

McGILL LAW JOURNAL

Montreal

Volume 14

1968

Number 3

The Canadian Federal Dilemma *

Maxwell Cohen, Q.C.**

Most community life has its periodic crisis and the only difference for Canada possibly is that hers seems perpetual. If Canada were born in deadlock, as a federation, providence seems to be imposing almost chronic crises as the means of achieving maturity.

What seems a self-evident problem to many is not an opinion shared by everyone. For one western premier is reported to have said that in any list of one hundred serious problems, the constitutional question would be the one hundred and first. Yet on any reading of recent history this would be a frivolous view. For undoubtedly the question as to whether Canada can survive as a federal system, embracing French language Quebec and the other provinces, and developing in the process a self-image at home that is acceptable, politically and psychologically, as well as an identity abroad that it is identifiably unique, this is surely *the* Canadian question. Not to recognize it is to risk events overtaking a barren imagination.

And yet there is something to be said for those who wonder about this preoccupation with the anxieties of Canadian survival. On all sides, the world seems so much more unstable than does Canada. Indeed, the very contrast between Canadian concerns and

* From a paper given to the Manitoba Law School Foundation, Winnipeg, October 24, 1968. I am grateful to Professor D.V. Smiley for his valuable insights into the problems of co-operative federalism.

** Macdonald Professor of Law and Dean of the Faculty of Law, McGill University.

global dilemmas puts to shame this sharp focus on things domestic. Everywhere the old order changeth — social systems, population-growth, international student unrest and the ongoing arms race, wearing the black crown of nuclear annihilation. These fill media and dreams, a Kafkaesque nightmare from which there seems no exit. At a moment when man is conquering space, the new ethnology tells him that his capacity for aggression and self-destruction is possibly unique among the species; and that perhaps man should give prime attention to his inner world of the spirit rather than to launching his Odyssey to the stars. The challenge to his ethics and to moral sensibility has perhaps never been more pervasive or in more urgent need of social reply. White versus non-white stand across the gulf of oppression and accidental history, one armed with affluence, the other with poverty. And this union of colour and guilt, of skin and well-being, may express itself in profoundly violent terms if the gap between men and races is not bridged.

The classical cement of family and community, the leadership of established elites, the taming role of religious feeling and the liberal tradition — all are under attack. Islands of stability are no doubt to be found everywhere, but they are islands only. The two most powerful nations in the world, the United States and the U.S.S.R., happen at this moment in time to be Canada's very immediate neighbours but often they symbolize, by their very power, the external threats to states and to mankind and, paradoxically, the internal vulnerabilities of even the most powerful of peoples.

In the face of this time of trouble what importance may a reasonable man assign to the Canadian conflict? In the scale of global priorities, Mr. Thatcher's comment perhaps has a relevance wiser than he wrought. Yet in Canada, we are prisoners of the frontier when it comes to assigning priorities. For it is a fact that, certainly in Quebec, and to varying degrees elsewhere (substantially in Ontario and New Brunswick and with declining force eastward and westward from those provinces), the primary short-run issue for Canadians is whether we can re-interpret federal experience so as to make it meaningful for all those who must willingly participate in it if Canada is to remain a united people living in harmonious federation. In short, history and other lands may downgrade the Canadian debate in this wider world setting. Existentially, Canadians may not be able to do so because it is here as a fact and demands serious attention and viable answers.

At this point it is important at least to remember that Canada was fated, almost from its beginnings, to be the child of dispute. English and French-speaking peoples did not end their rivalry on

the Plains of Abraham but only began it in another form. A triumphant Anglophonic majority made North America theirs by the 1770's, leaving the French minority in Quebec to view itself as if it were in a state of permanent cultural siege. Its institutions and its values thereafter were designed for defense, for survival. Land, law, religion, church, family and language were the pillars of a "closed" system, cut off from essential cultural interplay with English-speaking neighbours and fed sparingly by its former imperial mother, France, which was without very deep devotion when Quebec was hers and was almost indifferent when Quebec was lost.

