governor-general permitted Canadians to vote as Canadians, it could be said that the Canadian people are responsible — but the Canadian people cannot be held responsible when they are excluded from holding office and from the exercise of the franchise.

If the provinces of Canada **cannot be held responsible** for the national debt, who can be held responsible? The British Government? We know that the *right honourable members* of the Imperial Privy Council are responsible to the British government for their actions. Inversely, the British government should be held respon-

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<sup>52</sup>. This should clear the grey spots in Mr. Tony Foster's book *Meeting of the Generals* (1986). And also the missing comments in Brian McGregor's CBC TV series *La Bravoure et le Mépris* (1994). “Valor... ?” *Ed.*

<sup>53</sup>. *Hansard*, February 16, 1939.

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<sup>54</sup>. *The Commission for the National Capital* is slowly mapping its territory and pulling the wool over the eyes of Quebec and Ontario to pinch land for its homestead. *Ed.*

<sup>55</sup>. In 1935, the Dominion Government offered a permanent charter to the several bankers in Canada. They opted instead for a ten-year charter. Why? The bankers knew that the government making the offer did not have enough land to staff a flag. And those having the land to mortgage and charter their institutions were still subdued by the fetish of the B.N.A. Act. *Ignorance is still being taught in our schools in 1996. Ed.*

sible for the actions of its employees. We also know that Great Britain emphatically disavowed any liability or responsibility in the sinking of American shipping by the privateers. However, the record shows that eventually she paid the bill.

The following letters were received from the United Farmers of Canada.

File No. 624 — 302, August 13, 1945

No department of the Government of the United Kingdom is concerned in any way with the appointment of the Governor-general of Canada.

Department of State for External Affairs,  
Ottawa, Ont.

***This document is also on record:***

Department of Justice, File No. 3111 - 402,  
July 10, 1940

The answer is that His Excellency the Governor-general came to Canada, not in the capacity of Viceroy of His Majesty, except in the popular sense of the term.

J. Stuart Edwards,  
Deputy-Minister of Justice.

The question then is, if the governor-general is not a viceroy and the government of the United Kingdom did not appoint him, who did?

The answer is that he was appointed by the right honourable members of the Imperial Privy Council in Canada in order to perpetuate themselves in office. But the members of the Imperial Privy Council are a part of the executive government of the United Kingdom, and as such the government of the United Kingdom is responsible for their actions. The public debt of Canada [was] around fourteen billion, most of which was incurred by a British war to which Canada was not a party, as Canada **did not** declare war on Germany.

In the spring of 1940 the members of the Privy Council gave Britain a gift of one billion dollars, and shortly afterward another billion

and a quarter, which they said was not a gift but our contribution. Some years before, the Grand Trunk Pacific Railway was organised in Great Britain to build a railway across Canada. Four hundred million dollars' worth of promotion stock was included, which would only be valuable when the company was upon a paying basis and had declared dividends. As the company failed and the railway was taken over by the government, this promotion stock was said to be worthless.<sup>56</sup>

In 1943, however, when Britain was short of cash, someone found this stock in a pigeon-hole. It was sent to Canada, and the "right honourables" paid cash for them — four hundred million dollars. All during the war rationing was strictly enforced. If the customer complained about the half-pat of butter being served, he was asked, "*Don't you know there is a war on?*". Lard could not be purchased. Sugar was also said to be in short supply, which was not true. In the winter of 1945, after the war, six ships were loaded in Montreal: fifty-pound boxes of butter and fifty-pound boxes of lard, which had been held in storage below zero, lined the holds. Crates of eggs filled the holds, The boxes of butter and lard provided the refrigeration. As these ships waited for the

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<sup>56</sup>. The present editor has worked for 35 years with the CNR and *VIA Rail*, as a train conductor. In the early years he had the opportunity to manoeuvre out of Kamsack, Sask. during the harvest season of 1958. The American Unions regulating the running trades of the several railroads of North America are the United Transportation Union and the Brotherhood of Locomotive Engineers. Their regional officers are paid by bank drafts from their respective Headquarters in Cleveland, Ohio; drafts drawn on Canadian banks in Canadian funds, made in USA. In 1975, two loco-engineers and himself consulted an attorney in Quebec City, Mr. Louis Lebel, now an Hon. Judge of the Supreme Court, in order to take action so as to own our Union instead of swearing allegiance to an American Trade Union. Though the attorney advised us to stay as we were, I asked if it would be normal for a German railroader to belong to a French Trade Union or an English Guild or an Italian Syndicate? There came no answer nor any fees for the consultation. *Ed.*

ice-breakers to clear the St. Lawrence to release them, the question was asked, where were they going and for what purpose? The answer was to feed the starving people of Europe. Where were they consigned? All to Liverpool.

After their arrival in Britain, rationing was worse than during the war. Not an egg, not a pound of butter or lard reached anyone in Britain or Europe. These materials, together with raisins from Australia and flour from Canada, were whipped into cakes which were then shipped all over the world where there was a market. They were sold in Canada, Hong Kong, Australia, the Argentine, and South Africa at ninety cents and a dollar a pound.

Britain was in a difficult position. The factories had been bombed. She had nothing to export. The pound had been dropped to \$2.80. These cakes filled the gap in the export trade until the factories could be re-established.

Canada was not paid anything for these cargoes of supplies. The charitable sympathies of the Canadian people were played upon and used to bolster and stabilise the slipping pound sterling. Disregarding any act of the British Parliament or any act upon the statute books of Canada, the almighty dollar rules the roost.

About half of the lands of Canada are held by treaties with the Indian on which a yearly rental or treaty money is paid. You cannot hold the Indian or his lands as security for the **Canadian national debt**.

