

# