THE CONSTITUTION OF CANADA - A SUMMING UP

An Address by
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to
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The title of my address to you tonight is somewhat misleading. According to the program I am supposed to sum up the results of a Western Conference on the Canadian Constitution. A conference was indeed arranged to take place here at the University of British Columbia last week to which a number of distinguished speakers were invited, including the Premiers of the four Western Provinces. Unfortunately, due to a variety of circumstances including a conflict of dates, it became necessary to postpone the conference to some later time. I therefore hope that you will agree with me that it is somewhat difficult to summarize the results of a conference which has not taken place. However, I will do my best.

Indeed, it is not difficult to talk about the Canadian Constitution today as there has been a flood of addresses and articles on the subject over the last year and meetings concerning national unity have been held all over Canada since that eventful day in November 1976 when Mr. Rene Levesque's party came to power in Quebec. One almost wonders if, as a result of that event, the rest of Canada has possibly been over-reacting to the issue of separatism as if it were a new phenomenon whereas in fact it has had its origins in the far distant past but it has taken the election victory of the Parti Quebecois one year ago to bring the subject forcibly to the attention of all Canadians on a nation-wide basis.
With very few exceptions, the reaction of other Canadians over the past year to their brothers in Quebec has been one of friendliness, a desire to resolve problems and to preserve Canadian unity. To this end, as I have said, a number of meetings and conferences have been held at universities and by unity groups all over the country to endeavour to reach a constructive solution to our problems and at such meetings the Constitution has been the subject of considerable debate.

Having participated in some of these discussions I think the general conclusion must be drawn that changes in the constitution will not necessarily resolve the problem of separatism although, depending upon their nature, such changes or the possibility of such changes may go a long way to influence the views of those people in Quebec who are not already emotionally committed and even they may be persuaded to change their minds if constitutional and other problems involved in separation are clearly defined and properly brought to their attention.

It is unfortunate that at conferences, such as the one held at the University of Toronto under the guidance of its President, Dr. John Evans, representatives of the Quebec Government who were invited did not see fit to attend to give us the benefit of their views. It appears quite obvious that constitutional changes will not alter the thinking of the Quebec Cabinet itself which is composed of some very able individuals who are influenced by a desire for power and who are definitely committed to a policy of separation from the rest of
Canada whatever happens. They are determined in their effort to persuade Quebeckers to leave Canada and to become masters in their own house, not on any economic basis, but on the highly emotional issues of language and culture. There is certainly no economic argument which would justify Quebec in leaving Canada but the policies of the Parti Quebecois in advocating separation, based on emotion, are presenting a severe threat not only to the economy of Quebec, from which there has already been a substantial financial drain, but also to the economy of Canada as a whole. As it is, the Canadian economy at the present moment is suffering from a number of financial ailments which are capable of being cured but in the meantime the situation is not improving because foreign financial opinion in general regards Canada as shaky socially, politically, and economically. Several weeks ago Mr. David Rockefeller, the head of the Chase Manhattan Bank in New York, which is one of the major financial institutions in the United States and which is used extensively by Canadian borrowers both public and private, said, "There is no question that extensive talks of separatism and the fact that the issue remains unresolved have confused the perception of Canada in the world market place. Investors react adversely to uncertainty, and so long as concerns over Canada's political stability continue to be voiced, general world-wide uneasiness about Canada will continue to impact its currency and impede its progress."

The delay by Premier Levesque in presenting his referendum on separation is definitely hurting the financial health of the country as a whole and I believe that it
should not be necessary to wait for a federal election for Prime Minister Trudeau to place the facts before the people of Quebec in order to make them aware of what would happen if separation did take place and to challenge Premier Levesque to proceed with his referendum forthwith. In the meantime Premier Levesque is sedulously comforting his constituents by telling them that they will suffer no economic ill from separating from the rest of Canada because such separation would undoubtedly be accompanied by what he terms a sovereignty association, meaning a customs union between Quebec and the rest of Canada. A customs union involves free trade between the component parts with a common protective external tariff.