At the Inter-Provincial Conference held in Ottawa in November 1935, it was suggested that the provinces put their lands up as security for the issuance of Dominion bonds. Premier Hepburn of Ontario, Premier Aberhart of Alberta and Premier Dysart of New Brunswick withdrew from the Conference. John McNair, Attorney-General for New Brunswick, said upon their withdrawal: “**New Brunswick looks upon this scheme with a great deal of suspicion.**”

Up until December 11, 1931, the provinces were colonies. They did not own their property; it was a possession of the Crown in Chancery. After 1931 the provinces were no longer colonies and now own the property. And in this case (1935) they did categorically refuse to permit the Dominion Government a power of attorney to include their property and resources as a backing for Dominion (bonds) debentures.

As the governor-general has excluded the Canadian citizen from the exercise of his vote as a Canadian, the citizen of Canada cannot be held responsible for the national debt. If you are a good, loyal British subject who has reaffirmed his loyalty to the British Government by the purchase of a Dominion bond, you could find out if the British Government will appreciate your loyalty to by reimbursing you for your loyalty. If it refuses — **ask your banker**. But you say to me, “You are upsetting the apple-cart.” Yes, that is true.

## Chapter 12

# THE CONSTITUTION OF CANADA

**T**he **Letters Patent** granted by the Lord High Chancellor of Great Britain to governors-general of Canada **state** that they **are the constitution of the government.**

The British North America Act *constitutes nothing, [and think that all our judicial system is erected there upon. Ed.]* but simply provides a means whereby the governor-general may provide auxiliary public bodies to “**aid and advise**” him in governing the colony. These Letters Patent were nullified by the enactment of the Statute of Westminster in 1931.

As the British North America Act cannot be implemented without a governor-general, the bureaucrats in Ottawa, in order to perpetuate themselves in office, decided to appoint a governor-general and drafted letters patent granting him the government of Canada. Following are the Letters Patent signed by the Prime Minister of Canada.

*Letters Patent Constituting the Office of Governor General of Canada*

*Effective October 1, 1947.*

**George R**

**CANADA**

GEORGE THE SIXTH, by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas KING, Defender of the Faith.

(SEAL)

To all to whom these Presents shall come,

GREETING:

Whereas by certain Letters Patent under the Great Seal bearing date at Westminster the twenty-third day of March, 1931, His late Maj-

esty King George the Fifth did constitute, order and declare that there should be a Governor General and Commander-in-Chief in and over Canada, and that the person filling the office of Governor General and Commander-in-Chief should be from time to time appointed by Commission under the Royal Sign Manual and Signet:

And whereas at St. James’ on the Twenty-third day of March, 1931, His late Majesty King George the Fifth did cause certain Instructions under the Royal Sign Manual and Signet to be given to the Governor General and Commander-in-Chief:

And whereas it is Our Will and pleasure to revoke the Letters Patent and Instructions and to substitute other provisions in place thereof:

Now therefore We do by these presents revoke and determine the said Letters Patent, and everything therein contained, and all amendments thereto, and the said Instructions, but without prejudice to anything lawfully done thereunder:

And We do declare Our Will and pleasure as follows:

**I.** We do hereby constitute, order and declare that there shall be a Governor General and Commander-in-Chief in and over Canada, and appointments to the Office of Governor and Commander-in-Chief in and over Canada shall be made by Commission under Our Great Seal of Canada.

**II.** And We do hereby authorise and empower Our Governor General, with the advice of Our Privy Council for Canada or of any members thereof or individually, as the case requires, to exercise all powers and authorities lawfully belonging to Us in respect of Canada, and for greater certainty but not

so as to restrict the generality of the foregoing to do and execute, in the manner aforesaid, all things that may belong to his office and to the trust We have reposed in him according to the several powers and authorities granted or appointed him by virtue of the British North America Acts, 1867 to 1946, and the powers and authorities hereinafter conferred in these Letters Patent and in such Commission as may be issued to him under Our Great Seal of Canada and under such laws are or may hereinafter be in force in Canada.

- III.** And We do hereby authorise and empower Our Governor General to keep and use Our Great Seal of Canada for sealing all things whatsoever that may be passed under Our Great Seal of Canada.
- IV.** And We do further authorise and empower Our Governor General to constitute and appoint, in Our name and on Our behalf, all such Judges, Commissioners, Justices of the Peace, and other necessary Officers (including diplomatic and consular officers) and Ministers of Canada, as may be lawfully constituted or appointed by Us.
- V.** And We do further authorise and empower Our Governor General, so far as We lawfully may, upon sufficient cause to him appearing, to remove from his office, or to suspend from the exercise of the same, any person exercising any office within Canada, under or by virtue of any Commission or Warrant granted, or which may be granted, by Us in Our name or under Our authority.
- VI.** And We do further authorise and empower Our Governor General to exercise all powers lawfully belonging to Us in respect of summoning, proroguing or dissolving the Parliament of Canada.
- VII.** And whereas by the British North America Acts, 1867 to 1946, it is amongst other things enacted that it shall be lawful for Us, if We think fit, to authorise Our Governor General to appoint any persons, jointly or

severally, to be his Deputy or Deputies within any part or parts of Canada, and in that capacity to exercise, during the pleasure of Our Governor General, such of the powers, authorities and functions of Our Governor General as he may deem it necessary or expedient to assign to such Deputy or Deputies, subject to any limitations or directions from time to time expressed or given by Us: Now We do hereby authorise and empower Our Governor General, subject to such limitations and directions, to appoint any person or persons, jointly or severally, to be his Deputy or Deputies within any part or parts of Canada, and in that capacity to exercise, during his pleasure, such of his powers, functions and authorities as he may deem it necessary or expedient to assign him or them: Provided always that the appointment of such a Deputy or Deputies shall not affect the exercise of any such power, authority or function by Our Governor General in person.

- VIII.** And We do hereby declare Our pleasure to be that, in the event of the death, incapacity, removal, or absence of Our Governor General out of Canada, all and every the powers and authorities herein granted to him shall, until Our further pleasure is signified therein, be vested in Our Chief Justice for the time being of Canada (hereinafter called Our Chief Justice) or, in the case of the death, incapacity, removal or absence out of Canada of Our Chief Justice, then in the Senior Judge for the time being of the Supreme Court of Canada, then residing in Canada and not being under incapacity; such Chief Justice or Senior Judge of the Supreme Court of Canada, while the said powers and authorities are vested in him, to be known as Our Administrator.

