

Commission to Study Dominion Provincial Relationship Advocated by Hon. Mr. McNair

Attorney-General

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that passage in the Speech from the Throne wherein our loyalty was pledged to our new King.

Since we last met, a great constitutional crisis has developed and passed. When the situation became acute, some wondered whether the Empire to which we proudly belong and of which our Province is an integral part would endure the shock. We owe it to the wisdom of her statesmen and the genius of her people that the British Empire has passed through its testing time unscathed. The result has marked the triumph of democratic ways and ideals in Empire building.

Centuries ago, the incidents connected with the private life of a King, and out of which the crisis arose would have caused but passing notice. Great changes have taken place, however, in political arrangements and constitutional relationships since the time when, as a personal leader, the King of England ruled over a small population in the British Isles.

It would be of interest to trace the changes brought about by the growth of parliamentary forms, representative institutions, a responsible ministry and colonial self-government down through the various periods of British history. Time will, however, scarcely permit such excursions into the past. I would, however, in passing like to refer to the latest development in Imperial relations symbolized by the phrase, The British Commonwealth of Nations.

After the Great War, a series of Imperial Conferences were held in London where the new relationships between the various units within the Empire were sought to be defined. The result of the deliberations on this question were summarized in the report of the Conference of 1926 in a passage which is now classical. It is as follows:

"The Committee are of opinion that nothing would be gained by attempting to lay down a Constitution for the British Empire. Its widely scattered parts have very different characteristics, very different histories, and are at very different stages of evolution; while, considered as a whole, it defies classification and bears no real resemblance to any other political organization which now exists or has ever yet been tried.

"There is, however, one most important element in it which, from a strictly constitutional point of view, has now, as regards all vital matters, reached its full development—we refer to the group of self-governing communities composed of Great Britain and the Dominions. Their position and mutual relation may be readily defined. They are 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."

For as the Crown has ceased to be a personal thing, it has become the symbol of Empire. It typifies the political ideals and practices which bind together more strongly than the forces of compulsion that vast galaxy of peoples of diverse tongues, culture and creeds—freedom, tolerance, liberty and justice.

Yet the Crown cannot fail to be affected by the personality and conduct of him with whom it is identified. Therein lies the responsibility of Kingship. There may have been some even among those who served with our late King in France who, remembering the dead who sleep there, seeing the scarred bodies and broken health of comrades, and knowing the real sacrifices of war felt that certain incidents should never have arisen. But is it not wiser and better to remember the gallant things he did? Of them all, was any finer than the manner of his going?

May I remind you of the words which the Duke of Windsor addressed to his former people on the night of that fateful day which marked his abdication:

"I have made this, the most serious decision of my life, only upon the single thought of what would be, in the end, best for all."

The voice of duty spoke in British accents; and thus answered the voice of a patriot.

May I also remind you of the words spoken at the time by the Queen Mother:

"Now that you will realize what it has cost him to come to this decision, and that, remembering the years in which he tried so eagerly to serve and help his country and Empire, you will ever keep a grateful remembrance of him in your hearts."

"I commend to you his brother, summoned so unexpectedly and in circumstances so painful, to take his place. I ask you to give him the same full measure of loyalty which you gave to my beloved husband, and which you would willingly have continued to give to his brother."

Let us ring down the curtain on the scene with the phrase still ringing in our ears with which our late King ended his radio address on December 11st last—GOD SAVE THE KING.

There is another passage in His Honour's message to which I wish especially to refer. It relates to the death of our late friend and companion, Stewart E. Durling. He was all that has been said of him. Sincere and honourable, upright and honest and charitable to a fault, he endeared himself to all who knew him. To his three associates who shared with him the honour of representing in this House the constituency of York his death came as a special blow. We share in a particular degree the feeling of all Honourable members that the Province of New Brunswick has been made poorer by his passing.

May I take the opportunity to extend to the Honourable member from Madawaska and the Honourable member from Sunbury my sincere congratulations on the able manner in which they moved and seconded the address in reply. With becoming modesty, they treated the distinction which their selections for this task accorded them as an honour conferred on their constituencies. I am sure that all who had the privilege of listening to their instructive addresses felt with me that by their splendid presentations they not only added lustre to their own reputations but brought honour in full measure to the constituencies they so worthily represent.