Such an arrangement of course is a day dream on the part of Mr. Levesque and is entirely impractical. As long as Quebec remains a part of Canada the West has been prepared to accept the heavy tariffs which are necessary to protect the high cost manufacturing industries in Quebec, but if Quebec became a separate state there could be no possible reason for such a policy. The four western premiers have already said vigorously that any such arrangement would be out of the question and Premier Davis of Ontario has used these words, "We do not maintain doors open to the option of independence for Quebec with continued economic union with Canada," and again, "It would be absolutely foolhardy for the Government of Quebec to believe that it could have both independence and economic association with the rest of Canada." This position has been made perfectly clear in Ontario and the West but has it
reached the attention of the Quebec voter? Apparently not, as Mr. Levesque is still talking about independence and a customs union with the rest of Canada.

It is perfectly right and proper for the Premiers to express their opinions on this subject but under our constitution as it stands today the authority to determine whether Canada would or would not enter a customs union with a separate Quebec rests with the Federal Parliament. Several weeks ago the federal Finance Minister, Mr. Jean Chretien, in speaking to the Association of Quebec Economists, is reported to have said that, if the Province becomes independent, Canada would not necessarily agree to an economic association. He is further quoted as saying, "Half of the Quebec exports are from the so-called soft industries; that is to say, sectors which benefit from the highest protection afforded by the Canadian tariff. Obviously the other provinces would be better off to buy elsewhere at much lower prices. It is the Canadian tariff and its acceptance by all provinces which make possible most Canadian sales of Quebec products."

This is a perfectly sound statement for Mr. Chretien to make except for the somewhat tentative approach incorporated in the phrase, "would not necessarily agree to an economic association...." In order that there should be no misapprehension whatsoever in anybody's mind now, and before the referendum is held in Quebec, I suggest that the Prime Minister himself would do well to state calmly and clearly for the benefit of all Canadians living in Quebec that as long
as he is Prime Minister there will be no economic association if Quebec were to become independent from the rest of Canada, thus putting an end to the myth which Mr. Levesque continues to circulate. The leader of the Opposition, Mr. Clark, has already expressed himself to this effect.

It should not be thought that the discussion in Quebec on the pros and cons of separation should be left to the Provincial party leaders of that Province. The Government in Ottawa was elected by the voters of Quebec as well as those of the rest of Canada. The Prime Minister has the same obligation to the people of all provinces in Federal affairs and Federal affairs are most certainly involved in the discussion in Quebec as to whether or not to separate. I therefore suggest that there is an obligation on the part of Mr. Trudeau, as Prime Minister of Canada, to point out to Canadians living in Quebec the various other problems which they would have to face if they were to vote in favour of separation and that in order to prevent any doubt or confusion he should do so now and not leave the continued initiative to Mr. Levesque.

For instance, there has been little said about the apportionment of the Federal debt in the event of separation and when I use the term Federal debt I mean only that debt incurred by the Federal Government and its crown corporations on behalf of all Canadians and not the national debt which includes provincial and municipal obligations. When I spoke on this subject a year ago the Federal debt in this sense
was calculated to be the sum of forty one billion dollars and it has undoubtedly increased since that time. The political representatives of Quebec on the Federal level together with the representatives of the other provinces fully participated in the creation of such Federal debt and the rest of Canada could not and would not be expected to take over the burden of the total Federal debt of forty one billion dollars which was jointly created if Quebec indeed separated from the rest of Canada.

Some extremists might say that if Quebec left Canada she would repudiate her share of the joint Federal debt but if she did so her credit would be destroyed internationally and it is quite obvious that with the construction of such vast projects as the James Bay Power Development Quebec is going to become increasingly dependent upon the foreign money market.

Apart altogether from any question of honesty or morality, Quebec would have to accept her share of Federal debt to protect her own financial credibility. She would then be saddled with over eleven billion dollars of Federal debt in addition to her present Provincial government debt, which I calculate to be about seven billion dollars. The seven billion dollars does not include the debts of Quebec's crown corporations nor her municipalities. If these were to be included the total provincial debt would probably be in the nature of thirteen billion dollars. It should therefore be made perfectly clear to the Quebec electorate well before Premier Levesque calls for his referendum that a
new and independent Quebec would commence life with a total burden of debt amounting to about twenty-four billion dollars.

It would be interesting to know how the proponents of separation propose to solve the debt problem on a sound financial basis if they were to succeed in achieving their purpose. It is estimated that capital expansion costs over the next twenty-five years for Hydro Quebec will amount to about fifty billion dollars, that is to say roughly two billion dollars annually. Since about 75% of this amount will have to be raised in the open market Hydro Quebec will be floating major bond issues continually throughout that period. The reaction in capital markets of the world remains open to speculation if an independent Quebec, already burdened with a heavy capital debt, attempts to incur further obligations of these dimensions.