Provided always, that the said Senior Judge shall act in the administration of the Government only if and when Our Chief Justice shall not be present within Canada and capable of administering the Government.



Provided further that no such or authorities shall vest in such Chief Justice or other judge of the Supreme Court of Canada, until he shall have taken the Oaths appointed to be taken by Our Governor General.

Provided further that whenever and so often as Our Governor General shall be temporarily absent from Canada, with Our permission, for a period not exceeding one month, then and every such case Our Governor General may continue to exercise all and every the powers vested in him as fully as if he were residing within Canada, including the power to appoint a Deputy or Deputies as provided in the Eighth Clause of these Our Letters Patent.

**IX.** And We do hereby require and command all Our Officers and Ministers, Civil and Military, and all the other inhabitants of Canada, to be obedient, aiding and assisting unto Our Governor General, or, in the event of his death, incapacity or absence, to such person as may, from time to time, under the provisions of these Our Letters Patent administer the Government of Canada.

**X.** And We do hereby declare Our Pleasure to be that Our Governor General for the time being shall with all due solemnity, cause Our Commission under Our Great Seal of Canada, appointing Our Governor General for the time being, to be read and published in the presence of Our Chief Justice, or other Judge of the Supreme Court of Canada, and of members of Our Privy Council for Canada, and that Our Governor General shall take the Oath of Allegiance in the form following: — “*I, \_\_\_\_\_, do swear that I will be faithful and bear true allegiance to His Majesty King George the Sixth, His Heirs and successors, according to law. So Help me God*”; and likewise he shall take the usual Oath for the due execution of the Office of Our Governor General and Commander-in-Chief in and over Canada, and for the due and impartial administration of

justice; which Oaths Our Chief Justice, or in his absence, or in the event of his being otherwise incapacitated, any Judge of the Supreme Court of Canada shall, and he is hereby required to, tender and administer unto him.

**XI.** And We do authorise and require Our Governor General from time to time, by himself or by any other person to be authorised by him in that behalf, to administer to all and to every person or persons, as he shall think fit, who shall hold any office or place of trust or profit in Canada, that said Oath of Allegiance, together with such other Oath or Oaths as may from time to time be prescribed by any Laws or Statutes in that behalf made and provided.

**XII.** And We do further authorise and empower Our Governor General, as he shall see occasion, in Our name and on Our behalf, when any crime or offence against the laws of Canada has been committed for which the offender may be tried thereunder, to grant a pardon to any accomplice, in such crime or offence, who shall give such information as shall lead to the conviction of the principal offender, or any one of such offenders convicted of any such crime or offence in any court, or before any Judge, Justice, or Magistrate, administering the laws of Canada, a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as Our Governor General may seem fit, and to remit any fines, penalties, or forfeitures which may become due and payable to Us. And We do hereby direct and enjoin that Our Governor General shall not pardon or reprieve any such offender without first receiving in capital cases the advice of Our Privy Council for Canada and, in other cases, the advice of one, at least, of his Ministers.

**XIII.** And We do further authorise and empower Our Governor General to issue Ex-

equators, in Our name and in Our behalf, to Consular Officers of foreign countries to whom Commissions of Appointment have been issued by the Heads of States of such countries.

**XIV.** And whereas great prejudice may happen to Our Service and to the security of Canada by the absence of Our Governor General, he shall not quit Canada without having first obtained leave from Us for so doing through the Prime Minister of Canada.

**XV.** And We do hereby reserve to Ourselves, Our heirs and successors, full power and authority from time to time to revoke, alter, or amend these Our Letters Patent as to Us or them shall seem meet.

**XVI.** And We do further direct and enjoin that these Our Letters Patent shall be read and proclaimed at such place or places within Canada as Our Governor General shall think fit.

**XVII.** And We do further declare that these Our Letters Patent shall take effect on the first day of October, 1947.

IN WITNESS WHEREOF We have caused these Our Letters to be made Patent, and for the greater testimony and validity thereof, We have caused Our Great Seal of Canada to be affixed to these presents, which We have signed with **Our Royal Hand**.

GIVEN the Eighth day of September in the Year of Our Lord One Thousand Nine Hundred and Forty-Seven and in the Eleventh Year of Our Reign.

*BY HIS MAJESTY'S COMMAND,*

**W. L. MACKENZIE KING,**  
Prime Minister of Canada.

This document, which purports to grant to the governor-general a complete dictatorship of Canada, was drafted in Ottawa by a Commission, as it states in Section I of these so-called "Letters Patent." Any dictator would be **elated**

were he to be granted the unlimited power included in its following sections. This document is simply a rehash of the Constitution of Canada which was granted to Governor James Murray in 1763 and which can be found in **Sessional Papers 18** in the Dominion Archives.

However, you need not be a member of the Bar Association of Canada to know that the members of such Commission, whoever they were, had no power to grant such a document. Who drafted this document, which demotes Canada to the position of a colony which was her status in 1763, and who were the members of this so-called Commission is explained in the following paragraphs of this Chapter.

The signing of a document such as this is not within the orbit or function of the Prime Minister of Great Britain, nor was it ever within the orbit of function of the Secretary of State for the Colonies, nor within the orbit or function of the King or Queen. The granting of letters patent was, and is, the prerogative of the **Lord High Chancellor of Great Britain**. The latest Letters Patent issued by his office are dated March 23, 1931, eight months prior to the enactment of the Statute of Westminster, December 11, 1931, and are signed by Sir Claude Schuster, Clerk of the Crown in Chancery.

Let me not omit to explain that these Letters Patent constitute the *office* of the governor-general as the government of the colony. Next it is the function of the Secretary of the Colonies to *designate* and *appoint* a governor-general to exercise the powers contained in the Letters Patent. The governor designate is now introduced to His or Her Majesty at the Court of St. James where, after he has produced his credentials as a governor, His or Her Majesty hands him his *Instructions*, which are to govern his conduct as to the opening and closing of a legislature, assent to acts, and so forth, but he is not a viceroy.