This is no place to argue the means and the merits of these early years. Yet the fact remains that English-speaking self-interest, combined with some generosity, helped to establish in Quebec freedoms for language and religion, with large degrees of local self-government. Indeed, Lower Canada by the beginning of the 19th century was already a viable and recognizable political and cultural unit one day soon to be heavily reinforced through its French-speaking citizens achieving a clear majority position in the province. Once the American colonies had gone their own way, British North America was to become a land of two cultures and although the early, pre-confederation self-image was quite unclear about that lingual dualism, the foundations in fact were laid for the unique bilingual society Canada might one day become.

One hundred years of federalism have demonstrated that it has been possible to evolve a framework of government within which Quebec, and French-speaking Canadians in Quebec, not only preserved their numbers and values but were encouraged to grow to ever greater strength so that one day some could consider the option of going it alone. Thus the first irony in the present crisis is that the claim for a re-examined federalism in aid of French-Canadian survival comes at a moment when, in Quebec at least, French-speaking culture has never been more vital, its intellectual and artistic life never more creative, its institutions never more self-confident. Many nationalists would challenge this assessment but an effective inventory of achievements suggests such a conclusion is justifiable.

Hence the question arises, why then in the face of self-confidence, as a society of rising cultural and economic development, and of ever-increasing influence in the Canadian order as a whole, does Canada have this crisis of unity? A close look at the reasons will suggest that not all has been well within French-speaking society; that there were unsolved economic, language and school problems, historic and hurtful to them in other provinces; and that certain issues were arising in the very nature of the federal system inde-

pendently of the French-English question, issues which now have combined to create the critical, explosive mass Canadians have known these past several years.

In French-Canada itself the present *crise de conscience* has had to do with converting or advancing "survival" into the satisfactions of "fulfilment". French-Canadians were discovering that outside of Quebec they were not only strangers in the land, in monolingual, English-speaking Canada; they were discovering also that their living standards generally were lower than their English-speaking neighbours and that somehow, if they were to move out into the world, it was a North American, English-speaking world whose media and values could inundate their society. In short, their desire to be fulfilled in economic, social and political terms raised questions for French-Canadians that had been more or less concealed theretofore when the primary value had been survival, with their exposure to the total Anglophonic world about them defensive and minimal. Hence, there has grown a new fear (and restiveness) in Francophonic Quebec: how to be both French-speaking and fully Canadian; how to be themselves yet North Americans; how to be economically and socially mobile and yet retain their language and essential values.

As subordinate clauses to this new Quebec Francophonic dilemma were not merely the memories of older collisions over values and policy, between it and the English-speaking Canadian majority — conscription in 1917, compulsory service in 1944, "intrusions" on provincial jurisdiction from family allowances to pensions and medicare. But equally there was the memory of the essential rejection of French-Canadian claims leading toward a bicultural society in other provinces dramatized by the Manitoba school question in the 1890's, by Rule 17 in the Ontario education policy, and by the earlier cautious attitude in New Brunswick towards its substantial French-speaking minority. There were other evidences too of this implied, national, monolingual policy: the federal government itself, essentially English-speaking except for certain limited operations of the two languages in Parliament, in documents and in some federal courts; the abolition of French when from the Northwest Territories were carved the Provinces of Alberta and Saskatchewan; and symbolically, if perhaps inevitably, the conversion of Louis Riel into a folk hero, the very image of rights rejected, of English-speaking supremacy overcoming earlier western settlers and natives who spoke French.