I would like to observe that it is with the deepest pleasure that we see the Honourable member from Carleton who sits on the left of his leader again in the House. However, we may differ in political views the association of Honourable members here inevitably develops a sense of personal friendship and interest one in the other. I am sure that I voice the sentiments of all present when I say that it was with deep anxiety that we learned a few months ago of his serious illness and that it is with corresponding gratification that we find him now sufficiently restored to health to be able to take his seat again among us.

To Opposition Leader

And now I come to my Honourable friend, the Leader of the Opposition, who yesterday addressed the House with, may I say, telling force. As between us, his was the easier task; for with the little group which forms the baby Opposition in this House and which on account of its small numerical strength is capable of great mobility, he was able to direct a desultory fire at many points on a wide front. Following him in the debate, I am expected in accordance with traditional practice to counter the attack with more direct and concentrated thrusts.

For me, the task is not an easy one. First, because of an intimate and unbroken friendship which started 30 years ago. I cannot forget the care which he, as principal of one of the then leading schools of this Province, took to make my admission to College possible. I believe the greatest debt of all is due to the fact that he made no effort at the formative period of our lives to lead his pupils towards the political paths for which he was then headed.

Again, knowing him so well, I believe that his efforts yesterday were not tasteless even to himself. However, necessity was his guide for he must cater to political prejudices and bias if his party is ever to travel again into public office. Perhaps I can pay him no higher compliment than by saying he had a disagreeable task to perform and he did his best to perform it in a disagreeable way.

In the course of his address, he ranged the political domain from Dan to Beersheba; here executing a foray into the realm of the Minister of Lands and Mines; there making a sally into the sphere of the Minister of Public Works; elsewhere launching a wavering attack into the province of the Minister of Education, Federal and Municipal Relations. In fact, no department of the State was immune from invasion.

I shall not attempt to follow his mental peregrinations. At a later period in the Session, my colleagues in the Government will have the opportunity to discuss matters concerning their own Departments. So I shall limit my remarks today to some questions of general policy to which my Honourable friend has referred, with special reference to a matter upon which some official pronouncement may reasonably be expected at this time.

There were some topics opened up by the Honourable Leader of the Opposition which I felt he might well have avoided. I have in mind particularly hard surfaced roads, old age pensions and free school books.

I recall that back in 1930 his Party placed on the Statute Books an Act authorizing the expenditure of ten millions of dollars on a hard surfacing programme. The election came along; the provincial treasury became a public trough; and when the dust of battle had cleared away the late administration had spent on election

road work approximately eight millions of dollars and there was not a yard of hard surface in sight.

Then in preparation for the 1935 election, his Party attempted to resurrect that programme. It remained for the Liberal Party to put life into the dry bones. We had the courage to enter upon a real progressive policy, in line with what is being done in every Province in Canada. So far every dollar used by us for hard surfacing has been spent under the authority of the 1930 legislation to which I have referred.

Knowing their lust for spending public monies and peddling patronage one can readily appreciate the pangs of remorse that now oppress the party which my Honourable friend now leads. There may be some among them who feel that somehow, somewhere, a way should have been found to cling to office. But, unfortunately for them, the avenging angel was abroad and by a just judgment the Liberal Party was directed to carry on and carry out another broken promise of the Tory Party.

My Honourable friend quoted at length observations made by members of the Government Party back in 1934 when in Opposition, criticizing the projected pre-election venture of the late administration in hard surfacing. In the same breath, he declared that it was not the record of the Tilley Government that was in issue in those days—it was the record of the present Liberal administration. I little wonder over his anxiety to flee from the record of the Government he supported for so many years. But is sweet forgetfulness his prerogative? Whatever may have been said by Honourable gentlemen in the Opposition in those days, I challenge him to point to anything in the 1935 platform of the Liberal Party in contradiction to the present policy. On the contrary, we definitely pledged ourselves to a hard surfacing programme.