The United Kingdom is a **limited monarchy**. The King can act only upon the advice of



one of his principal ministers. It is held that “*the King can do no wrong*” is an immunity by way of compensation for the absence of despotic power. The King does not command. The minister who advises him is the one responsible for his actions.

To state that these Letters Patent were issued by the King’s command is an intentional misrepresentation of fact. The granting of these Letters Patent is not within the competency of the Parliament of Canada; therefore, it is not within the competency of any commission of Parliament. Is it not a crime comparable to **treason** to attempt to keep Canada in a colonial status, after the enactment of the Statute of Westminster ?

**We can have this question unanswered until the judges of a Canadian court have the culprits of this unnamed Commission before the bars of justice.**

Why was this done ? When it was mooted in September 1946 that the Earl of Athlone and Princess Alice were leaving Canada to return to London, and that the Earl of Athlone would be succeeded by Sir Harold Alexander as governor-general of Canada, **I wrote** Sir Harold a lengthy letter encased in a large manila envelope with a return-receipt card attached. This card was returned to me with the signature of Sir Harold Alexander’s aide-de-camp. In this letter I explained to him that as he was not accredited by the Secretary of State for the Colonies, and that the Letters Patent issued by the Crown in Chancery were no longer in effect since the enactment of the Statute of Westminster and that he was not invited by the Canadian people, I advised him to stay home. **He did.**

As the provisions of the British North America Act cannot be implemented without a governor-general since the position of the House of Commons and Senate is only to “*aid and advise*” him, the Earl of Athlone and Princess Alice returned to Canada to await a solution of the credentials of the now Earl Alexander of Tunis.

In March 1947 I was accompanied to Ottawa by a noted American journalist who desired to meet a number of officials there with whom I was acquainted. After introductions to Maurice Ollivier, Clerk of the House of Commons, I asked: “What are you going to do about Earl Alexander ?”

“You will be surprised to know that this Department, in conjunction with the Department of External Affairs, is redrafting his papers right now,” he replied. Descending one floor to the press gallery, my friend the journalist immediately phoned the Department of External Affairs and said, after he had explained who he was: “I understand that your Department, in conjunction with the Department of Law of the House, is redrafting the papers for the Earl Alexander in relation to his appointment as governor-general.”

The answer he received was, “This is the first we have heard about that.”

Maurice Ollivier resented my needling of him on this question — so he drafted this spurious Letters Patent which were signed by W.L. Mackenzie King, Prime Minister of Canada. This was done without bringing the matter to the notice of the House of Parliament and without the knowledge of the premiers or legislatures of the provinces.<sup>57</sup>

The only thing that the present incumbent can do when this exposure is published and he finds that he is holding office under **unconsti-**

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<sup>57</sup>. Cf. The Seals Act, Ch. 247, Sec. 4(h): the authentication and proof of royal instruments and documents under the sign-manual, including the conditions under which certification by an official, or publication by the Queen’s Printer, constitutes authentication and proof. 1939, c. 22, s. 4. *Dr. Maurice Ollivier comments: It may be observed that, under the existing law, these matters are a part of the Royal Prerogative and can, for the most part, be dealt with without statutory authority... Further, the second subsection imposes the statutory obligation of publication in the Canada Gazette. (A valid law in Canada, needs only a Printer and lawyers will make it float. Land ownership has no incidence. Ed.)*

**tutional and grossly illegal** Letters Patent is to resign from the office of governor-general. King Charles lost his head for attempting to govern England without the consent of a Parliament elected by the people.

Each and every British citizen owns a share in the possessions of the United Kingdom. The British citizen in voting grants his power-of-attorney to Parliament, which created the Crown in Chancery to administer the affairs and exercise authority over these possessions.

The King, having no vote but having, nevertheless, an interest in the lands, grants to the Crown in Chancery his right to sign. This is known by the designation of the King's Sign Manual; but the right to grant Patents is **solely** within the orbit and function of the Lord High Chancellor.

The obvious action to take to cope with the present dilemma is to call a conference of the premiers of the provinces where a tentative agreement can be signed. *[ Since this book was removed from circulation in 1972, many unfortunate attempts on an agreement have been, and are still being made in 1996, by Canadians of all hue. Those repeated failures to come to an understanding stem from the fact that negotiators start from false premises, though imbued with sincerity. The first and foremost thing to try is to gather the mandated delegates from the several provinces and territories and make the final trip to Whitehall in order to recuperate what was granted to His Britannick Majesty in the Treaty of Paris of 1763, Section 4: The transfer of titles, pretensions, possessions and sovereignty over Canada, at the time; now being the prerogative of the provinces since 1931. And recovering such prerogatives, will not affect the accurate prophecy of Lord Campbell: It would scarcely be possible to break the artificial unity we now propose to organize.*

*All these years Canadians have been living a union against nature, their deception comes not from the two founding nations, but rather from the fantastic brain drain practised upon our most valuable resources, the educated youths, and their natural ambitions. Ed.]*

Each province can then elect or appoint delegates to a constitutional convention. Drafts of the constitution adopted by the delegates convened can be published and debated by the legislatures of the provinces and a final draft ratified.

The constitution **once** adopted should leave none with a grievance and should provide for the purchase of a federal district to be *ceded* by the provinces. Then election can be held for members of both houses which will then be the government of the *Federated States of Canada*.

If the Premiers of the Provinces take no such action as suggested, you could — do it yourself.

*The Gazette, March 14, 1960*  
OTTAWA  
*Day By Day, by Arthur Blakely*  
*LIFE AMONG THE ONE-EYED :*

During his lifetime, William Lyon Mackenzie King was surrounded by a larger band of eager sycophants than had ever before danced attendance on a Prime Minister of Canada. and that covers a lot of ground. Macdonald, Laurier, Borden and other Prime Ministers encountered plenty of hustling yes-men in their time. But they were protected to a considerable extent by the genuinely warm personal friendships which they formed with their lieutenants and supporters.

