

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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The League for Social Reconstruction sets before itself the ideal of a society whose inhabitants shall enjoy, in an approximately equal degree, the material wealth, security and leisure that modern power production makes plentifully possible for everyone. To obtain this objective, the League believes that public ownership and co-operative institutions will have to be widely developed over agriculture, industry and commerce so that production may be carried on for use and not for private profit. Only by eliminating private profit-seeking ownership of the means of production, it is claimed, can be secured the equitable distribution of wealth which is the basis of social justice, and the national planning which is the basis of efficiency.

The L.S.R. further holds that the change to this new society can be achieved without a violent break with Canadian political tradition, or a forceful overthrow of existing institutions. The idea of economic equality is becoming increasingly accepted as people realize that the age of plenty is within our grasp, and that mass consumption is a necessary counterpart to mass production. Economic equality is the logical extension of the of the democratic principle. It will give to our political democracy a reality which is unattainable under the present maldistribution of wealth, for to talk of liberty and democracy in a country where millionaires and paupers co-exist is mere romanticism. While not minimizing the strength or ruthlessness of the vested interests opposed to reconstruction, the League considers that legitimate forms of political action will be adequate to overcome them, given the numerical strength of those who may be expected to welcome and to work for the change. The L.S.R. is thus anti-Fascist and anti-Communist. Fascism is dictatorial control without equality, and Communism,

though desiring equality, expects to be forced to use violence for the achievement of political power, and has abandoned all faith in the parliamentary process. (1)

These fundamental ideas underlying the L.S.R. movement are true also of the new political organization, the Co-operative Commonwealth Federation. The C.C.F. party, starting from the same premises, has adopted a programme of political action essentially similar to that put forward by the L.S.R. Consequently the discussion in this pamphlet of the constitutional problems facing the reconstruction movement will apply equally well to both the L.S.R. and the C.C.F. manifestos.

Before proceeding to a more detailed analysis, it may be well to set at rest certain popular fears regarding the constitution. There need be no serious concern, it would seem, about the position of the Crown. Monarchy of the English type is quite consistent with a fair distribution of wealth and social ownership of industry. So long as the Crown follows the constitutional convention of keeping out of politics, and continues to obey the will of the people expressed through a responsible ministry, there will be no need for its abolition. The royal veto is as dead as Queen Anne, and it would be unconstitutional to revive it. We only ask it to stay dead. In Canada the Crown is represented by a Governor-General (who may, if we wish, be a Canadian) and by provincial Lieutenant-Governors. These officers are not incompatible with the co-operative commonwealth, in which they may continue to function rather like appointed presidents. It is the social snobbery which surrounds the Crown, rather than the Crown itself, which will have to disappear.

So too the membership of Canada in the British Commonwealth presents no special problem. Indeed, if the English Labour Party recovers from the defeat of 1931, as it already shows

(1) There are, of course, other points of difference between Socialism and Communism: e.g., Communism is avowedly atheistic, while Socialism is not.

signs of doing, membership in the Commonwealth may prove a positive advantage. At any rate the political freedom of Canada since the Statute of Westminster, 1931, has been adequately secured. Canadians are free to work out their own salvation within the Commonwealth in any way they see fit, without the least likelihood of interference from the other members. And as far as the appeal to the Privy Council is concerned, while its continuation is not consonant with Canada's new status, there is quite as much liberalism to be expected from that body as from the Canadian Supreme Court, and therefore as little obstruction.

The federal nature of our Dominion constitution will also need no radical alteration. Federalism must remain, as much for the security of minority rights as for the convenience—in a country as large and as varied as Canada—of leaving local problems to be handled by local governments. The problem of amendments to the B.N.A. Act will be discussed later, but here it may be said that the question is not whether we should scrap the federal system and create a unitary state under a single parliament, but how we must redistribute legislative powers so as to make the federal constitution of 1867 suitable to the needs of the Canadian people at the present time.

It does not appear, therefore, that the Crown, the Commonwealth or the federal principle stands in the way of reconstruction. It is important also to remember that there are two fundamental rules of the Canadian constitution which render the task of social change in Canada easier than it would be under a different legal system. The first is the doctrine of the sovereignty of parliament. Speaking generally, there is no law that some parliament or parliaments in Canada cannot make. So long as the Provinces and the Dominion keep within their defined areas, they may legislate as they please; between them they may do everything that is not physically impossible. No

doctrines of natural justice, divine law, rights of property, or sacredness of contract, can be invoked to upset an act of parliament. This is not true of some legal systems. In the American constitution, for instance, there are certain protections of property rights, certain guarantees of personal liberties, which no legislation may infringe, and it is notorious that these have frequently been invoked to prevent much needed social legislation. Canada knows of no such limitations. Here property may be confiscated without compensation or contracts may be set aside, simply by majority vote in the appropriate parliament. Needless to say, in pointing out this legal fact no particular policy is being advocated. What compensation is to be paid to owners of industries that are socialized is a political rather than a constitutional question.

Secondly, the Canadian constitution is free from any doctrine of the separation of powers. Parliament may delegate legislative, executive and even quasi-judicial powers to a single person or body. Thus have been evolved in Canada the numerous commissions which control our railways, manufacture and sell electric power, distribute liquor, and generally carry on the numerous economic and regulatory functions of the modern state. It is quite constitutional for Parliament to make itself more and more a purely supervisory body, enunciating general lines of policy and leaving detailed operation to other institutions—such as a planning commission, for instance. Both the provincial and the Dominion Parliaments possess this power, each within its own sphere of jurisdiction. The only constitutional difficulty that is met with here is in regard to the appointment of the officers of such delegated authorities. If their powers can be considered judicial, then the Dominion government, which alone can nominate judges, must make the appointment under Sec. 96 of the B.N.A. Act. It is on this ground that many provincial commissions have been attacked, but so far they seem to have stood the test in almost every case. It would seem that a Dominion com-

mission could never be attacked on this ground, nor on the ground that the Provinces control the creation of courts, since the Dominion may also create any courts it chooses for the better enforcement of the laws of Canada.