Another element in crisis-making transcended the English-French question but interpenetrated with it in Quebec and elsewhere, namely, the changing role of government and administration in the

federal structure itself. The Canadian system was an odd hybrid of imperial, quasi-unitary and federal systems and ideas. Indeed, it is arguable that all parties at Confederation somehow saw the provinces in relation to the federal government as essentially subordinate, just as the self-governing colonies had been to the imperial mother, with that maternal role now moving from London to Bytown. The counter-balance here was the entrenched protection of language and civil law in Quebec and, equally, of the Catholic and Protestant school systems of that province and possibly others. To put it in plain terms, the provinces were local governments, no more, no less, in 1867, but each of the four founding members had certain special conditions under which it entered Confederation and in the case of Francophonic Quebec, those conditions went to the very heart of her ethnic, religious and linguistic "survival" and the means to assure it.

By contrast, to the central government was given the power of disallowance, of reservation of bills, of the appointment of Lieutenant-Governors and of members of the county and superior courts (as well as of the Supreme Court of Canada) and of the Senate. It had, too, the right to declare certain works to be for the general advantage of Canada. And, finally, a whole series of specific economic powers touching tariff, trade, banking, commercial paper, "criminal law" and other matters were set out in such a way as to clearly suggest a union where the federal Parliament and administration were pre-eminent, a system potentially very centralist, perhaps even quasi-unitary, as some have described it.

The general rationale for this kind of confederation in 1867 is now widely understood. Evidence of federal weakness in the United States' system of the day, the economic fragility of the Atlantic provinces, the need to avoid the deadlocks and stalemates characteristic of the temporary union of Upper and Lower Canada after 1841 and, finally, the serious intent to have a strong, guiding hand in Ottawa, not unlike the role that London once played for the colonies and still played in their defence, foreign policy and certain other areas — all these were considerations in the grand design. There were genuflections to bilingualism in Section 133 protecting the English language in Quebec for courts and governmental purposes and the French language within certain federal institutions. And in Section 93 there was the parallel protection of school rights but in denominational terms which had its indirect consequences for language rights in Quebec because most Catholics spoke French, and Protestants English.

But essentially and fundamentally, the Fathers of Confederation were dealing with a union that had to be strong if it was going to

manage the northern half of a sparsely settled continent whose western lands were being hungrily viewed by a powerful neighbour emerging now with even greater strength from the trials of a recent civil war. What was not foreseen was that courts and events would redirect the intentions of men who lived and drafted the constitution in another time. By the end of the 19th century it was quite clear that the Privy Council saw federalism differently and that this interesting, if distant court, was soon to reshape the Canadian scheme and create "strong" provinces, juridically, whatever their social and economic resources in fact may have been.

Thus the real dilemmas of federalism became evident not so much in such interventions as in the conscription challenges of 1917. Here, after all, was war and in wartime the rules are changed in favour of the centre. The difficulties became evident as the great depression tore the mask of self-reliance from so-called "sovereign" provinces unable to bear without federal support the burdens of their jurisdictional claims. Unemployment, welfare, mortgage foreclosures, the deprivations in cities, villages and on the land simply could not be resolved by the slender resources of most of these governments. The Rowell-Sirois Commission began its work in 1937-38 as an exercise in reshaping the rationale of federalism to meet the evident requirements of mass unemployment. Legal and administrative tools had somehow to be newly designed to justify without subterfuge direct federal intervention in the larger, and smaller, needs of the economy, national and local. Indeed, one of the ironies of Canadian social history is that the Rowell-Sirois Report in 1940 turned out to be an immensely important exercise in education but its specifics were lost in the effective solutions to the legal and social problems of the day now given by war.

For it was war which changed the Canadian economy from under-employed to "overemployed", which removed mass poverty as an experience and suspended the argument over jurisdiction until it was, for the time, forgotten. By war's end, an almost wholly "managed" capitalist economy had evolved administrative and legal instruments covering wages and prices, supplies and profits, and labour relations. Ottawa collected the total income tax revenues through a single federal funnel under agreements with the provinces that shared the revenue on some equalizing basis resulting in a kind of rough equity for all, but with the pie administered by the national government.