King's cold aloofness seems to have encouraged the growth of a record crop of subordinates who felt that their only chance to get his ear and improve their own prospects was to exhibit a willingness at all times to whisper to him the things which they knew or suspected that he was eager to hear. And anything in the nature of public criticism was carefully and adroitly avoided by those who, whether by accident or design, came close enough to King to know something of the man.

Mutterings of displeasure, discontent or hostility aimed at King were released only on a highly confidential basis, with the identity of the mutterer a tightly-guarded secret. Such mutterings were fairly numerous, especially towards the end of King's career. But in the form in which they emerged, they were never convincing even, probably, to Mr. King himself.

The ties of personal friendship offered King no shelter whatever for, on Parliament Hill at least, he had few if any personal relationships which could be so described.

Right up to the end, scrupulous care was observed in the observance of the anniversaries large and small and all of the other little courtes-

sies for which King cherished such affection. No opportunity was neglected by his lieutenants and supporters to assess publicly and in his presence the vast importance of the man and his works in relation to the times.

Right up to the very last day that he remained Prime Minister of Canada, King may well have been under the impression that he was the beloved leader of a happy and dedicated band of **brothers**. If King did, in fact, cherish any such illusions, they were rudely shattered during the session which he spent in the Commons as a retired Prime Minister with the official rank of M.P. He was pained to find that the flatterers and well-wishers of yesterday passed him by without a second glance. His visitors were few. And King's last session of Parliament was a lonely one indeed. It was during this period that the first open personal attack was made on King by one of his party colleagues. And it hurt. But the curious character-wrecking job didn't begin in earnest until after King's death.

Ever since it occurred, people who had any occasion whatever (together with a few who had none) to observe King and his career at close hand, have been rushing into print or to the television studios to say what a peculiar and rather disagreeable old man this was who presided over the destiny of Canada for so long.

Some of the criticism has been supplied by individuals who were open critics of King, for one reason or another, during his lifetime. But the most avid critics, curiously enough, have been drawn from the ranks of King's former supporters and associates. The former Prime Minister has been portrayed as a disagreeable, parsimonious, unscrupulous, lacking in judge-

ment, distant, given to racial prejudice, lacking in perception, thoughtless, grudging, ruthless, hard, cold, calculating, hypocritical, superstitious, selfish, grasping, vain, arrogant and all the while, as one writer has noted, “leading a private life that was hardly at all removed from lunacy.”

If the man who was Prime Minister of Canada for a longer period than any other in Canadian history really possessed all of these unde-

sirable qualities, it is something of a **mystery** that his leadership of his party was tolerated for so long by those in responsible positions who were in an excellent position to know these things. It is equally difficult to understand why his posthumous critics remained silent during his lifetime when he was in position to deal with the criticisms and, for that matter, with the critics.

## SOVEREIGNTY

**T**he ownership of land is the yardstick by which sovereignty is measured. The Gypsies of Europe have no sovereignty as they own no land. The Jews were in a similar position until they pre-empted land in Palestine. The first act of the Jews as a nation was to adopt a National Flag. Prior to this they had no land upon which they could erect a flagpole.

In the Statute of Westminster, Newfoundland is granted an equal status with the Commonwealth of Australia, the Union of South Africa, the Irish Free State and New Zealand. Does this mean that Newfoundland has a superior position to the other Provinces of Canada? Not so. Section 7, Par. 2 of the Statute confers upon the Provinces of Canada the same status as Newfoundland.

All lands, minerals and royalties within the boundaries of the Province are the possession of the Province in which the same are situated or arise.

The “Crown in Chancery” has relinquished its interest in elevating the Provinces from the colonial status. As the Provinces of Canada have not relinquished any of their powers to a central government, each Province today is a sovereign state [potentially]. Each may, by exercising its authority, charter its own banks,<sup>58</sup>

issue postage stamps or passports.

The author has carried a passport issued by the Saskatchewan Indian Assembly for the past seventeen years which is honoured and stamped by the nations which were visited by him.

Can it be held that the Provinces of Canada occupy an inferior position? The power to issue passports is **exclusively** the right of people who own their land. The twenty-two reserves of Saskatchewan **were reserved** by the Cree Nations themselves. They have this right, which is honoured by all nations.

By way of emphasis — the definition of **Sovereignty** as given by James Cacroft in the *Encyclopedia of American and British Law* is herein reiterated.

“The right to exercise the power of **Eminent Domain** is inherent in sovereignty, necessary to it and inseparable from it. From the very nature of society and organised government, this right must belong to the State.

“It is a part of the **Sovereign** power of any nation. It exists independent of constitutional

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*competency of that colonial Government. They settled instead for a ten-year arrangement, hoping the Provinces would come out of their unconsciousness eventually. Cf: In between the lines of A.B. Jameison's "Chartered Banking in Canada." How else could you account for such temporary authorization. Ed.)*

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<sup>58</sup>. The Canadian bankers declined the perpetual charter offered by the Dominion Government in 1935, *simply because such offer was not then within the*

recognition and it existed prior to constitutions. It lies dormant in the State until legislative action is had pointing out the occasion the modes and the agencies for its exercise. ”

Disregarding the passing years since the enactment of the Statute of Westminster, December 11, 1931, the Provinces have lost nothing of their sovereignty. No legislation is had granting any of their power to a central government. *[But the central legislators are exerting all their might to retain the status quo. Ed.]*

Could each Province by mutual agreement enact legislation permitting only Canadians the right to exercise the franchise? They could. Could Ottawa object ? No! Of course not. This would be only an exercise of the Sovereignty of the Province. *[Not until and before the terms of the 4th Section of the Treaty of Paris, 1763, are recovered, provincial legislation would only be an exercise in sincerity, not sovereignty. After their Declaration of Independence, the American colonials were invited at Whitehall in 1782, to clear the deeds of the old charters to permit the ratification of the Treaty of Versailles of 1783. Ed.]*

The Provinces need no amendments to any enactments of the government of the United Kingdom or of British subjects. All they need is an amendment to their attitude and the exercise of their *inherent sovereignty*. Canadians could then have a Canadian government adopt a constitution, a national anthem, and a Canadian national flag which would not be imposed upon them by [sincere] British subjects. Canada would then be a nation, **not merely a geographical expression.**

## Chapter 13

### DO IT YOURSELF – [1965]

**Y**ou need a new constitution? You want a national flag and a national anthem? You need a bill of rights? You want Canada to be able to hold up her head as a nation? **That's easy.**

Just slip on a suit of coveralls and take a towel, and then go over and visit your friend who has a do-it-yourself outfit. When you arrive at the door, his wife will tell you, "Bill's in the basement." You won't need to butter him up much. Just ask him if he could make a ballot-box, a duplicate of the one used in the polling station.