It would be appropriate for the Prime Minister also to acquaint the Quebec voter with the true facts in regard to the energy situation and to point out that in the event of separation the Federal energy subsidies would perforce come to an end. In a study released last month by the C. D. Howe Research Institute in Montreal it is stated that Quebec produces less than twenty percent of its current energy needs. From the figures contained in this study it would appear that Quebec has benefited to the extent of two and a half billion dollars over the last four years under the Federal oil subsidy program. The proposed hydro-electric projects in Quebec which might take the place of oil are said to be expensive, capital intensive and
time consuming. One of the conclusions of the study reads as follows: "Up to this point Quebeckers have not been presented with the full facts of the Province's energy vulnerability. It is important for the Government of Quebec to release and to discuss openly as much relevant information on the Quebec energy situation as possible. One of the crucial implications of these facts is likely to be that Quebec does not have, beyond the near future, the basis for a continuing significant comparative advantage in energy. Yet relatively inexpensive energy in the past played a major role in the evolution of Quebec's energy intensive industrial structure. It will be a particular challenge to approach Quebec's future industrial policy options with a clear understanding of the Province's energy prospects."

There are innumerable problems which would arise in the event of separation and a reply from the Prime Minister to other questions would clear the air not only from the point of view of the Quebec voter but also from the point of view of the Canadian public at large.

Who would control the entrance to the Seaway which runs through Quebec but which was built with Federal money and which is now vital to Canadian trade on the Great Lakes? It should be remembered that prior to confederation control of the St. Lawrence and its commerce led to bitter disputes between Upper and Lower Canada which would undoubtedly be revived in the event of separation.
Another question which presents itself is this: Will Quebec endeavour to assert sovereignty over Labrador because of her dependence on cheap power from Churchill Falls and its downstream potential, and what will be the position of Newfoundland in that event? Premier Levesque has already said that he does not accept the present Quebec-Labrador boundary and a published statement of policy of the Parti Quebecois expresses the intention to "reaffirm and defend the inalienable rights of Quebec over all its territory including Labrador and the littoral islands of New Quebec."

In a recent television interview on the subject of separation the Prime Minister stated that he would not hesitate to use the sword if it were to become necessary. This statement I think has been misinterpreted in some quarters and in fairness requires clarification. If the proposed referendum should disclose a desire on the part of a decisive majority of the people in Quebec to leave confederation then such decision would have to be accepted by the rest of Canada. I think that what the Prime Minister meant by the term "use of the sword" is that if violence were used, for example, in interfering with the operation of the St. Lawrence Seaway or in interfering with the territorial integrity of Labrador then force would be met with force.

I do not believe, however, that such a situation will ever arise because there are so many insoluble problems arising out of any proposed separation that the forces of reason will definitely have to prevail.
From opinions which I have heard expressed by people living in Quebec, both Anglophone and Francophone, and from the polls which have been taken recently, I believe that a proposal to separate, if a referendum were presented now, would be decisively defeated but in order for the Quebec voter to exercise his vote intelligently he must be properly informed concerning the issues involved. It is no use in his voting in favour of an arrangement that is not going to work, for example, sovereignty association. The sensible approach is for the referendum to contain the simple question: "Do you want to separate from Canada or do you not?" If the answer is no, as I am sure it would be, then it remains for the federal government, together with the provincial governments, to work out a new constitution or changes in our present out-dated constitution which are highly desirable from the point of view of the country as a whole.

It may be said that the Quebec government cannot be told how to phrase its question on the referendum but it must be remembered that under legislation submitted at the last session of parliament the federal government has presented a bill giving unto itself power to submit a referendum on the subject of separation to all the Canadian people including those Canadians living in Quebec. Part of Mr. Trudeau's challenge to Mr. Levesque should be to present a properly worded referendum and this should be made now to prevent further financial degeneration and the uncertainty which is damaging the whole country.
Apart from the practical problems involved it remains to discover what answers can be found to the emotional issues which are at the core of the problem, such as the use of language, because the use of language has been one of the divisive elements among nations since the dawn of history.