This image of powerful economic management from the centre remained even after the war, buttressed not only by the tax-sharing agreements but also by the initiation, at the federal level, of many "social" programmes that otherwise might have seemed to have been

within provincial jurisdiction. For the spending power of a highly centralized tax collector became an instrument for direct or implied jurisdictional claims and was becoming perhaps as important in the delineation of powers as the legal niceties of Privy Council decisions or the becoming obsolescence of disallowance and reservation. And behind it all was an immensely confident political (Liberal) party, in office since 1935, that had built up an elitist civil service possibly even more self-confident than the politicians themselves. In short, by the middle 1950's, the Canadian federal system, despite seventy-five years of judicial decisions almost chronically shaped in favour of provincial power, had in fact become, through these countervailing measures — tax-sharing, federal spending, and social program-making — a strongly centralized system, at least in the areas of basic economic and social policy. And all this despite the fact that, technically speaking, prices, wages, resources, welfare and education, were within provincial jurisdiction.

What happened to bring this edifice of sublime managerial efficiency, and confident political control, into radical challenge by the provinces and to some extent by the public which only a few years before had welcomed federal power, if not war itself, as the rescuer of a desperate and weakened economy? The Liberal defeat of 1957, following the pipeline debate, now appears to have had deeper roots. Indeed, the rejection of the party in power by an increasingly prosperous public and provinces suggested that there were new problems for which the old insights were not enough. The rising demands of the late 'fifties and early 'sixties were those making claims reaching toward equality of opportunity and a fair share both of resources and of protection against the hazards of life and society. All of this meant new programs, from education to pensions, from medicare to farm supports. Suddenly it became evident that the neat solutions of the tax-sharing agreements and federal social initiatives might not be adequate to the day when the demands on provincial and municipal treasuries were rising far more quickly than statistical prophecy could anticipate. New generations of provincial civil servants, competent and aggressive, were appearing to buttress provincial leaders in their negotiations with Ottawa. Political parties of the same name no longer had the same necessary perspective when they were dealing with provincial as against federal interests. Indeed, in the case of Alberta and Saskatchewan, the two major traditional parties no longer even had a provincial following for a generation. In short, some new balance was necessarily to emerge that would somehow have to reflect the growing functions of the provinces side by side with the continuing and overriding role of the federal government in matters of national economic and "social"

policy. And, curiously, at that very moment, when that new balance would have to be discovered, both in institutions and perhaps in law, the need was reinforced by its interpenetration with the Quebec problem on the one side and the related English-French question throughout Canada on the other.

Thus "the Quiet Revolution" in Quebec which Jean Lesage ushered in with his administration in 1960 — but which really predated him by many years of artistic, intellectual and social ferment — gave a degree of social dynamism to the federal-provincial debate over powers, programs and monies that inevitably escalated the issue to the level of crisis. For while Mr. Duplessis had fought his battles for jurisdiction, his image was essentially negative and defensive — less a competition for funds and programmes than for an isolated "autonomy" almost for its own sake. Now to many Quebec leaders, self-preservation required some recognition of language rights at every level, federally and in all Provinces, while fulfilment for French-Canadians needed a new sense of opportunity in government, in management, not only in Quebec, but outside. And all of these would require institutions and funds and programmes which heretofore may have been in the possession of, or were carried on partly or wholly by, the federal government. Hence the French-Canadian debate in Quebec was married in this special way to the federal-provincial debate over new powers, new resources and new activities. Moreover, it was rediscovered that the law was heavily on the side of the provinces, as constitutional interpretation had evolved, when it came to such matters as education and welfare, wages and prices, resource development, hospitals — indeed, a whole range of matters touching the individual intimately.

Hence the Canadian crisis since 1960-61 has had inner, self-escalating elements mutually reacting on each other that transcended in complexity and potential danger any of the previous threats to the viability of Confederation.