Having disposed of these preliminary questions, the more specific constitutional problems facing a Canadian party devoted to the cause of social reconstruction may be considered. It will be convenient, in this analysis, to state first the general powers possessed by the Dominion Parliament under the B.N.A. Act as it stands; then to consider the possible adequacy of these powers for the great changes which our federal government will be required to make; and finally, in the light of these inquiries, to estimate the nature and extent of the amendments to the B.N.A. Act which are likely to be needed, and the manner in which they should be sought. Necessarily much of what follows will be rather legal. The problems that confront us are not physical but social—questions of organization and distribution, not of productive technique. The main instruments of planned and orderly social change are acts of parliament—that is, laws. Members of the L.S.R. and C.C.F. should be as well-equipped to argue general principles of constitutional law as they should be to deal with general principles of economics. The forces of obstruction will inevitably use the constitution for their own protection. They must not be aided by public ignorance of what may be lawfully accomplished.

The general Dominion powers most likely to be useful in the process of reconstruction will be discussed under the seven headings that follow.

I. The Dominion Residuary Power

The B.N.A. Act divides the power to make laws for Canada between the Dominion on the one hand and the Provinces on the other. Certain subjects, like banking, criminal law, etc., are mentioned as belonging to the Dominion Parliament. Certain

others, like property and civil rights, are mentioned as belonging to the Provinces. These Dominion and provincial powers which are mentioned by name are called "specified" or "enumerated" powers. In addition, the Dominion and the Provinces have each given residuary powers; that is, power to make laws upon subjects which were not actually specified at the time of Confederation. The Dominion residuary power covers all matters relating to the peace, order and good government of Canada which do not "come within" the subjects assigned to the Provinces. The provincial residue contains all matters of a "merely local or private nature in the province." In this way the whole field of self-government is covered, and (with minor exceptions) power to do anything can be found in the Act, even though it is not specifically mentioned.

The Dominion residuary clause has hitherto proven of little use in the development of the Constitution. The courts seem loath to rely upon it if they can possibly bring a matter within a specified power. As "property and civil rights," a specified provincial subject, is wide enough to cover almost everything that may be dealt with by law, it has become the effective residuary clause in the constitution, and consequently provincial powers have grown very greatly since 1867 at the expense of federal powers. New subjects as they arose were put under property and civil rights rather than under the Dominion residuary clause. The whole field of social legislation, for example, such as old age pensions, minimum wages acts, laws restricting hours of labour, factory acts, unemployment insurance and relief, and the like, is considered to fall within property and civil rights, and hence is provincial. None of these subjects is specifically mentioned in the B.N.A. Act. Even the control of trade and commerce is now considered a matter of property and civil rights in so far as local trade within the province is concerned. Thus, co-operative institutions, liquor control, hydro-electric power production and distribution, insurance, and other unspecified subjects, belong primarily to the Provinces. This

is true, not only despite the Dominion residuary clause, but despite also the power to regulate trade and commerce, which is specified in the B.N.A. Act as belonging to the Dominion.

The Dominion residuary clause has thus been of little value in the past. Social reconstruction in the form of Dominion legislation will not receive much assistance from it. There are, however, two important uses to which this power may be put. The first is the emergency use. In times of national danger or crisis, whether arising from war, internal disorder or otherwise, the Dominion may legislate for the national safety on matters which normally would fall within the provincial sphere. This power was used, for instance, to control the price of newsprint during and immediately following the World War, and such legislation was upheld by Lord Haldane in the *Fort Frances Pulp and Paper Company case* ⁽²⁾—an instance, be it noted, of economic, not military, control. In order to save the country in the emergency, there is practically no limit to which the Dominion Parliament may not go in the way of fixing prices or controlling essential industries and services. Parliament delegated most of this power to the Government for a limited time in the Relief Acts of 1931-1933. Even at the present moment, with a million or more people on direct relief, it is probable that the Dominion Parliament has the legal power to take over the whole administration of relief regardless of provincial objections: the present emergency would seem to be as great as that which justified controlling newsprint in 1919. This use of the residuary clause is an instance of what may be called the "growing up" doctrine—the rule that subjects in their nature local and provincial may attain such dimensions as to affect the body politic of the Dominion, and in such case in their larger aspect may cease to "come within" the subjects assigned to the Provinces, and may properly be legislated for by the Dominion Parliament.

(2) 1923 A.C. 695.

It is thus true to say that a national crisis, if severe enough, will automatically increase Dominion legislative powers. Should the crisis take the form of real or apprehended war, invasion or insurrection, then the Dominion Government can by Proclamation invoke the existing War Measures Act, which gives the Governor-General-in-Council power, amongst other things, to regulate transportation, production and manufacture, and the appropriation and distribution of property.⁽³⁾ In such circumstances, a full cabinet dictatorship, limited only by the length of time of the disturbances, is already provided for in our constitution. The government may act by order-in-council without the need of obtaining the assent of Commons and Senate. The weakness in these emergency powers, however, lies in their temporary character. They cease when the emergency ceases. Theoretically everything should be put back to its former position when order is restored. But economic changes made to restore order might well have lasting effects.