I think it must be admitted on all sides that the bilingual policy in Canada as it has been developed over the last few years has been a costly failure. Canada will never be a bilingual country in the sense that everyone across the continent will be able to converse freely in English and French. This was mentioned by the Prime Minister when he spoke in the Mid-west last summer. It is simply not practical. The geography of the country, together with our proximity to the United States dictates the use of English as the preponderant language of workaday life outside Quebec. I read recently that there exist in the world today more than 50,000 scientific journals publishing at least 40,000 articles a week and that 88% of those articles are printed in English or are immediately translated into English. Thank heavens we don't have to read them but I mention this to indicate that lack of knowledge of English is a handicap on this continent.

Nevertheless, the use of French must be respected in Quebec and in those areas where people have been accustomed to converse in that language or find it convenient or useful to do so. It is, however, impossible and wrong to attempt to force adults to use a language which they do not need nor want to use.
It is important therefore to foster a better understanding and an intellectual sympathy between the descendants of the two major nations which originally populated this country. I suggest that it would go a long way in doing so if an arrangement were to be made between all the provinces of Canada that English and French be made compulsory subjects in the primary grades of all schools across the country at a time when children's ears are attuned to the learning of languages and that these languages continue to be taught as a requirement through the entire period of school attendance to the stage of university entrance. There would be no waste of time involved as the learning of a second language is, if nothing else, a desirable mental discipline and gives scope for wider horizons in later life. In fact the teaching of French in the high schools of this City was compulsory in the early part of this century but it was not taught in the primary grades when the brain tissues of children at an early age are particularly susceptible to the learning of languages. For those who want to develop their other studies in either language facilities should also be made available so long as those facilities are being made use of but in no case should any child be compelled to be educated in one language as was provided by the notorious provisions of Quebec's Bill 101. Serious doubt has now been thrown on the entire validity of this act by reason of the recent judgment of Chief Justice Deschenes of the Quebec Superior Court. Chief Justice Deschenes has held that the provisions of the act in respect of the exclusive use of the French language in the courts are contrary to the British North America Act and are
therefore unconstitutional, and probably the whole act is unconstitutional.

Let me therefore turn for a moment to consider the Constitution of Canada as it now exists. In January of last year, shortly after the Quebec election when Mr. Levesque announced his policy of separation, I gave an address to a joint meeting of service clubs on Vancouver Island wherein I strongly urged that a study of the Constitution be made by a small group comprised of individuals, some of whom would be expert in the knowledge of constitutional law, others who had academic experience and had studied the histories and constitutions of other countries, and also certain individuals who had had experience in all walks of life and were familiar with the social and economic life of Canada as a whole. My suggestion was that the Prime Minister should select a group of such men, not necessarily a large group, and request them to devote their full time to produce recommendations for a new or revised constitution of Canada for the consideration of the Prime Minister and parliament and for the provincial premiers and their respective legislatures. My reason for suggesting an expert and unbiased group was to obtain a studied and carefully researched document containing recommendations, produced by knowledgeable persons who had no political, commercial or other axe to grind, for consideration and debate between the elected representatives of the nation. The document would provide a concrete basis for further study and discussion by our political representatives or by a constitutional assembly. I had hoped that such a group would be appointed from people
active in business and professional life and would be headed by some such distinguished constitutional scholar as Chief Justice Bora Laskin of the Supreme Court of Canada who has written a number of learned treatises on the subject. I suggested that such a group should hold open hearings right across Canada and should also consider the comparative advantages of the constitutions of other countries.

The suggestion received endorsement from several quarters, notably from the Canadian Economic Policy Committee, which is a group of well known business and professional men of Canada who are associated with the C. D. Howe Research Institute. Several months later the Prime Minister did appoint a Task Force headed by Messrs. Robarts and Pepin, which Task Force has now concluded its nation-wide hearings by its meetings in Vancouver this week, and its report may be expected some months from now. I am aware that many representations have been made to the Committee in regard to constitutional reform but to what extent the Task Force will deal with them remains to be seen. I am not sure that the Task Force will consider that constitutional reform does fall within its mandate which reads as follows:

"The mandate of the Task Force on Canadian Unity has three basic elements:

a) 'To support, encourage and publicize the efforts of the general public and particularly
those of voluntary organizations, with regard to Canadian unity'

b) 'To contribute the initiatives and views of the Commissioners concerning Canadian unity';

c) 'To advise the Government of Canada on unity issues'."

If the Robarts-Pepin Task Force does not emerge with constitutional recommendations then I believe it will be necessary to return to the suggestion that a small, competent group of experts be appointed to make recommendations to parliament and the provincial legislatures or to a constitutional assembly as a groundwork for debate.

