

Pamphlet

No. 4



SOCIAL
RECONSTRUCTION
AND
THE B. N.A. ACT

F. R. Scott

build a new society without
destroying the constitution?

J.C.F. programme possible under
British North America Act?

These are the questions discussed in this
provocative pamphlet.

The League for Reconstruction

The L.S.R. has as its object the promotion of research, the education of public opinion, and the development of political organizations seeking the establishment of a planned and socialized economy in Canada. It is not affiliated with any political movement, but through publications, research, meetings and the association of its members with farmer, labour, or other sympathetic groups, it fosters a public opinion in support of the social objectives of the League.

The League was organized in 1931. It has provided memoranda to sympathetic members of parliament, has made representations to parliamentary committees and Royal Commissions, has conducted study courses, and has organized speaker's itineraries and radio broadcasts.

There are branches of the League in Montreal, Toronto, London, Hamilton, Calgary, Vancouver, Victoria and other Canadian cities. The membership consists of full members, subscribing to the League's programme, and associate members, expressing sympathy with it.

The L.S.R. is financed by membership fees and contributions. The fee for membership-at-large is two dollars a year. Applications for membership and contributions to the League's work are invited, and further information may be obtained from the Acting Secretary, Graham Spry, 97 George St., Toronto 2.

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Social Reconstruction and The B.N.A. Act

By
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APPENDIX 1

Extract from the Quebec Resolutions of 1864

In the Federation of the British North America Provinces the system of government best adapted under existing circumstances to protect the diversified interests of the several Provinces, and secure efficiency, harmony, and permanency in the working of the Union—would be a General Government charged with matters of common interest to the whole country, and Local Governments for each of the Provinces charged with the control of local matters in their respective sections.....

APPENDIX 2

THE BRITISH NORTH AMERICA ACT,

Sections 91, 92 and 95, Dealing with Distribution of
Legislative Powers

Powers of the Parliament

91. It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order, and good government of Canada in relation to all matters not coming within the classes of subjects by this act assigned exclusively to the legislatures of the provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this act) the exclusive legislative authority of the Parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated, that is to say:—

1. The public debt and property:
2. The regulation of trade and commerce:
3. The raising of money by any mode or system of taxation:

4. The borrowing of money on the public credit:
5. Postal service:
6. The census and statistics:
7. Militia, military and naval service, and defense:
8. The fixing of and providing for the salaries and allowances of civil and other officers of the government of Canada:
9. Beacons, buoys, lighthouses, and Sable Island:
10. Navigation and shipping:
11. Quarantine and the establishment and maintenance of marine hospitals:
12. Sea coast and inland fisheries:
13. Ferries between a province and any British or foreign country, or between two provinces:
14. Currency and coinage:
15. Banking, incorporation of banks, and the issue of paper money:
16. Savings banks:
17. Weights and measures:
18. Bills of exchange and promissory notes:
19. Interest:
20. Legal tender:
21. Bankruptcy and insolvency:
22. Patents and invention and discovery:
23. Copyrights:
24. Indians and lands reserved for the Indians:
25. Naturalization and aliens:

26. Marriage and divorce:
27. The criminal law, except the constitution of the courts of criminal jurisdiction, but including the procedure in criminal matters:
28. The establishment, maintenance and management of penitentiaries:
29. Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this act assigned exclusively to the legislatures of the provinces:

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this act assigned exclusively to the legislatures of the provinces.

Exclusive Powers of Provincial Legislatures

92. In each province the legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated; that is to say:—

1. The amendment from time to time, notwithstanding anything in this act, of the Constitution of the province, except as regards the office of Lieutenant-Governor:
2. Direct taxation within the province in order to the raising of a revenue for provincial purposes:
3. The borrowing of money on the sole credit of the province:
4. The establishment and tenure of provincial offices and the appointment and payment of provincial officers:
5. The management and sale of the public lands belonging to the province, and of the timber and wood thereon:

6. The establishment, maintenance, and management of public and reformatory prisons in and for the province:
7. The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the province, other than marine hospitals:
8. Municipal institutions in the province:
9. Shop, saloon, tavern, auctioneer, and other licenses, in order to the raising of a revenue for provincial, local, or municipal purposes:
10. Local works and undertakings, other than such as are of the following classes:
 - a. Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the province with any other or others of the provinces, or extending beyond the limits of the province:
 - b. Lines of steamships between the province and any British or foreign country:
 - c. Such works as, although wholly situate within the province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more provinces:
11. The incorporation of companies with provincial objects:
12. The solemnization of marriage in the province:
13. Property and civil rights in the province:
14. The administration of justice in the province, including the constitution, maintenance and organization of provincial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts:

15. The imposition of punishment by fine, penalty, or imprisonment for enforcing any law of the province made in relation to any matter coming within any of the classes of subjects enumerated in this section:
16. Generally all matters of a merely local or private nature in the province.