The second important use of the residuary clause is in regard to laws giving effect to Canadian treaties and conventions. These were naturally not conceived of in 1867. In the Radio Broadcasting case⁽⁴⁾ the Privy Council held that power to enforce these treaties fell within the Dominion residuary clause. This may prove to be a judgment of great importance. It seems to leave the way open for Dominion control of any aspect of the internal life of Canada, so long as the matter is covered by an international agreement to which Canada is a party. If radio can be thus controlled, why not wheat production, hours of labour, and so forth? True, there were additional grounds for Dominion control of radio, but a progressive government at Ottawa might feel reasonably sure of constitutional support in any attempt to bring the industrial and economic life of Canada into line with a general world programme agreed upon at an international conference. There has hitherto been no attempt

(3) Revised Statutes of Canada, Chapter 206.

(4) 1932 A.C. p. 304.

on the part of the Dominion Government to give effect to Conventions drawn up by the International Labour Office, if they dealt with social questions normally of a provincial nature. Such Conventions are simply referred to the Provinces, where they die. This is probably due as much to unwillingness to adopt them as to any legal difficulties in the way, though of course, the excuse given is always the legal one. If the Dominion Government decides to adhere to a draft Convention agreed upon by the Labour Office, there is strong ground, since the radio case, for supposing that her adherence would give parliament the same power to pass implementing legislation as the radio judgment says it possesses in regard to ordinary Conventions.⁽⁵⁾

II. Banks and Banking

An immediate and essential step in any scheme of reconstruction and of planning is the control of credit. At present ten banks in Canada, operating through some 170 directors, perform this function in the interests of the shareholders of the banks and of the corporations which bankers control through interlocking directorates and similar devices. To control credit for the purpose of keeping the price level as stable as possible, and for the directing of investment into socially necessary channels,—whether it be new factories, housing schemes or what not—it is essential that there should be a nationally owned and controlled banking system.

There seems to be no doubt whatever that the Dominion Parliament can create such a banking system under the B.N.A. Act as it stands. Section 91 of the Act gives to the Dominion Government the power to make laws relating to banking, in-

(5) The Canadian Supreme Court decision of 1925, in regard to the Washington Convention on hours of labour, besides being a judgment of an inferior court, can be distinguished on the ground that that Convention merely obligated the signatories to refer the question of the 8-hour day to the appropriate authorities, and the Supreme Court held these to be the Provincial Governments. Had the Convention bound Canada to enforce an 8-hour day, the result, it is submitted, would have been different. 1925 3 D.L.R. p. 1114.

corporation of banks, and the issue of paper money; savings banks; currency and coinage; interest; and legal tender.

Here are five allied and enumerated subjects belonging already to the Dominion, and covering the matter in question very thoroughly. Existing banks could, when necessary, be taken over completely, on such terms of compensation as the Dominion Parliament saw fit to impose. To the national banking system could be added a National Investment Board with power to supervise and regulate the issuance of long-term credit. In so far as an increase in the note issue of the Dominion might be required as part of a plan of controlled inflation, it could also be done immediately.

Of course, loans from banks are not the only sources of industrial credit, and there would remain opportunities for provincial companies to raise money in ways which the federal bank or the Investment Board might not be able to control. There does not seem, for instance, to be any way in which, through Dominion action, a provincial company could be prevented—assuming, in a given case, it were desirable—from selling stock to the public and so financing itself. So, too, the provincial governments and corporations might float bond issues. But with the general control of the credit policy of the country which the Dominion bodies would possess, including interest rates, such exceptions would probably not seriously affect or interfere with a national financial plan. The balancing of production and consumption through monetary and financial control, and the direction of the bulk of the national savings into selected channels of investment, would seem broadly possible without any change whatsoever in the present distribution of powers as between Provinces and Dominion.

Of further value in this regard is the power of the Dominion to fix interest rates. At present this is used to prevent usurious rates of interest by money-lenders, and to establish a legal rate where none is provided for by contract. But it could also be

used as part of the financial plan of a reconstruction government, and is a valuable addition to the other Dominion powers of a like nature.

III. Trade and Commerce

The Fathers of Confederation confided the regulation of trade and commerce to the Dominion Parliament. The power was not in words restricted, as is the equivalent federal power under the American Constitution, to "commerce with foreign nations and among the several states." It was an unqualified power to regulate trade and commerce. In early cases before Canadian courts, notably in the first Supreme Court judgments dealing with the Liquor Traffic, Canadian judges were inclined to give rather wide powers of control, and even of prohibition of trade and commerce generally, to the Dominion under this head. The Privy Council, however, has taken a much narrower view of the power, and in judgments during the past forty years has so watered down the section that it has proved one of the least effective provisions in the B.N.A. Act. It has failed, under this interpretation, to support Dominion control of liquor, of insurance, of through traffic from Dominion to provincial railways, of combines and hoarding under the Board of Commerce Act of 1919, of industrial disputes under the original Lemieux Act of 1907, and even—in part at least—of the grain trade of Canada. This suggests that, despite the express words of the Act, the regulation of trade and commerce is normally a matter of property and civil rights. It is now true, to say, as Mr. Justice Duff said in the Lawson case,⁽⁶⁾ that the Provinces have an exclusive authority to "regulate local trade within their own borders." What the Dominion is confined to under this head may be summed up as

1. Trade between Canada and foreign countries.
2. Regulation of trade in matters of interprovincial concern.

(6) 1931 S.C.R. at p. 371.