Hard Surface Roads

In these days of increased and increasing motor traffic hard surfaced roads are a necessity. This Province simply cannot afford to maintain a gravelled surface on the main arteries of traffic. Any party in power must spend money in connection with roadwork. The difference is that Liberal Governments spend the public monies to build roads, Tory Governments to run elections.

My Honourable friend waxed eloquent over the matter of Old Age Pensions. I think that in his treatment of this subject he added little to his reputation for fairness and candour. Although he was careful to avoid saying it just that way he left the impression that during the last four months of the last fiscal year the pensioners had received from the province \$118,000 while the officials employed in the administration of the scheme received \$92,000. That would have been a very good record indeed back in the days before 1935 when the old people got nothing and there were many \$92,000 sums spent to make jobs for party heelers.

What my Honourable friend should have said was that during the four months mentioned, the Old Age Pensioners in New Brunswick received from the Province four times \$118,000 of which three-fourths was refunded to the Province by Ottawa, and that the cost of setting up the machinery of administration and of its operation for the fiscal year cost \$92,000.

The heavy preliminary work of inspection is now concluded. Perhaps it will bring some consolation to my Honourable friends opposite to learn that during the present year the old people of New Brunswick will receive through this scheme over \$1,500,000 at an administrative cost to the Province of between \$50,000 and \$60,000. The Old Age Pensioners can count themselves lucky that we won the election of 1935; otherwise, their leaders would still be empty and their belts slack.

Old Age Pensions

My Honourable friend intimated that during the 1935 election, we led the public to believe that every person in New Brunswick over 70 years of age who was a British subject and who resided in Canada for 20 and in the Province for five years would, if his actual cash income from other quarters was less than \$125.00 a year, receive from the Pension Fund, \$20.00 a month.

There was an inordinate and unusual amount of chicanery, trickery, fraud and deception practised in this and many other connections during the last election, but not by the Liberal Party.

I had occasion to deal with one of their canvasses regarding Old Age Pension with which they sought to dupe the public. Perhaps I can do no better than repeat here the remarks I made the night before the election over the radio, during the course of a province-wide broadcast from Fredericton. They were as follows:

"I desire now to deal with canvasses that are being used in connection with Old Age Pensions. One that is being widely employed in this section of the province is that in order

that a person on reaching the age of 70 might receive a pension, he must have no visible means of support. If he has property or income this would have to be transferred to the Crown to cover the cost of the pension.

"It is little short of ludicrous that the men who in 1930 used this question as one of their strongest supporting arguments should now be attempting to belittle pensions.

"The matter of Old Age Pensions is controlled by the Dominion Legislation and Regulations. The Provinces are concerned only with the administration of the scheme.

"By the Federal Act (Chapter 35 of the Acts of the Dominion of Canada, 1927) it was provided (see Section 8) that a person to qualify for pension benefits must have the following qualifications:

"(a) Be a British subject.
"(b) Be 70 years of age.
"(c) Have resided in Canada for 20 years.

"(d) Have resided in the Province (where the application is made) for five years.
"(e) Is not an Indian.
"(f) Not have an income in excess of \$355.00 per year.

"(g) Have made no voluntary transfer of property to qualify.
Section 9 provides that the maximum pension is \$240.00 per year (or \$20 per month). Persons who have a private income not greater than \$125.00 are entitled to the full pension. Persons who are in receipt of income from private sources from \$125.00 to \$365.00 are entitled to a pension sufficient to bring their income from both sources up to \$365.00. If their private income is more than \$365.00 per year they do not qualify under the Act.

"It is absolutely untrue to say that persons who have an income of less than \$365.00 (and who therefore qualify under the Act) have to transfer it to the Crown. It merely affects the amount they will receive from the pension scheme.
"Subsection 2 of section 9 relates to the transfer of property of pensioners. It refers only to an interest in a dwelling-house, which is actually occupied by a pensioner.

"It does not provide that he must transfer it to qualify for a pension. He may do so. If he prefers to hold it then the annual value of his interest in such property (dwelling-house) is reckoned as part of his income from private sources. If his personal income including the estimated annual value of the dwelling-house is less than \$125.00 a year he is entitled to the full pension of \$240.00. If it is more than \$125.00 but less than \$365.00 he is entitled to pension rights on the above basis.