Agriculture and Immigration

95. In each Province the Legislature may make laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from time to time make laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any law of the Legislature of a Province, relative to Agriculture or to Immigration, shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

APPENDIX 3

Some Books and Articles on the Canadian Constitution Books

- W. P. M. Kennedy—Statutes, Treaties and Documents of the Canadian Constitution (1930).
- W. P. M. Kennedy—The Constitution of Canada (1922). The standard constitutional history.
- A. Brady—Canada (1932)—especially Chap. 2.
- E. Porritt—Evolution of the Dominion of Canada (1918).
- R. A. MacKay—The Unreformed Senate of Canada (1926).
- H. A. Smith—Federalism in North America (1923).
- R. McG. Dawson—The Civil Service of Canada (1929).
- R. McG. Dawson—Constitutional Issues in Canada, 1900-1931 (1933). A collection of extracts from parliamentary debates and journalistic discussion of the last generation.
- W. A. Munro—American Influence on Canadian Government (1929).

Pamphlets and Articles

- N. Rogers—The Compact Theory of Confederation (Can. Pol. Science Ass'n., 1931)
- J. W. Dafoe—Revising the Constitution (Queen's Quarterly, Winter, 1930)
- F. R. Scott—The Development of Canadian Federalism (Can. Pol. Science Ass'n. 1931)
- W. P. M. Kennedy—Law and Custom in the Constitution (Round Table, Dec. 1929)

- G. H. Ferguson—Amendment of the Canadian Constitution
(King's Printer, Toronto, 1930)
- F. H. Underhill—Amendment of the B.N.A. Act (Canadian Forum,
September, 1929)
- N. A. MacKenzie—The Federal Problem and the B.N.A. Act (in
Canadian Problems, 1933)
- F. R. Scott—The Privy Council and Minority Rights (Queen's
Quarterly, Autumn, 1930)
- J. S. Ewart vs. G. H. Sedgewick—Judicial Appeals to the Privy
Council (Queen's Quarterly, Summer, 1930)
- G. Dexter—Commerce and the Canadian Constitution (Queen's
Quarterly, May, 1932)
- H. R. Kemp—Is a Revision of Taxing Powers Necessary? (Can
Pol. Science Ass'n., 1931)
- N. Rogers—Federal-Provincial Relations (in the Liberal Way, 1933)
- Dept. of Economics, Queen's University—Financial Problems of
our Federal System (Queen's Quarterly, Winter, 1933)
- J. A. Maxwell—Better Terms (Queen's Quarterly, February, 1933)
- J. A. Corry—Administrative Law in Canada (Can. Pol. Science
Ass'n., 1933)
- E. Lapointe—Le Statut de Westminster et L'Evolution Nationale
du Canada.

The Programme of the L.S.R.

The L.S.R. seeks the establishment in Canada of a new social order which will substitute a planned and socialized economy for the existing chaotic individualism, and which, by achieving an approximate economic equality among all men in place of the present glaring inequalities, will eliminate the domination of one class by another.

Its detailed programme of "first steps" towards these ends is as follows:

(1) The creation of a National Economic Planning Commission as the principal organization for directing and co-ordinating the operation of the whole economy in the public interest.

(2) Socialization of the machinery of banking and investment to make possible effective control of credit and prices and the direction of new capital into socially desirable channels.

(3) Public ownership (Dominion, provincial or municipal) of transport, communications, electric power and such other industries as are approaching a condition of monopoly, and their operation, under the general direction of the planning commission, by competent management divorced from immediate political control.

(4) The development of co-operative institutions in every sphere of economic life where they are appropriate, notably in agricultural production and marketing and in the distribution of necessities to consumers.

(5) The establishment of import and export boards for the regulation of foreign trade.

(6) Social legislation to secure to the worker adequate income and leisure, freedom of association, insurance against illness, accident, old age, and unemployment, and an effective voice in the management of his industry.

(7) Publicly organized health, hospital and medical services.

(8) An aggressive taxation policy designed not only to raise public revenues but also to lessen the glaring inequalities of income and to provide funds for the socialization of industry.

(9) The amendment of the Canadian constitution, without infringing upon legitimate provincial claims to autonomy, so as to give the Dominion Government adequate power to deal effectively with urgent economic problems which are essentially national.

(10) A foreign policy designed to obtain international economic co-operation and to promote disarmament and world peace.

Publications of the L.S.R.

What to Read—A Guide to Books on Social Questions.

Handbook of the League for Social Reconstruction.

The Manifesto of the League for Social Reconstruction.

PAMPHLETS OF THIS SERIES

- (1) **Dividends and the Depression, by E. A. Forsey.**
- (2) **Combines and the Consumer, by the L.S.R. Research Committee.**
- (3) **The Church and the Economic Order, by Ernest Thomas.**
- (4) **Social Reconstruction and the B.N.A. Act, by F. R. Scott.**