Foreign trade is easy to identify, but just when a trading matter becomes one of "interprovincial concern" it is hard to say. Insurance, through railway traffic, the grain trade and the other subjects mentioned above do not appear to have met this requirement. Can anything be more important to Canada than the marketing of the wheat crop? Yet the Supreme Court of Canada in 1925⁽⁷⁾ cast such grave doubts upon the constitutionality of the then existing Grain Act, despite the supposed Dominion power over trade and commerce, that a new act had to be passed. Apparently the trade would have to reach a condition so serious as to create something like an emergency before the National Parliament could interfere.

Significantly enough, while the trade and commerce clause has so long failed to assist Dominion legislation in any real degree, it has recently been invoked to invalidate provincial legislation. The Province of British Columbia by the Produce Marketing Act of 1927 created a Committee of Direction to control and regulate the marketing of all fruits and vegetables produced in a certain district in the Province. The Committee had power to decide the quantities of the produce which should be marketed, the places to which it should go, and the prices at which it should be sold; and no person could ship or sell any of the controlled products without first having obtained a license from the Committee. The British Columbia courts held this Act to be within the powers of the Province, but the Supreme Court of Canada considered it *ultra vires* largely because it interfered with interprovincial trade. One almost reaches the ridiculous conclusion that control of Canada's grain crop is not a matter of trade and commerce, but control of British Columbia's fruit crop is. This is the impasse into which the Courts have run themselves.

The decision in the Lawson case opens up some very important questions. If a Province cannot compel co-operation in

(7) *The King vs. Eastern Terminal Elevator Co.*, 1925 S.C.R. 434.

any industry or occupation when such compulsion regulates inter-provincial trade, just what control over matters of trade and commerce does a provincial legislature possess? It may legislate on matters of local trade, but when does this conflict with the Dominion power over interprovincial trade? A distinction suggested by the courts is this; that when the interference with interprovincial trade is merely incidental to a scheme for controlling local trade, such interference is lawful to a Province, but when—as in the Lawson case—the interference with interprovincial trade is one of the main objects of the legislation, it is unlawful. Such a rule obviously leaves the way open to a great deal of judicial discretion on a given set of facts. It means that our constitutional law on this point will be purely judge-made, unless the constitution is changed. Socialists in Canada will observe with some interest that the only time for many years that the trade and commerce clause has been successfully invoked was to upset a piece of legislation designed to control the production and distribution of certain commodities.

If it were true to say that under the B.N.A. Act every law which a Province could not enact could be passed by the Dominion, the Lawson judgment might be taken as indicating that the Dominion really has a considerable control over production of goods in a Province, when these are for interprovincial trade. But the statement is not true. As our constitution has developed, many matters have been found to fall partly in the Dominion field and partly in the provincial, with the result that their control can be achieved only by co-operation between Dominion and Provinces. This would probably be true of the B.C. Produce Marketing Act, which though *ultra vires* the Province would in its original form seem *ultra vires* the Dominion. Here is a difficulty which a reconstruction government is certain to run into, be it Dominion or provincial. If it starts trying to control trade from the provincial end, it may run into the Lawson judgment attitude; if from the Dominion, it will meet the claims of property and civil rights. Certainly any judges whose uncon-

scious attitudes were reactionary would find little difficulty in rationalizing their prejudices in the form of legal principles designed to obstruct radical changes of this character. On the other hand, one must remember the numerous successful experiments that have already taken place in regard to provincial control of liquor, electric power, and so on, all of which appear to be lawfully undertaken. And all constitutional difficulties can be surmounted, without going so far as to amend the constitution, by the device of passing concurrent legislation through Dominion and Provincial Parliaments.

IV. The Customs Power

Insofar as foreign trade is concerned, the Dominion has complete control, both under the trade and commerce clause as mentioned above, and under the customs power.⁽⁸⁾ Hence imports and exports would appear to be subject to Dominion direction, restriction, or prohibition. The creation of import and export boards would be immediately possible to a government desirous of obtaining this type of control over the national economy. The importance of this, to a country as largely committed to world trade as Canada, is obvious. The threat of restricting exports might force conformity to Dominion regulations upon privately owned industries. Fortunately it has already been decided that the rule that crown property is exempt from taxation cannot be invoked so as to permit a Province to import commodities (in this case liquor) free of duty. There is no provincial breach in the Dominion tariff wall.

V. Works for the General Advantage of Canada

There is a curious and potentially valuable provision in the B.N.A. Act to the effect that the Dominion Parliament may take a "Work" out of provincial control simply by declaring that it is "for the general advantage of Canada or for the advantage of

(8) B.N.A. Act, Sec. 122.

two or more of the provinces." The declaration may be made in respect of any work, even though it is of purely local concern, and the courts cannot question the declaration on the ground that the work is not to the general advantage. Once the declaration has been made the work passes to the Dominion field of jurisdiction as completely as if it had originally been placed there specifically. The power has been used frequently in order to gain Dominion control for provincial railways; it was used to bolster up the Dominion Grain Act, after the Supreme Court decision referred to above, through the device of listing all the grain elevators and declaring them to be for the general advantage of Canada; it was used in regard to the Beauharnois project. To a government intent upon public ownership the provision seems to open up great possibilities of Dominion control. If a declaration can be made in regard to grain elevators, so as to justify a Dominion act regarding them, a declaration might conceivably be made in regard to, say, operating mines, or developed water powers, or even all the factories producing a certain line of goods. The political and economic objections might be serious, but the legal objections are not so easy to find—though it is probable that they would be found by a court out of sympathy with the change. For we do not yet know exactly what the word "work" includes.