The Prime Minister and some of the provincial premiers have already appointed groups of constitutional advisors within their own offices but I do not think that they will take the place of an entirely independent group appointed by the Federal Government whose task would be to look at the type of constitution which would benefit Canada as a whole without taking any partisan or parochial point of view.

In the meantime and in the absence of any such approach by the federal government several interesting projects have been instituted by independent bodies. Some months ago the Canada West Foundation published a most useful study on the perspective of
Canadian confederation. It argued that the confederation of Canada was created by a deal or bargain struck between the constituent parts of Canada in 1867 and during the following years. It made a careful analysis of the aspirations and concerns of the several parts of Canada at the present time and recommends that the federation of this country be continued on the basis of a bargain being once again struck between the federal government on the one hand and the provincial governments on the other having regard to the present concerns and aspirations revealed by the parties around a bargaining table.

I am not certain that the continued existence of Canada as a nation should be based on the process of bargaining and while I would by no means reject the process if it were to become necessary it seems to me that Canada after two world wars has now attained the structure and identity of a nation and that changes in the constitution or the adoption of a new constitution should be based upon the good of the country as a whole and in its relation to the rest of the world.

Another body which has undertaken the study of a new constitution or changes in the existing constitution is the Canadian Bar Association which has undertaken the work on its own initiative and at its own expense with some considerable financial assistance from the Donner Foundation.
I believe that all these endeavours are most praiseworthy and highly useful but I still come back to the theme that the study should be made by an expert and unbiased committee with the weight of Federal authority and resource behind it. I have been accused of adopting an elitist approach but I make no apology for the pursuit of excellence in this case and in any event any recommendations by a committee of experts would be submitted to the elected representatives of the people in Parliament and the legislatures or to a constitutional assembly. Moreover the fact that the Federal government was carrying out such a study in the interest of all the provinces of Canada would undoubtedly have a reassuring effect upon the Quebec voter before or after he had been called upon to vote upon a referendum.

The work of any group seeking to find solutions to our constitutional problems will be no easy task as our social structures have inevitably become increasingly complex since the passing of the B.N.A. Act in 1867, if for no other reason than the enormous economic expansion and the growth in population since that time.

Some of the practical problems which have arisen since confederation are due to the feeling in the English speaking provinces that they are inadequately represented in the decision making processes of the central government in Ottawa and the feeling in Quebec of improper and unfair distribution of powers between provincial and federal authorities, combined with the joint feeling of all provinces that they have insufficient authority over the collection and spending of public funds.
At the Options Conference at the University of Toronto last October, to which I have already made reference, there appeared to be a general conclusion that some means must be found for further decentralization of authority in Canada and a greater concentration on regionalization. Mr. Northrop Frye the distinguished Canadian author who was asked to sum up that conference had these words to say, "Everywhere I look in Canada I get an impression of immense energies trying to find their proper regional outlets, continually blocked and thwarted by unreal political and international abstractions."

Another point upon which there appeared to be general agreement in Toronto following a paper delivered by Dr. Michael Oliver, President of Carlton University, was that the time had passed to give consideration to special status in the Canadian constitution for the Province of Quebec. 'Statut particulière' has indeed been discussed over the years with growing opposition from all the other provinces. This does not mean that provision might not be made for individual provinces opting out of certain federal programs but if Quebec were to be given a special status apart from other provinces it would lead to serious difficulties in parliament and boundless confusion. Without going into the subject in detail it is easy to see the confusion which would arise as to what representation Quebec would be given in the federal parliament if she were to receive special status and the manner in which her representatives would vote on affairs which seriously affected the other provinces and might have only a
minimal effect on Quebec because of her special position. It is easy to see how hard it would be to draw a line. Special status would create difficulties in the exercise of overall cabinet responsibility and in the end would lead to further dispute and would only be conducive to final separation.

It is my own view that if we are still to be governed by the B.N.A. Act those sections which apportion the powers of the federal parliament and the provincial legislatures should first be studied in order to decide what powers are essential for Canada to exist and to act as a nation in world affairs. Obviously the federal government should have jurisdiction over such matters as national defence, navigation and shipping, postal services, currency and coinage, legal tender and the issuance of paper money, and on all subjects which are necessary for Canadians to speak with one voice in international institutions and in entering into international agreements and treaties. In connection with other powers, consideration should be given as to whether they would best be exercised by either the federal or provincial authorities from an economic and social point of view in the interest of all Canadians, having regard to the vast changes which have taken place since 1867. Consideration should be given to the intrusion of federal powers over the years in provincial authority by the use of federal spending power. For instance, Urban Affairs would certainly appear in principle to fall within provincial jurisdiction but federal power
has now intruded into this area with the creation of a large federal department of Urban Affairs in Ottawa. Certainly a careful revision of federal and provincial powers should lead to the reduction of the vast overburden of costly bureaucracy which we have in this country at the present time.