What English-speaking Canadians, even in Quebec, were slow to realize was the extent to which intellectual and political leaders in French-speaking Quebec had evolved a new self-image, had re-evaluated their place in the sun and found it wanting, had examined the status of fellow French-speaking Canadians elsewhere and found it too, wanting, in the matter of economic opportunity, of language and school rights. For the first time, serious and otherwise moderate Quebecers of the Francophonic family began to ask whether there was not a separate option open to them if their new vision of Quebec and its place in Canada somehow could not be fulfilled within the present system.

The movement toward "co-operative federalism" and the use of the "opting-out" procedure between 1963 and 1965 was a creative federal response to this new situation. But to have succeeded, co-operative federalism would have had to almost bind the federal government in any program to consult at every stage at which a provincial jurisdictional interest might possibly be involved, before that program was enacted; and conversely, each province would have been equally obliged to consult. And, while in fact, more consultation took place, and has taken place since, on programs than at any time in federal-provincial history, none of the governments was prepared to permanently institutionalize the consultative obligation — as yet. Similarly, the opting-out programme was, as Mr. Trudeau began to point out as early as 1966, a means for indirectly creating a "special status" for the one province making use of it, namely, Quebec, since it was not a mechanism that seemed sufficiently attractive to other provinces to be worth the administrative trouble.

The decline of co-operative federalism after 1965 was reinforced by the failure of the Fulton-Favreau Formula to be accepted as a means of constitutional "repatriation" and amendment. And when to this were added the serious debates over medicare and pensions, it was clear by 1966-67 that somehow constitutional responses to the everchanging balances between federal and provincial functions were not going to be easy to discover. Indeed, the irony was that, on paper, by the beginning of 1967 Canadian federalism already was one of the more decentralized federal systems of the western world. Yet a high degree of authority still remained in the federal centre, resting upon its power to spend and to initiate joint or shared programs and, of course, resting also on its overall responsibility for the economy expressed through the tax-sharing agreements, fiscal and monetary policy, and through the management of foreign exchange policies and other direct and indirect economic mechanisms.

The severe debates between Mr. Lesage and the federal government were by no means reduced in substance even if they were somewhat modified in tone by the late Daniel Johnson when he came to office in 1966. A whole series of unsettled and unsettling questions remained to be gingerly handled: university financing; vocational training; Quebec and international relations; Indians and Eskimos; offshore mineral rights; medicare (the pension problem having been resolved); and the demand for constitutional reform, generally, both for symbolical and substantive reasons.

Nor were matters helped by the intervention of General de Gaulle on his visit to Canada at the height of Expo and the evidence that under him French policy was mischievously playing with pro-

separatists and their slogans, relying on a Quebec Gaullist temper to respond. Meanwhile, the growing pressure on a cautious federal government to undertake some leadership in the area of constitutional review and reform was partly met by the initiatives of Mr. Robarts and Mr. Johnson, particularly the former, in designing the Confederation of Tomorrow Conference of December, 1967. It should not here be forgotten that General de Gaulle again intervened by remarks bound to influence the Conference; that the Estates-General met in Montreal just days before and passed strongly nationalist, anti-federalist resolutions; that Mr. Johnson gave a moderately-toned but toughly articulated statement of Quebec's demands; and, finally, that the entire exercise was climaxed by the emergence within a few days afterwards of Volume I of the *Report of the Royal Commission on Bilingualism and Biculturalism*.

The truth is that most of the Premiers attending the Conference were not prepared for the "hardness" of Mr. Johnson's position and the cold experience of listening to him was a rapid education in the Canadian crisis eased only by the diplomacy of Mr. Robarts in his management of the Conference. But if they were not persuaded in Toronto, the Premiers had their education furthered by the *B. and B. Report* which set out in concrete terms the means and necessity for a program of bilingualization, federally and in all provinces, if Confederation was to survive.