VI. Railroads and Interprovincial Services

According to the B.N.A. Act the control of interprovincial communications and services, such as steamship, railways, telegraphs and canals, belongs to the Dominion. To this list the Privy Council has added radio, aerial navigation and interprovincial telephones. Harbours are also under national control, as is the subject of navigation and shipping. The Dominion has therefore full power to deal with the transportation and communication problems of Canada insofar as these specific services are concerned. There is as yet no decision about the control of motor transport, but it would seem reasonable to suppose that

insofar as these lines are interprovincial they would come under Dominion jurisdiction, particularly since the Privy Council has said that the inter-connecting communications do not need to be physical things, but may be services. Apart from this question, the Dominion Parliament would seem to be adequately endowed with capacity to deal with the general problem of transportation. In particular, the C.P.R. could be joined to the National Railway system without legal difficulty.

VII. Taxation

In the work of nationalizing industries and of redistributing wealth so as to bring about a reasonable degree of economic equality amongst all Canadians, the taxation power will have to play an important part. Here again the B.N.A. Act gives the Dominion wide powers. The Dominion may levy any tax it chooses. It did not require an amendment to our Constitution, as it did in the United States, to enable Ottawa to impose an income tax, and it would not require an amendment for the enactment of a Dominion Succession Duties Act. In the past, even in heavily taxed countries like Great Britain, no appreciable degree of equality has resulted from this issue of the state power to confiscate private property. But that has been in part because taxation has always been placed to income account and never to capital account. An aggressive taxation policy could set aside so much for capital, and the fund thus accumulated could be devoted to the socialization of industry.

The provinces have also an unlimited power to tax so long as they impose direct taxes only. This enables them to make use of income and inheritance taxes for the purposes of social reconstruction as fully as the Dominion. The taxation policy of a reconstruction party can and should be carried on both in the Dominion and in the Provinces.

There is another aspect to the Dominion power of taxation which is of importance. The Dominion may and does entice the

Provinces into co-operation on some general scheme through the offer to pay part of the expenses of that scheme out of monies raised by general taxation. The Old Age Pensions Act of 1927 is a case in point. The Dominion has apparently no power to enact a compulsory old age pension scheme itself. But it has passed an act providing for a system of payments and offering to share the cost with any province which passes amplifying legislation. In consequence all provinces but Quebec have come under the scheme, and nothing is convincing Quebecers of the value of old age pensions so much as the realization that they are now being taxed to pay for the support of the old people in Ontario.⁽⁹⁾ This process of baiting the legislative hook might well be tried out in other fields of social insurance. It is one way of getting around the difficulty of amending the B.N.A. Act, and it is valuable in that it creates a habit of co-operation between the Dominion and the provinces.

The specific powers discussed above constitute the principal sources of jurisdiction on which a reconstructionist Dominion Government would have to rely. As has been seen, they confer very wide powers upon the Dominion even under the existing constitution. To these must be added others. There is, for instance, the criminal law. Much behaviour that is legal at present might have to be made illegal under the proposed social system. Moreover, a few Canadian enquiries of the Insull, Mitchell and Morgan type, followed by prosecutions under the existing Criminal Code or income tax laws, might remove from the political scene some of the most dangerous opponents of social progress. Then the Dominion has a large degree of control over Dominion corporations which might be used, not only to safeguard the issuance of securities to the public, but also (though this is not so clear) to achieve compulsory nationalization where necessary. Finally, the Dominion has control over agriculture, a power of rather uncertain extent, not apparently including trade in agricultural products, but still of potential usefulness.

(9) Mr. Taschereau's Social Insurance Commission in 1932 recommended the adoption of the Dominion Act pending the creation of a provincial pensions scheme.

The C.C.F. Manifesto On the strength of this survey we may now turn to the L.S.R. and C.C.F. manifestos, and attempt to discover just how far the suggested programmes of reform would be possible under the existing constitution. As the C.C.F. programme includes everything proposed by the L.S.R., its provisions, as laid down at the Regina Convention of 1933, will be dealt with in turn.

1.—Planning—

The establishment of a planned, socialized, economic order, in order to make possible the most efficient development of the national resources and the most equitable distribution of the national income.

The creation of the Planning Commission called for under this plank would be a simple matter for the Dominion Parliament. To the Commission could be delegated such powers as the Dominion possessed and thought necessary to transfer. Obviously the Commission would have no authority, save a moral one, over matters coming exclusively within the provincial sphere. Difficulties would be met here in the carrying out of a full national plan, for some of the units of production would certainly be provincial.

There are various ways of tackling this problem. In the first place, the Planning Commission would presumably not attempt to lay down a programme for all industries and services at once, but only for the more important ones. Some of these, such as the banks and railways for example, are already subject to Dominion control, and others would come under the Dominion power to regulate interprovincial trade. The co-operation of those exclusively under provincial jurisdiction would be invited, and public opinion would be mobilized to induce it. Various types of pressure could if necessary be brought against recalcitrant business concerns that might threaten to wreck the general scheme. Credit control through the National Bank would be one sort, and the threat of tariff changes, as under the existing

Combines Investigation Act, would help to secure conformity. Exports and imports can be licensed, and conditions attached to the granting of licenses. Industrial action on the part of organized labour is another possible method of compelling co-operation with the national plan. Then again rights can be purchased, and works declared to be for the general advantage of Canada. With full control over the Dominion field of jurisdiction, and with various methods of persuasion in the provincial realm, coupled with the popularity of co-operation that would follow upon the movement of public opinion that produced the reconstructionist government, it should be possible for a large part of the planning for Canada to be conducted effectively on a national scale without even a resort to the process of amendment of the B.N.A. Act. Amendment, of course, would be available in the last resort.