"Sure!" he will say. "We can make it right now. I'm only fooling with the dog. Get that old fender from back of the bench."

Now, don't stand there like a dummy. Help Bill straighten out that fender. As Bill is doing most of the work, don't say much; just keep working. When he has finished with the ballot-box, wipe the sweat from your brow and the back of your neck with the towel and then hand it to Bill. He needs it more than you did as he has been doing most of the work.

Now borrow a paint brush, and as you are lettering the box *For Canadians Only*, tell Bill (who is wiping his face and the back of his neck) that you would like to have some slips printed for the high-school kids to hand out to voters on election day. Bill will say, "Sure! Just the thing! I know a bird who has a printing press. Let's go over to his place."

Now, take the towel and a half-dozen beers. When you get near, you will hear *thumpty-thump*. You know he is in the basement. After introductions, open three bottles of beer. Wait, now, until he burps. Then he will ask you, "About those slips. Do you want me to use my

own judgement?"

"Sure!" you say, because he knows more about this than you do. After you and Bill help to print the slips, wipe your hands on the towel and hand it to Bill. Tell him to hand it to his friend, the printer, after he is finished with it. When the printer wipes his hands, *leave the towel there*. Your wife would never get it clean again — that's for sure. Finish the beer; and before you go over to the polling station you will need to shave and to smooth down what little hair you have left. After shaving, you naturally reach for the guest towel.

"JUST A MINUTE, honey. The kids musta taken the towel I left here. I'll scalp those kids of yours if I ever catch them doing that again." Before you can get the guest towel back on the rack, she'll hand you another. Turn your back while you wipe your face so that she cannot see your smile, and as she pats the wrinkles out of the guest towel quote her this little ditty:

Oh! the sadness of her sadness when she's sad

And the gladness of her gladness when she's glad,

But the sadness of her sadness and the gladness of her gladness

Are nothing to her madness when she's mad.

"What's that? Say that again."

You repeat it. Then she laughs.

Now you know she'll not put you in the dog-house even if later the printer's wife, with her nose in the air, should tell her she thinks "It's kinda funny that I found a towel with your initials on it over in my husband's things in our basement."

All you need now is a clean shirt and a tie before you take the ballot-box over to the poll-



ing station.

But won't this be against the law ?

WHAT LAW ? — ***YOU ARE THE LAW.***

There is no official, candidate or party who would dare to risk their political neck by venturing to object to you casting your ballot at the polls as a Canadian.

They may smile on you and say, "You really don't need that box, you know, old chap. See, you can drop your ballot in this box we have provided which has a hole in the top, making it perfectly secret, with a lock on it and everything."

No, thanks! That ballot-box is for British subjects only. That's what the elections Act says.

With this one, ***For Canadians Only***, we exercise our incontestable right to vote as nationals of the country we call our own. Even in Russia or China, although they are restricted to voting for one party, they vote as Russians in Russia or Chinese in China.

With this box, which is the receptacle of the symbol of our sovereignty, we can elect the legislatures and governors of the provinces. We can elect a senate and a house of commons and a governor-general. When we open this Pandora's box we will find a new constitution, a **national flag and an anthem**, a bill of rights and the sceptre of our national sovereignty. This is our shrine which shall be held secure in the custody of the Citizens' Committee, who will count the ballots and tabulate the results and retain it in their custody where it shall become more brilliant as it is burnished by the sands of time.

If you held stocks in General Motors and you and others of General Motors should go over to the Ford Company and vote an issue of bonds, the Ford Company would not be responsible; but if this were done with the knowledge of General Motors, then it would be General Motors that would be responsible as well as the shareholders of General Motors who voted the

bonds.

As the government in Ottawa has no department of lands and owns no land, and the provinces which own all the resources have not granted the Dominion any authority to mortgage their property, you can explain to them that the Canadian people are not responsible for the national debt unless the Canadian people vote as Canadians. This is an internal or domestic affair and, comparing Canada with other parts of what is termed the Commonwealth, we find that Australia can correctly be said to be a *Commonwealth*, as all the resources of Australia are back of the bonds issued by Australia. The same may be said of South Africa, New Zealand and Britain itself.

It will doubtless be conceded that national **bonds** should be as Caesar's wife — ***Caveat emptor.*** [*Premier Bouchard, of Quebec, should look no further to fix the provincial deficit, unless his wife...she is American.* Ed.] It will further be admitted that investment funds are more timid than a virgin. Of paramount importance is the question of security. Therefore, it is imperative that some measure be taken to rectify a situation which has become intolerable. The procedure heretofore has been that a bill to issue bonds to raise funds is introduced into the House of Commons by a **right honourable** who is responsible to the British Government for his action; and, inversely, as he is a member of the Imperial Privy council, Great Britain is responsible for his actions. The bill is voted into law which is voted upon by the House of Commons and a Senate composed entirely of British subjects.

A bond is a mortgage on the assets, usually property, of the company or nation which issues the bond. It is admitted by the government that there are no business assets back of these so-called **bonds**.