"Such a person having an interest in a dwelling-house may transfer it to the pension authorities, when its annual value is not taken into account and forms no part of his personal income in the computation of his old age pension. On his death the pension authorities can sell the house when an adjustment is made with the representatives of the pensioner's estate.

"No other property is treated of by the Pension Act. It is material only as a producer of income; and affects a pensioner's rights only through the provisions relating to income above mentioned.
I ask you, Sir, could anything have been fairer than the statement I have just read.

My Honourable friend suggested yesterday that the Old Age Pension Board if they so desired could pay \$20.00 a month to every pensioner who was not in receipt of an actual cash income of \$125.00 a year from his own private sources; the matter, he implied, was altogether in their hands. Such a suggestion might be expected from some quarters; but it is hardly worthy of my Honourable friend.

May I take the opportunity to inform him that his statements and suggestions are not only misleading but absolutely incorrect. The principles upon which pensions are computed are laid down by Ottawa; which would naturally be expected, seeing that the federal treasury pays three-quarters of their amount.

I have with me a copy of "The Old Age Pensions Regulations" which were made at Ottawa pursuant to the provisions of the Dominion Act. They lay down in definite terms the conditions that the Province must observe in fixing pension rates.

May I repeat that this matter is controlled by Dominion Regulations and not by the agreement entered into by this Government with the Dominion as my Honourable friend implied yesterday?

May I also point out that these are headed "Approved by Order-in-Council of February 1, 1932?"

They were passed in the days of Mr. Bennett at whose feet my Honourable friend delights to worship.

Regulation 6 is as follows:
"As soon as may be after receiving any application the pension authority shall take all necessary steps to ascertain whether the applicant is entitled to a pension and, if he is so entitled, what rate of pension should be paid.

Regulation 18 is as follows:
"For the purpose of determining the income of any applicant, the pen-

sion authority shall take into account any of the following sources of income:

"(a) annuity at the amount thereof;

"(b) real property at the rate of five per centum of the assessed or market value thereof (whichever be considered the more equitable standard), exclusive of encumbrances;

"(c) The amount of the Canadian Government annuity purchasable by the personal property of the pensioner after making due allowance for reasonable clothing and household furniture;

"(d) salary, wages or other means of livelihood, whether in money or in kind, which the pensioner may reasonably be expected to receive; and

"(e) net profit or gain or gratuity from any other source."

Regulation 19 is as follows:
"Where an applicant is one of two spouses living together, his or her income shall be taken to be equal to one-half of the sum of the incomes, calculated as in the Act and these Regulations provided, receivable by each of them separately."

I do not think, Sir, that it is necessary to pursue the matter, or my Honourable friend, much farther.
The form of his remarks rather indicated that one of his appeals when the election comes will be a \$20.00 pension to every person seventy years of age whether he needs it or not. He should join the Townsend group or Mr. Aberhart.

We have heard from the Tory party a great deal about Old Age Pensions; first in 1930 when they were used as election bait to play on the old men and women of this province the shabbiest trick ever perpetrated; and again in 1935 when as a last minute attempt to save the day, the Tory party announced they would pay pensions if returned to office. The electors knew by that time whom to believe.

I felt yesterday that my Honourable friend should have shunned this subject as he would the devil. If, however, he desires to make Old Age Pensions an issue in the next election, we're ready.

I pass now to the matter of free school books. My Honourable friend reminded the House that at one time they were available up to Grade 8 and added that his Party, when in power, found it necessary to abandon this policy when the depression came; what he should have said was "when the road machinery came."

The late Government had to decide between assistance to the hard-working people of New Brunswick and help to its political friends; and it made the Tory choice.

It was explained during the last session that free school books would be extended as the curricula and text books in the higher grades were settled. But my Honourable friend would stock up with supplies and decide later what was needed.

Education

He referred with a show of passion to a meeting recently held at Fredericton in relation to educational work. He suggested that it should never have taken place but that the Chief Superintendent of Education alone should have been contacted. No one appreciates more than I do the capacity and zeal of the Chief Superintendent and the splendid work he is doing as head of the Public School system of this Province. He has a big job and under this Government will be given a real opportunity to do it.