Nevertheless, great problems will, it seems clear, arise in the functioning of the Planning Commission, not only around the question of jurisdiction, but also concerning the relationship between the Commission and Parliament. The Commission will have to be given certain executive and quasi-legislative powers, and in proportion as these are delegated Parliament will tend to confine itself to questions of policy. It is probable that the influence of the Commission will grow more and more powerful, as it presents its expert opinions to the political representatives of the nation. It may well be that the suggestion of Mr. Sidney Webb, in his *Socialist Constitution for Great Britain*, of an Economic Parliament as well as a Political Parliament, is not so very far away in principle from the constitutional arrangements that will eventually emerge in Canada. The political functions of society, including the adoption of the general economic plan, the control of foreign relations, the maintenance of internal peace and the administration of justice are activities that will remain under the final control of our present parliaments, while the administrative economic functions will tend to become concentrated in the public industrial boards under the supervision

of the Planning Commission. Parliament will remain supreme, but not directly concerned in the details of the plan. The exact relationship of these various bodies will require careful consideration so as to preserve the democratic principle and parliamentary government. Those who fear an economic dictatorship, however, should remember that at the present moment our parliaments do little more than register decisions made outside by irresponsible financiers and industrialists. Under the proposed scheme the same decisions as are made to-day by private corporations for private profit would be made by responsible public servants, thus extending and not restricting the democratic principle.

2.—Socialization of Finance—

Socialization of all financial machinery—banking, currency, credit, and insurance—to make possible the effective control of currency, credit and prices, and the supplying of new productive equipment for socially desirable purposes.

It has already been intimated how this may be accomplished. In so far as the banks, the interest rates, and the issuance of currency are concerned, the Dominion has all the necessary powers. This will leave certain gaps in the credit system, however, which, as intimated above, it might be difficult to control. But there should not be many legal difficulties in establishing an effective system of national banking and investment under the appropriate Dominion bodies.

The process of socialization of insurance companies would in part depend on the nature of the company. No doubt companies with Dominion charters and foreign insurance companies would be more within Dominion control, and if the purpose is to control their investments it might be stipulated that they invest only in Dominion securities, thus giving the National Investment Board the use of their capital. Socialization of provincial companies would only seem possible by the Province concerned.

3. Social Ownership—

Socialization (Dominion, Provincial or Municipal) of transportation, communications, electric power and all other industries and services essential to social planning, and their operation under the general direction of the Planning Commission by competent managements freed from day to day political interference.

The public ownership or control of transport and communications by the Dominion has been shown to be immediately possible, except for road transport and provincial telephones, which are of provincial concern. Electric power would seem to be properly provincial or municipal. As to the other industries and services essential to social planning, it is not easy to answer the constitutional questions until we know which they are and what it is intended to do with them. The Manifesto refers to mining, pulp and paper, and the distribution of milk, bread, coal and gasoline. Of these, milk and bread are clearly of provincial or municipal concern. As regards coal and gasoline, both of which must be imported in large quantities and are matters of interprovincial trade, the Dominion would doubtless work out a national fuel policy and control it through its Import Board in accordance with the national plan. The mining and paper industries are *prima facie* within provincial jurisdiction, since the provinces control their natural resources. But they both depend on the export market, and could be controlled in part through the power to grant export licenses. The various ways in which the plan could be enforced have already been suggested. What cannot be done by one power might be done by a combination of several powers. A little legal ingenuity would accomplish much.

4. Agriculture—

Security of tenure for the farmer upon his farm on conditions to be laid down by individual provinces; insurance against unavoidable crop failures; removal

of the tariff burden from the operations of agriculture; encouragement of producers' and consumers' co-operatives; the restoration and maintenance of an equitable relationship between prices of agricultural products and those of other commodities and services; and improving the efficiency of export trade in farm products.

No special constitutional problems are raised by this proposal. Land tenure is expressly left to the Provinces, who alone have jurisdiction over it. Crop insurance is now a provincial matter, as also is the encouragement of co-operatives. The Dominion could assist in removing the tariff burden from the operations of agriculture, in developing the agricultural export trade through the Export Board, and in improving the price ratio between agricultural and other commodities through its credit policy and consequent control over internal price levels. The general Dominion jurisdiction over agriculture could also be employed for the adoption of a plan of agricultural development based on scientific soil surveys.

5. External Trade—

The regulation in accordance with the national plan of external trade through import and export boards.

Power to control Canada's external trade, as has already been explained, belongs to the Dominion under the B.N.A. Act.

6. Co-operative Institutions—

The encouragement by the public authority of both producers' and consumers' co-operative institutions.

The development of co-operative institutions will have to be provincially encouraged for the most part, as at present. They would seem primarily to belong to property and civil rights. They would, however, be subject to general Dominion regulations regarding trade, and conceivably some of them might wish to operate under Dominion charters. The development of com-

pulsory co-operatives under solely provincial jurisdiction sometimes meets a legal difficulty, apart from the question of inter-provincial trade, in the impossibility of the Provinces imposing "indirect" taxation, since the levies necessary to operate the schemes may fall within this category. If this difficulty cannot be met by careful drafting of the legislation it might be necessary to amend the B.N.A. Act so as to give the Provinces a power to impose indirect taxes.

7. Labour Code—

A National Labour Code to secure for the worker maximum income and leisure, insurance covering illness, accident, old age, and unemployment, freedom of association and effective participation in the management of his industry or profession.

Social legislation is now a provincial matter. A great deal of it, such as workmen's compensation, health insurance, mothers' allowances, and old age pensions, might continue to be provincially operated in the new society, with possible Dominion aid. Yet some of it, to be effective, will have to be Dominion-wide. The regulation of hours of labour and rates of wages, for instance, and unemployment insurance, can hardly operate in only some of the Provinces, without causing inequalities in costs of production as compared with other Provinces, and bringing about serious differences in standards of living. To unify our laws in this regard, and to adopt a national labour code, will require amendments to the B.N.A. Act unless Dominion laws can be adopted like the Old Age Pension Act, by co-operation, or enforced under the Dominion residuary clause as part of some international convention.