Before resigning, Mr. Dunning, the Minister of Finance said, **No Securities issued by this Dominion constitute a mortgage upon any of**

**the assets of the Dominion.**<sup>59</sup>

To call these securities **bonds** is manifestly an inflated designation and amounts to an *intentional misrepresentation of fact*. Are they **debentures** ? Not exactly.

They could be called debentures if they were voted into existence by the people who are taxed to pay the interest on them and who are pledged to retire them when due. But as the Canadian people have not been requested to assent to the issuance of these securities, they **cannot be held responsible**. You could suggest that if there is a domestic or internal affair, it is the Consolidated Revenue Fund. As the provinces in 1935 refused the Dominion the right to mortgage the resources of Canada, and as Canadians themselves have not voted any issue of bonds, the British subjects and Great Britain are responsible for Canada's fourteen billion dollar national debt.

The Balfour Declaration of 1926 states: "They are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any respect in their domestic or internal affairs though united by a common allegiance to the Crown and freely associated as members of the British Commonwealth."

If Canada is not subordinate to any other community, then there is no logical reason why Canadians should not vote as Canadians. Great Britain will see to it that in the future no British subject shall be permitted to vote in Canada if she conceives that an impartial board of arbitration would hold Great Britain responsible for Canada's public debt.

Why debate a bill of rights when the greatest right you have is denied you, the right to vote as Canadians? Let the non-partisan Committee see to it that at each municipal, provincial and national election a ballot-box is provided with scrutineers at each polling station. Let these ballot-boxes be held secure and inviolate in the

custody of the elected members of this Committee and let the emblem of the non-partisan Committee be a gold-plated ballot-box lettered with the words, ***For Canadians Only***. Period.

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<sup>59</sup>. *Hansard, Feb. 16. 1939*



## AUTHOR'S EPILOGUE

This is fundamental: BRITISH SUBJECTS CANNOT FORM A GOVERNMENT SEPARATE FROM THAT OF GREAT BRITAIN.

This is the height of logic. There is no alternative.

**Canadians only can form a Government of Canada of Canadians by Canadians for Canadians.**

## *EDITOR'S EPILOGUE*

On the 25th of April 1970, during a telephone conversation with now deceased Mr. Frédéric St. Pierre, QC; this lawyer related he had taken part in a contest opened by the Canadian Justice Department for a position as *Deputy Minister*. As he had classed himself rather well, he was called in for an interview. The interviewer asked the question that put an end to the interview: *Are you a Mason, and if not, do you desire to be initiated ?*

Mr. St-Pierre replied it was against his religious convictions to adhere to Freemasonry. *Well, I will put on the report that you decline the position*, was the answer given by the interviewer from Ottawa to Mr. St-Pierre.

Ministers in government come and go, but deputy ministers enjoy a steadier residence. They seem to be the ones who hyphenate between continuity and servitude Canadians dwell in, election after election. This servitude Canadians have towards American institutions. This situation is quite general the world over, but it seems more refined in the case of the Canadian Government and its Civil Service. It is probably through this Masonic medium that Brian Tobin was instructed to step away from his Ottawa ministry to Newfoundland's premiership; displacing a former deputy minister, after having disturbed enough Spanish fishermen on the Atlantic.

R. Rogers Smith wrote in one of his former publications "that no sovereign nation tells another nation how to conduct its business." Sovereign statesmen have a way to speak to Colonials who think themselves sovereign.

[Richard Nixon called Trudeau: the **pip-squeak** from Ottawa, and Tricky Dicky surely knew how to spot a statesman from a double-dealer lawyer.]

The international Tribunal at The Hague has rendered a decision in 1994 about ocean fishing, stating that the Law of the Sea was addressed to and for Sovereign States. The public display of the Spanish fishermen's nets offered by Brian Tobin to the population of New York and the world media, has probably prompted a recommendation, *off the record*, to a former **deputy minister** named Clyde Wells, for a certain Captain Canada.

There used to be a Lodge of the Order in Ottawa called the **Civil Service**. Its members probably ensure this artificial country remains together for the greater benefit of their federal brothers in the republic to the south.

Is the sovereign democratic consciousness of the Canadian people half-alert to the ways and means of this respectable Brotherhood ? Or are we lured into the polling booth, to vote with all the sincerity of our ignorance, for candidates who do not know *for sure* whether we live in a limited Monarchy, an *artificial Union of colonies* or a Reserve.

It is possible the only edition of the book "HO, CANADA!" served to guide the legislators in Ottawa, from 1965 on, in their attempt to cover up most irregularities noted by the author since 1931. I apprehend the second edition will serve again as a suggestion box to some *initiated* bureaucrats so they may postpone the political maturity of *Canadian provincials*.

In 1936, the Province of Alberta issued its own “**Prosperity Certificates**” to be used as currency by its citizens. The Dominion Government retorted by an *ultra vires* to the provincial legislature of Alberta. Premier Aberhart, although informed at a conference given by R.R. Smith at the Macdonald Hotel in Edmonton, of the capacity of his government to adopt such a measure, Premier Aberhart preferred going to Ottawa to clear the matter.

The *ultra vires* Alberta received was not even worth the paper it was printed on. Premier Aberhart should have contacted Premier Hepburn of Ontario and asked him how he understood the Statute of Westminster, and by what means the Dominion Government, renting on Ontario territory, could prevent other land owners from legislating as they saw fit. Upon the departure of premier Aberhart, Albertans enjoyed the premiership of a staid politician, later an Honourable Banker, who castrated their collective efforts to free themselves of the sincere borrowing habit all governments have.

The following year, 1937, the Imperial Privy Council, stated in one of its final decision concerning Canadians, *...the Dominion cannot, merely by making promises to foreign countries, clothe itself with a legislative authority inconsistent with the constitution which gave it birth.* [Appeal Cases, 1937, p. 352, about The Weekly Rest in Undertakings Act ].

The TV media are casting on the screen all kinds of people saying all kinds of sincerities about political referendums. Not being a fan of Mr. Bouchard or Mr. Chrétien nor of Mr. Klein, could someone suggest the separation of Quebec, or B.C. from the rest of Canada, be submitted to the same percentage of a popular vote as the percentage that was expressed at the time of Union in 1867 ? Nova Scotia did cast 30,000 male votes against the **artificial** union of 1867, just how many voted in favour ?