Certain amendments have indeed been made to the B.N.A. Act by the British parliament at the request of Ottawa but none of these amendments has been of any vital importance. It is an amazing example of political ineptitude on the part of the Canadian people that in over 100 years we have not been able to create or amend our own constitution. We do not deserve the name or the dignity of a sovereign nation if we cannot alter the constitution under which we are governed and yet for over half a century prime ministers and provincial premiers have held long and exhaustive conferences in an endeavour to find a formula and have failed.

It must be remembered that the B.N.A. Act, when it was passed by the British Parliament in 1867, represented an attempt to impose British parliamentary procedures and an unwritten constitution applicable to the unitary system of British government upon the formation of a Canadian federal system. In the debate which took place prior to the passing of the act, Sir John A. Macdonald had these words to say, "The true principle of confederation lies in giving to the general government all the principles and powers of sovereignty. We should thus have a powerful central government, a powerful central legislature, and a decentralized
system of minor legislatures for local purposes." This is an illustration of how vastly conceptions have changed since 1867.

The British parliament itself is today struggling to adapt its own procedures to a federal system which will be created by the proposed devolution respecting Scotland and Wales and, according to the debates which are presently taking place it will be a long time before a satisfactory settlement is reached in regard to the apportionment of powers between the parliament at Westminster and the legislative assemblies which will be created in Scotland and Wales if devolution in fact does take place.

In this connection the question arises as to whether the British parliamentary system is any longer a useful instrument in the democratic process. We are all inclined to boast about the virtues of democracy but in fact we do little to maintain or improve the principles of democracy concerning which we have become careless and complacent. The voices which we hear today are raised not for the purpose of improving democracy but for the purpose of destroying it. Greek and Roman history has demonstrated that without intelligent criticism democracies can very easily decline and decay.

A leading article in a recent issue of the well respected London Economist, which is by no means a radical publication, contains these opening words, "A century ago Britain's system of government was the envy
of two-thirds of the world and the overlord of much of the other one-third. Today the mother of parliaments is a kitchen-maid to two alternating party political tyrannies, neither of which is ever elected by or represents a majority of the British people." The article goes on to point out that any British Prime Minister today with a working majority in the House of Commons has an unfettered executive power beyond the dreams of any American President. All members of parliament vote with their party because to do otherwise excites disfavour with their constituents and with their party leaders. The prevailing sentiment is one of party loyalty and of a desire to back up the government or the opposition, depending upon the party to which the member belongs, against the other side in all circumstances.

I think it is clear that the same situation exists in Canada where the true power no longer lies in parliament but rests with the Prime Minister and his cabinet. We are indeed living, whether we like to admit it or not, under the authority of an executive government.

This situation is apparent to many members of our parliament but few care to say so publicly. In a very clear and well researched brief which was prepared after studying constitutional systems in other countries and submitted to the Task Force at its meeting in Vancouver last Wednesday at which I happened to preside, Mr. Gordon Gibson, the leader of the Liberal party in British Columbia, made these statements:
"In short, the potential of indirect democracy is very much curtailed by our system. This realization is of basic importance, and a realization of how this end is achieved, and why, is essential to proper consideration of reform.

"The 'why' is relatively straightforward. First of all, it is convenient to those who control the political system to maximize their control, in order to make their own futures more advantageous and predictable, and in order to have the powers they deem proper for government without inconvenient resistance or necessity to compromise.

"This can be seen when we consider the 'how' or the manner in which our current restrictions on indirect democracy are achieved. Consider first the control of the individual member in the legislature. His freedom of action is restricted, almost totally, by his party. He is obliged to comply. If he votes the wrong way he may lose a chance for a cabinet post, a parliamentary secretaryship or committee chairmanship or even his party's nomination at the next election.