8. Socialized Health Services—

Publicly organized health, hospital and medical services.

This is essentially a provincial matter, though the Dominion

could co-operate in many ways. The Dominion has charge of Quarantine and the establishment of Marine Hospitals.

9. B.N.A. Act—

The amendment of the Canadian Constitution, without infringing upon racial or religious minority rights or upon legitimate provincial claims to autonomy, so as to give the Dominion Government adequate powers to deal effectively with urgent economic problems which are essentially national in scope; the abolition of the Canadian Senate.

It has been shown that the B.N.A. Act will need some amendment in order to make possible the C.C.F. programme of social reconstruction. Such amendments would seem to lie chiefly in the realm of social insurance, and possibly—though this might not be necessary—in regard to the socialization of certain major industries. The abolition of the Senate would of course require an amendment. But it seems clear that with an energetic Dominion Government, helped by reasonably sympathetic provincial governments, and assuming no more than an average amount of obstruction from the courts, by far the greater part of the C.C.F. programme could be accomplished without any change in the B.N.A. Act at all. Certainly there is no need to imagine that the Confederation agreement would need radical alteration. Mr. Bennett's statement in the debate in the Commons in 1933 on Mr. Woodsworth's C.C.F. motion, that the proposed changes would mean "the entire wiping out of the present federal system," does not bear a moment's examination.

It is important, in all talk about amending the B.N.A. Act, to stress two things: first, that racial and minority rights, such as language and education, and Quebec's right to 65 members in the House of Commons and to her basic civil law, will remain unchanged; and secondly, that such a shift of legislative powers as is proposed is quite in keeping with the fundamental principle upon which the Fathers of Confederation agreed—namely, that

matters of general concern belong to the national parliament, matters of local concern to the local parliament. Some forms of social insurance and certain monopolistic industries have, since 1867, become matters of national concern affecting the body politic of the Dominion, and can only be effectively dealt with in the national interest by the central parliament; therefore to amend the constitution in this sense is simply to fulfill the desires of the Fathers themselves.

With these principles as guides, a suggested method for securing amendments would be as follows. Minority rights are to be left alone: they should never be altered at any time without the full assent of the minority. The other amendments of an economic or industrial sort should be secured by the process which has been followed on seven occasions since 1867, that is, by resolution of the Dominion Parliament requesting the Imperial Parliament to make the required change in the B.N.A. Act. On only one of these previous occasions were all the provinces first consulted,⁽¹⁰⁾ but preliminary consultation has probably now become a political necessity and is in any case desirable, so long as such discussions continue to be purely advisory in character and do not imply any right of veto.⁽¹¹⁾ Indeed, regular annual meetings between provincial and Dominion representatives, with a view to discussing common problems and seeking common solutions, might well be made a practice in Canada. They would make co-operation easier and would inform public opinion upon the constitutional aspects of national questions. Similar conferences have proven of great benefit in Australia.

The problem of the Senate is a more formidable one, since the opposition to its removal is likely to be greater than the opposition to a small shift in legislative powers. The C.C.F. party is being realistic in proposing its abolition, since it is almost

(10) In 1907 when provincial subsidies were changed: here the amendment went through despite the strong objections of British Columbia.

(11) The claim of some provinces to an absolute veto on proposed amendments is of very recent origin, and has no legal or historical foundation. It helps reactionary governments to block needed changes.

certain to use its veto power in regard to C.C.F. legislation. Composed as it is of aged beneficiaries of the existing economic system,⁽¹²⁾ it can hardly be expected to welcome the co-operative commonwealth. Yet it would be wrong to assume that the Senate will never pass a law that its members dislike; if the will of the Canadian people is clearly expressed at a general election, and the senators realize that they must choose submission or total disappearance from the political scene, they, or at least a number of them, might well decide to swallow their principles and hold on to their senatorships. If they show themselves purely obstructionist, then the necessary amendment must be sought to the B.N.A. Act to remove the obstruction.

This may be done in one of two ways. The C.C.F. proposes straight abolition, which is one way. It has the merit of simplicity. There seems no reason why the Canadian constitution would not function just as well with a single chamber at Ottawa. All the Provinces except Quebec are governed on this basis. The removal of the Senate would not endanger minority rights, for the voting power of Quebec, the accepted federal structure of the Cabinet and the power of the courts to keep the Dominion Parliament within the limits of its jurisdiction under the B.N.A. Act, have been and are the real safeguards for the minority. The Senate, as Professor Mackay in his study of the problem has shown, has not in fact acted as the defender of minorities;⁽¹³⁾ party loyalty has in almost every instance prevailed over racial or religious affiliations. Thus the only serious ground of defense of the upper house fails. To remove the Senate would require the passage of legislation through the Imperial Parliament. The resolution from Ottawa requesting the change would presumably not have the assent of the Senate, but there is no legal necessity for this assent. The question is solely one of persuading London to act, and if the Canadian people has given a mandate

(12) The average age of 89 senators at the beginning of 1938 was 66.85 years. There are usually more senators over 80 than under 50. Most of them hold directorships in private corporations.

(13) The unreformed Senate of Canada, p. 138 ff.

for the change at the polls, it is unlikely that London would interfere in the internal politics of Canada by refusing to act.