Would 25 million federal sympathisers make Canada a federation? **No!** Sovereign states are required in the making of a federation or confederation.

In Canada, no need to own land to stand on so as to legislate validly. A law to be valid needs only to be printed. That is why the Canadian Government prints at the end of its statutes: “Queen’s Printer in Ottawa”. The Great Seal of Canada affixed at the signing by the [still impostor?] governor-general does not require more, Canadians neither.

John the Apostle wrote: "Ye shall know the truth, and the truth shall make you free."

After reading **HO, CANADA!** ye shall know what political cuckoldom can be, and it will not make you free, but as Smith says, "*Caveat Emptor*", for the sellers of Canada are two-faced or sincerely ignorant like its population.

*Jean-Paul RHÉAUME*

*jpii@aei.ca*

## THE TREATY OF PARIS

February 10th, 1763

By the Peace Treaty which was signed at the conclusion of the Seven Years' War the French possessions of North America were formally ceded to Great Britain. The Treaty which was concluded between His Britannic Majesty, the King of France and the King of Spain confirmed in Article 4 the liberty of the Catholic religion and the rights of the inhabitants as to their **property**.

“**4** His Most Christian Majesty renounces all pretensions which he has heretofore formed or might have formed to Nova Scotia or Acadie in all its parts and guaranties the whole to it, and with all its dependencies, to the King of Great Britain : Moreover, His Most Christian Majesty cedes and guaranties to his said Britannick Majesty, in full right, Canada, with all its dependencies, as well as the Island of Cape Breton and all the other islands and coasts in the gulph and river

of St. Lawrence, and in general, everything that depends on the said countries, lands islands and coasts, with the **sovereignty**, property, possession and all rights acquired by treaty or otherwise, which the Most Christian King and the Crown of France have had till now over the said countries, lands, islands, places, coasts and their inhabitants... His Britannick Majesty on his side, agrees to grant the liberty of the Catholick religion to the inhabitants of Canada : he will in consequence give the most precise and most effectual orders that his new Roman Catholick subjects may profess the worship of their religion according to the rites of the Romish Church, as far as the laws of Great Britain permit. His Britannick Majesty farther agrees, that the French inhabitants or other who had been subjects of the Most Christian King in Canada, may retire with all safety and Freedom whenever they shall think proper, and may sell their estates, provided it be to the subjects of his Britannick Majesty, and bring away their effects as well as their persons without being restrained in their emigration, under any pretence whatsoever, except that of debts or of criminal prosecutions. The ... ”



Québec, le 27 décembre, 1996

Mr. Chief Justice Antonio LAMER,  
Supreme Court of Canada,

***Attorney Guy Bertrand and... the declaration of independence of Quebec***

*Transfer by the Governor in Council pertaining to questions dealing with the secession of Quebec from the rest of Canada formulated in the order P.C. 1997-1497 dated September 30 1996 (file 25506)*

Your Lordship,

You will have to serve a decision concerning the appeal of **Me Guy Bertrand** on how he imagines the Canadian Confederation, and the manner in which Quebec intends to pull out of it. Were I on your bench, my first question would be: when was Quebec of age to contract marriage with Ontario, or Nova Scotia or... and if so, I would look at the contract.

The document I am offering you was conceived by a Canadian, now dead, but in whom the late T.W. Jackson, former secretary to Sir John A. Macdonald, confided the unrelated stories of the Conferences of Charlottetown, Quebec and Westminster Palace Hotel, 1862-1864-1866. (*Cf. Inside Canada, p. 7, by R.R. Smith*). You could also refer to the speeches made by Walter F. Kuhl, dated February 10, March 9, and April 8 in the House of Commons. Mr. Kuhl has asked me three times in 1979 when had I met Smith, because on his part, he had fed him for three years while he was doing research on the **politically unbelievable** history of Canada.

Me Bertrand has a copy of Smith's book. Has he read it ? Me (Claude) André Joli-Cœur also has a copy ; Me Jean Asselin, attorney to Cpl. Michel Purnelle (Somalia) also has one. This soldier Purnelle will soon be court martialled (end of January). All these lawyers have not reacted so far. The only citizens who have deemed question the publisher live on Reserves.

I have not offered the book to Me Bertrand's friend (he now has it) André Arthur, although Me Guy is attorney for this Québec radio morning man. This radio man collects insults and decisions of the CRTC, he needs a good lawyer, **BUT HE IS NOT A SILENT BITCH**. He has during at least ten years called the government in Ottawa, **the Canadian Government** ; he seemed convinced that government was not federal.

Litigants and radio or TV jockeys are yappers aiming at listeners who pay attention but are not necessarily informed minds. On the other hand, **Ho, Canada!** is not a satire ; although my notes reveal some cynicism your Lordship.

Certain lawyers in the field of copyrights seem interested,

Jean-Paul RHÉAUME

Ottawa, January 22, 1997

Received your letter dated December 27 addressed to the Chief Justice of Canada, the Right Honourable Antonio Lamer in the case of a *Transfer by the Governor in Council pertaining to questions dealing with the secession of Quebec from the rest of Canada formulated in the order P.C. 1996-1497 dated September 30 1996 (file 25506)*.

I want you to know that the Chief Justice, like the other judges of the Court cannot consider oral or written comments on a matter submitted to the Court, but only from the concerned intervening parties, and nobody else.

On that account, I am returning your document and accept the expression of my best regards.

Anneliese Villeneuve, *Directrice des services intégrés*

Here you have how a faithful subordinate clerical lawyer castrates a Supreme Bench and confirms same into "*impérite*". From there on, historians, media, teachers will abide to official jurisprudence of sincerity. Cf. *INSIDE CANADA* p. 45 re. The passing of the *Second Reform Bill of 1832*, where a permanent civil servant was paid £ 1200 annually to obliterate historical truth.

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