I do not think that the purpose of my Honourable friend in referring to this subject was altogether innocent. There was something to be read between the lines. He took a similar tack last Session. May I take this opportunity to politely inform him that the present administration at all times will welcome helpful suggestions and constructive criticism in relation to education or any other matter but will have scant sympathy with any effort, from whatever quarter it comes, to bring party politics into educational work in this province.

He described the meeting as one of inspectors. Apparently, he has little confidence in our school inspectors. I have no doubt that if his Party had been in power they would, in accordance with their usual practice, have called in their road supervisors and game wardens instead.

As a matter of fact, the meeting comprised representatives of every branch of the public school service, including the Provincial Normal School, the New Brunswick Teachers' Association as well as the Inspectorial Branch.

It was arranged for jointly by the Director of Educational Services and the Chief Superintendent and called together by the latter.

Its purpose was to promote the work of education which this Government places first in its various interests.

My Honourable friend cannot seem to realize that at last a Government has taken office which is really concerned with education and anxious to encourage and support those who are rendering in that field such valuable service to their country.

He suggested that the Minister of Education should be a teacher or

past teacher. Apparently, he is grooming himself for the position. Personally, I think some business sense in government is a good thing; certainly, it represents a change from the former condition. May I suggest there is nothing anomalous in the present situation. I know the Minister of Education in Saskatchewan very well. He is a Lawyer. In Great Britain, the Minister of Health is a layman while the new Minister of Agriculture is one of the leading members of the English Bar.

I pass now to the references made by my Honourable friend to labour questions. I noticed what I already knew that there is apparently an alliance on foot between his Party and a certain labour group in this province. The age of miracles is not past. The Tory wolf has lain down with the Labour lamb.

He belaboured the Government because the Forest Operations Commission had set a minimum average wage of \$31.00 for woods work and referred to a \$40.00 rate in Quebec. He omitted to point out that in Quebec, minimum wages apply only to operators on Crown Lands, while an employee is allowed to carry 15 per cent. of his crew on a minimum wage of \$26.00 per month. I will be very much surprised if the average wages actually paid in New Brunswick for woods work this year do not far exceed the average rate in Quebec on Crown and private lands.

Generally speaking, the material thing is not what employees have to pay but what they actually do pay. I have heard of many cases where men are earning \$40.00 to \$50.00 a month for woods work and teams \$90.00 to \$100.00 a month. If we can keep a Liberal Government in office at Fredericton and one at Ottawa for a few more years the question of minimum wages will perhaps not be of much importance.

It is true that I have heard of isolated cases this winter where employers are paying less than the average wage of \$31.00; but they are the Tories who are trying to make political capital out of their own unfairness. They may in the end find themselves hoist by their own petard.

My Honourable friend levelled some criticism at the work of the fair wage officer. Does he not realize that until a few weeks ago this whole question of labour control was in issue. Now that the Privy Council has settled the matter, we are in a position to move forward in this field.

This is an important matter in which I myself took some part. It gravely affected our whole Federal system of Government in Canada. For these reasons, I would like to make an extended reference to it.

Provincial Rights

Last month, word reached us from London that the Privy Council had brought down a series of decisions which definitely affirmed, what this Government had constantly maintained, that jurisdiction in respect of industrial and labour conditions and social security generally lies, under the terms of the British North America Act, within the ambit of the legislative powers of the Province.

Once again attempts to undermine the sovereign powers of this Legislature have been met and overcome.

This matter is of signal importance and I feel it is opportune to refer to it at this time, particularly in view of the propaganda which has developed in certain quarters charging that by our conduct in opposing the legislation involved the present administration has defeated efforts to assist labour and promote the general welfare.

All Honourable members will readily recall the famous New Year broadcast on the eve of the last Dominion election with which the then Prime Minister of Canada startled the electors of the Dominion, his Conservative supporters in Parliament and the members of his own Ministry, by the announcement of a new programme designed to remedy all the economic ailments with which, after five years of Tory rule, the country was afflicted.