There is, however, another way in which the problem of the Senate could be solved without the necessity of abolition. This is by an amendment to the B.N.A. Act to give the Governor-General in Council power to appoint an unlimited number of new senators in case of deadlock between the two houses. The present constitution provides for the creation of eight new senatorships in such an emergency; all that would be needed would be to extend this principle. The change would make our constitution even more "similar in principle to that of Great Britain," (to quote from the preamble of the B.N.A. Act) than it is now. If at the same time the veto power of the Senate were limited to one or two years, as in the English Parliament Act, we should be British enough to suit the most rabid Tory. This sort of amendment has the merit of being less drastic, more in keeping with our parliamentary traditions, and more acceptable to those who fear for minority rights, since it could be stipulated that the new senators must be picked in equal numbers from the four divisions of the country now represented in the Senate, thus preserving the proportion of seats held by Quebec, Ontario, the Maritimes and the Western Provinces. From the point of view of the C.C.F., the obstructive power of the Senate would be adequately removed by such an amendment.

10. External Relations—

A Foreign Policy designed to obtain international economic co-operation and to promote disarmament and world peace.

Foreign policy is in law entirely a matter of royal prerogative exercised by the Dominion Government, whether the subject being dealt with in the international field is political or economic. The Provinces do not participate though they may well be consulted. This proposal therefore, involves no questions of law.

11. Taxation and Public Finance—

A new taxation policy designed not only to raise public revenues but also to lessen the glaring inequalities of income and to provide funds for social services and the socialization of industry; the cessation of the debt creating system of Public Finance.

The taxing powers of the Dominion and the Provinces have been discussed. They seem adequate to enable this objective to be realized.

12. Freedom—

Freedom of speech and assembly for all; repeal of Section 98 of the Criminal Code; amendment of the Immigration Act to prevent the present inhuman policy of deportation; equal treatment before the law of all residents of Canada irrespective of race, nationality or religious or political beliefs.

In so far as personal liberty is restricted by the criminal law, the Dominion may alone remove the restrictions. Thus Section 98 must be repealed at Ottawa. Deportation is also a Dominion responsibility, and the national parliament alone can reduce the tyrannical powers of the inquiry boards under the Immigration Act, and remove this disgrace from the statute books. While freedom of speech and association can never be secured merely by changing laws, these changes would at least restore to us the legal liberties we enjoyed till 1919, and which are permitted under English law today.

13. Social Justice—

The establishment of a commission composed of psychiatrists, psychologists, socially minded jurists and social workers, to deal with all matters pertaining to crime and punishment and the general administration of law, in order to humanize the law and to bring it into harmony with the needs of the people.

The "Social Justice" talked of in this section seems to refer only to criminal law, though the meaning is not very clear. Criminal law and procedure, and the management of penitentiaries, are entirely a Dominion matter, and the Dominion Parliament could modernize immediately the system of punishment for crime. Goals and reformatories come under provincial management. It is impossible to say what constitutional problems would be encountered by the proposed commission until we know what it intends to do.

14. An Emergency Programme—

The assumption by the Dominion Government of direct responsibility for dealing with the present critical unemployment situation and for tendering suitable work or adequate maintenance; the adoption of measures to relieve the extremity of the crisis such as a programme of public spending on housing and other enterprises that will increase the real wealth of Canada,—to be financed by the issue of credit based on the national wealth.

The relief works suggested in this section could be undertaken by the Dominion Government without legal difficulty. As regards the taking over by the Dominion of the administration of unemployment relief, the opinion has been expressed that the extent of unemployment is now so serious as to justify the Dominion in assuming responsibility, under its emergency powers.

The Problem of the Courts Leaving now these problems of federal-provincial jurisdiction, there remains to be discussed one other constitutional difficulty that will confront a reconstruction party. This is the problem of the law courts. Judges have fertile and human minds, and the number of ways in which a given statute can be interpreted on a new set of facts is very great. Legal principles, like proverbs, abound in contradictions. The accepted interpretations of the British North America Act might be found to be full of obstacles

to reconstruction, not foreseen here, in the hands of an antagonistic judiciary. The Americans have suffered more from reactionary judges in the past than have we, but trouble of this sort will certainly arise in the event of the passing of a series of radical laws. The situations thus presented would have to be dealt with as they arose. After all, the ways of drafting a law are as various as the ways of interpreting it.

In conclusion, it may be said that the potentialities of the B.N.A. Act as an instrument for reconstruction are much greater than are generally supposed; we have a sufficiently centralized system of government to enable much to be done from Ottawa. The rest will have to come through provincial and municipal action. Here also there are wide governmental powers and much flexibility in the constitution. By and large the political and legal framework in which our life operates appears adequate, without fundamental changes, to meet the new demands which social reconstruction would put upon it. But this is assuming, of course, that the forces of opposition play the constitutional game reasonably fairly. This assumes that they will not completely deprive the electorate of those liberties—of speech, association, the press, the ballot-box—without which the democratic method of social change is impossible. This assumes that they will not force a choice between reform by unconstitutional methods and a passive acceptance of injustice. Whether or not they will play fair will depend in part upon how willingly they will place public interest above private interest, in part also—and this must be stressed—upon the behaviour of those who condemn the existing system, and the way in which they justify their radical proposals. Those who seek great changes are, after all, the people on whom the burden of proof lies. It is not unreasonable for people to cling to an old way of doing things, even a bad old way, until they see fairly clearly what the alternative is. This is the task of the L.S.R., the educational body, and the C.C.F., the political party. The chief obstacle to reconstruction is ignorance, not malice, and that ignorance exists almost as much amongst those who are

not beneficiaries of the existing system as amongst those who are. Many a successful professional man will vote C.C.F., and many an unemployed workman will vote Liberal or Conservative. The crying need is for education and more education.



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.**