Mr. Pearson, having announced earlier in the autumn of 1967 that he would hold a Conference of Premiers on the constitution in February of 1968, was compelled by these developments to alter the scope of the agenda from a rather simplistic concern with a possible bill of rights to a wholly open-ended conference on the future of constitutional review and possible reform, and a new emphasis on language rights. That Conference is now historic for a number of reasons. It demonstrated the growing political significance of the Conference of Prime Ministers and Premiers as a kind of authoritative "constitutional" device for policy-making in Canada — with implications that have yet to be fully explored and understood. It disclosed the gulfs between Quebec on the one hand, Ontario and New Brunswick as a second group, and perhaps all the other provinces as a third area, on the character and content of possible constitutional reform, with the federal government itself anxious to confine the immediate dialogue to language rights and possibly a charter of human rights. But its most important achievements were the clear victory — and most particularly for federal leadership — in obtaining a kind of consensus on language rights without prejudging methods of enforcement by constitutional entrenchment or

otherwise. Of equal significance was the agreement to establish permanent consultative and study machinery, through the creation of the Constitutional Conference of Prime Ministers and Premiers and the Continuing Committee of Officials to examine the whole question of constitutional review and possible change.

These officials now have met on five occasions since May of 1968 and Mr. Trudeau has announced that he hopes the Premiers will meet in conference again, in February, 1969, to consider what has been achieved.¹

Meanwhile Mr. Johnson has been succeeded by Mr. Bertrand; Mr. Manning, a conservative participant in the constitutional dialogue has left; and Mr. Smallwood, an enthusiastic supporter of Mr. Trudeau, will soon retire. In New Brunswick an official languages act will soon make the province officially bilingual — schools, government, agencies, courts, legislatures, etc. In Ontario much the same policy is being evolved without the full New Brunswick range being formally adopted in an official languages act. Newfoundland is to “bilingualize”, which is essentially a gesture to its Labrador minority and to the development of French as a second language in Newfoundland schools. Elsewhere throughout Canada the movement toward a bicultural society, certainly at the federal level with the new *Official Languages Act*, and slowly, variously but steadily in some provinces, suggests that a great Canadian watershed may one day soon be reached. Indeed, were it not for the irony of the new language issue in Quebec — where English-language school rights may be in partial jeopardy because they depend upon denominational protection, not on language protection as such — the picture would be one inviting a salute of optimism.

As for the future, there is no public knowledge about the work of the Continuing Committee of Officials and, as yet, of the forthcoming agenda of the Conference of First Ministers. But Quebec (and now British Columbia) have made public their main submissions to the Officials' Committee, and it is no secret that several governments also have prepared submissions dealing with the method and substance of constitutional review and reform. These are being discussed by the Officials and may be made public and be discussed by the Prime Minister and Premiers at the February, 1969 meetings.

* * *

¹ At the request of the Hon. J.J. Bertrand the Conference was postponed until February, 1969, since Mr. Bertrand's illness prevented him from attending the meetings planned for December, 1968.

Certain conclusions may be drawn from these developments. They are the following:

First

The formation of René Lévesque's new party, the "Parti Québécois", the "priority doctrine" with respect to the French language in Quebec held by both the *Union Nationale* and the provincial Liberals, and the surprising mishandling there of the St. Leonard English language school affair of recent months, all testify to the continuing potential of crisis that must qualify any too rosy an image of the federal future. To put it plainly, it would be a mistake to pretend that Quebec's "nationalism" is strongly in retreat and that some permanently moderate and accomodating force has now triumphed for the long run. Nevertheless, Mr. Trudeau's strategic victory on a strong federalist platform also was supported by the *Créditistes* who are vigourously anti-separatist, and this suggests that, for the time being, the Quebec belief in a viable French-English-speaking Canada is stronger than it has been at any time within the past half-dozen years.