During the pre-election Session of Parliament which followed, his majority in Parliament placed upon the Statute Books at Ottawa Mr. Bennett's panacea for all our ills. Included was an Act Relating to Employment and Social Insurance and three Acts relating to labour conditions, one providing for an eight hour day in industrial undertakings, another for one day of rest a week for those so engaged and the third for minimum wages in certain employments.

The opinion was widely held that this legislation encroached upon the legislative field of the Provinces. In fact, the Supreme Court of Canada had decided in 1924 that the matter of one of the labour Statutes was not within the competence of the Dominion Parliament; and, if my memory serves me right, the Minister of Justice in the Bennett administration acknowledged at the time of its enactment grave doubts as to the validity of the labour legislation.

One of the first steps of the Mac-

Kenzie King administration on assuming office in 1935 was to refer that legislative programme to the Courts in order that its constitutionality might be determined.

New Brunswick's Concern

New Brunswick was particularly concerned with the Social Insurance Act and the labour legislation to which I have referred. Ultimately, all the cases reached the Privy Council last November. In the judgments recently delivered, the position taken by this Province was upheld.

The questions involved in those cases had no relation to the merits of the legislation under consideration. They went far deeper. The issues raised were vital and fundamental. They threatened the very foundation of the Constitution we are pledged to cherish. These Statutes could be upheld only on new principles of interpretation of the British North America Act, which, if adopted by the Privy Council, would have shaken the Constitution to its depths, undermined the Federal system of Government to which this Province agreed when it joined with the other original provinces in 1867 to create the Dominion of Canada and in the end would have destroyed the independence of this Legislature and the status of New Brunswick as a sovereign state.

At the risk of trespassing upon the time and temper of the House, I propose to explain my grounds for these statements. To do this, it is necessary to digress for a moment that we may remind ourselves of the system of government under which we live.

Prior to 1867, the people of this Province were subject to the authority of two Parliaments. As a self-governing colony of Great Britain, the administration of the public affairs of New Brunswick was left largely to the legislative and executive authorities within the Province. The paramount authority of the British Parliament, however, remained although its exercise was closely confined in conformity with the principles of colonial self-government upon which the British Empire was being developed.

In 1867, the Provinces of Nova Scotia, New Brunswick and Canada agreed to enter into a federal union under which the Province of Canada was divided into Ontario and Quebec and provisions was made for the establishment of a central Government to control certain matters and perform certain functions in the interests of the people of the Provinces jointly.

The agreements reached by the Provinces were ratified and approved by the British Parliament and are set out substantially in the British North America Act of 1867. Subsequently, the scope of the Confederation was enlarged by the entry into the scheme of five other provinces but its essential features have remained unchanged.

After 1867, the people of this Province were subject to the authority of three Parliaments. The paramount authority of the British Parliament remained. The Provincial Legislature retained control over certain of their activities and interests. The Dominion Parliament acquired control over others. While the British Parliament maintained a jurisdiction over the whole field of public affairs, the Provincial Legislature and the Dominion Parliament exercised their respective powers in two separate and distinct areas.

The nature of the arrangement made was widely discussed in public addresses of the day. I would like to quote two passages which have become historic. The first is from a speech delivered by Sir John A. Macdonald, then Attorney-General of Upper Canada, in the debate on the Quebec Resolutions in the Parliament of the Province of Canada in 1865 and is as follows:

"The third and only means of solution for our difficulties was the junction of the provinces either in a Federal or a Legislative Union. Now, as regards the comparative advantages of a Legislative and a Federal Union, I have never hesitated to state my own opinions. I have again and again stated in the House, that, if practicable, I thought a Legislative Union would be preferable. I have always contended that if we could agree to have one government and one parliament, legislating for the whole of these peoples, it would be the best, the cheapest, the most vigorous, and the strongest system of government we could adopt. But, on looking at the subject in the Conference, and discussing the matter as we did, most unpreservedly, and with a desire to arrive at a satisfactory conclusion, we found that such a system was impracticable. In the first place, it would not meet the assent of the people of Lower Canada, because they felt that in their peculiar position—being in a minority, with a different language, nationality and religion from the majority—in case of a junction with the other provinces, their institutions and their laws might be assailed, and their ancestral associations, on which they prided them-

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