"If that is not sufficient, the government lays down another rule which says roughly this: 'Unless the legislature votes the way we want on virtually every issue, we will call an election. It is a matter of confidence; we are responsible to the electorate and we must get what we want.' To members of the government majority an election is not an attractive prospect.
Better to be in than out. They support the government again and thus is indirect democracy controlled in parliament.

"Our representatives are not free men and women. They do not vote their conscience if there is a conflict with their party. They vote the party line. There are exceptions to this but they are so rare in Canadian politics as to be curiosities."

These are strong words from a man of Mr. Gibson's political experience. He has made recent visits to West Germany and Switzerland and has studied their systems as well as that of the United States and has reached the conclusion that their forms of government are working a great deal better than ours and that we have a great deal to learn from the operation of other democracies.

Since the situation has developed in Quebec so that it has become imperative to examine our outdated constitution, we should now consider whether the parliamentary system which we have adopted in Canada has now out-lived its usefulness and has become entirely too rigid and undemocratic. Rigidity in political structures has historically been the cause of social decay.

I myself believe the time has come when we should consider the preparation of an entirely new constitution and for that purpose we should study the success or otherwise of the constitutions of other
leading democracies. Premier Bennett has already suggested that we might consider the working of the German federal system from the point of view of changing the Canadian constitution and has, I believe, taken steps to make the necessary studies. Besides others, we would be well advised to consider the congressional system of our next door neighbour, the United States, which I believe is today working better than our parliamentary system. Members of Congress are free to express their opinion of legislation proposed by the President regardless of party loyalties and bills appear before Congress which are proposed by a member of one party and seconded by another.

The President is free to choose members of his cabinet who have not been elected as they must be in Canada and some of the most capable men in the country have from time to time been involved in the American administration. The drawback in this case is that members of cabinet are not members of Congress and therefore are not entitled to take part in the day to day deliberations of that body to propose their policies or to defend them. They are required from time to time to appear before congressional committees which is not the equivalent of taking part in parliamentary debate. Nevertheless the congressional committee system has much to recommend it while on the other hand our parliamentary system permits rigidities which are leading us further and further away from the practice of true democracy.

It is true that some of the American practices would not be suitable in our conceptions of government.
In considering the powers which rest in the hands of the federal government it is worthwhile remembering what the French political philosopher de Tocqueville said as long ago as 1831 in commenting on the American congressional system. He pointed out that the sharp division of powers which in the eyes of the founding fathers represented a cornerstone of the American governmental system ruled out to a great extent the privacy and the promptness of decision which is required in international negotiation. The fact that the American President cannot act decisively in international affairs has become very apparent under the Carter administration in recent months. In any revision of the British North America Act it should be clear that the federal authority in international affairs should remain uninhibited.

The article in the Economist to which I have referred, besides pointing out the increasing ineffectiveness of parliament under party discipline, goes on to stress that the failure of democracy in Great Britain is also due to its archaic voting system. It perhaps is not generally realized that out of the twenty leading industrial democracies of the world only four continue to adhere to the old fashioned electoral system whereby a member of a legislative assembly may be elected by a minority vote. The four which continue to lag behind are the United States, Great Britain, Canada and New Zealand.

The first past the post system works in the United States because there are essentially only two parties competing against each other and therefore
electoral reform is not required but where there are more than two parties competing for election, such as in Canada and Great Britain, the system does not work. The essence of democracy is that in an election the opinion of the majority should prevail and any analysis of the proportion of votes in recent elections shows that this is not the case in Great Britain or in Canada.

In some countries such as France if a candidate does not obtain a clear majority on the first ballot there is a run off between the two leading contenders in the following week. Other countries have systems which are a little more complicated and more scientific but in Canada and the United Kingdom we still lack the courage to adopt any form of proportional representation in our elections. The result is that governments creep into power and enact legislation which is contrary to the will of the majority of the electorate. As the Economist has pointed out in the past, a number of governments in the United Kingdom would not have come to power if there had been any kind of proper electoral system and in Canada it is reasonably certain that Mr. Levesque would not have been elected if the opposing vote had not been fragmented and such fragmentation would not have occurred under any modern electoral system.

As I have said, it has now become imperative that Canada should have a new constitution or should vastly alter her present constitution in order to satisfy the legitimate desires of all the provinces of
Canada including Quebec. It would be unfortunate if we resort merely to housekeeping amendments to the B.N.A. act. In examining the constitutions and electoral systems of other countries in the light of our own necessities we have the opportunity to make the best of all possible worlds. Let us take advantage of it.

JVC:MC
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