Second

That faith, both in Quebec and elsewhere, can only be maintained if the movement toward the provision of French language and school opportunities in all provinces is proceeded with as quickly and as generously as possible. This must be said because of the fuel to reaction provided by the St. Leonard affair. Hopefully, it will find its own Quebec solution. Indeed, if it does not, if language and school rights are not wholly and fully re-protected in Quebec, then bilingualism and biculturalism are in danger even there, and once in danger in Quebec, they cannot succeed elsewhere in Canada. But nothing would retard a moderate solution to the Quebec situation more than to have some "instant" backlash in the other provinces stimulated by a premature and mistaken judgment on the Quebec future for English language rights. There is reason to hope that the present language rights legislation before the Quebec Legislative Assembly will receive, in due course, Assembly approval.

Third

No one can predict what will come out of the present exercise in constitutional review. An optimist may be permitted to believe that only good can emerge from common study by the Premiers and their Officials, and that such study may help to de-politize many matters which do tend to be escalated artificially into

issues when there may be technical and symbolic solutions that could do justice to the claims concerned.

Fourth

For the constitutional study to succeed, however, all provinces, together with the federal government, must participate with full interest and a commitment to the program. It is not revealing any secrets — since the Prime Minister of Canada himself so informed the Canadian Bar Association in Vancouver last September — that several provinces have yet to demonstrate a serious concern with this exercise in constitutional review and reform. This may be understandable from their point of view because for the most part, except perhaps on the question of their fair share of tax revenues, or having certain federally initiated programs imposed upon them, these provinces are quite content with the present constitutional structure and its division of powers. Indeed, this is a view many students generally share, but it is no excuse for neglecting to have a completely open mind in view of the anxieties of others on the desirability of constitutional review and the possible alternatives available for constitutional reform. There is here no place for “opting out”. No province can avoid the responsibility of sharing in this fundamental re-appraisal of the political and legal framework for Canadian society.

Fifth

It is urgent that public opinion ask itself the question as to its role in these proceedings, now undertaken at the Premiers' and Officials' level. How does the popular will get a reasonable chance to penetrate the high screen of political authority and *fonctionnaires'* privacy? How shall we be certain that the best minds in Canada, in the universities and among writers and journalists, in labour, business and agriculture have a chance to influence the search for means to constitutionalize “the just society”? This is not an easy question to answer and a wise response also requires some new understanding of the authority under which the Premiers themselves operate to agree upon and to implement constitutional change. On one level their mandate is easily recognizable as a necessary aspect of the general purposes of government. Yet that mandate may not be so easy to identify for all the problem of fundamental constitutional revision, should it take place.

Sixth

There is public knowledge that reform is desired by some governments in the matter of the Senate and the Supreme Court of

Canada, while Quebec is insistent on a total re-examination of the division of powers, with a particular concern for such matters as international agreements, offshore mineral rights, radio and television, immigration, and social welfare programs. All provinces are interested in the future of tax-sharing arrangements, and they should be interested if they are not, in some national approach towards common budget control and planning. It is possible we may have to consider converting the Tax Structure Committee into some kind of formal or informal agency for dealing with revenues and expenditures by all governments, particularly in view of the fact that the combined budgets of the provinces and municipalities now exceed that of the federal government.

Seventh

Finally, the human condition requires satisfaction for the spirit, and if there is to be an identifiable Canadian community, it may be that the syntax and the symbols that unite Canadians must somehow be designed and restated for new times and new men. But such a restatement should leave Canada stronger than it was, not weaker; otherwise the search for a viable federalism will have been all vanity and frustration.²

² Since this paper was prepared, the Honourable J. J. Bertrand, the Prime Minister of Quebec, has introduced Bill 85 designed to deal with the protection of English and French language School and other rights. This legislation has been referred to a Committee of the Quebec Legislative Assembly and its controversial nature is now evoking wide public debate. The two main issues are whether the Bill will actually protect the rights of all Quebec residents to choose the language of instruction for their children and whether the French language will have some kind of priority in public and private business and possibly in education as well, at least for "new Canadians". In any case, while there appears to be a most serious effort on the part of the government of Quebec to come to grips with these problems there is no indication that the government or any Quebec political party are prepared to "entrench" in the constitution English language rights as such, at this time.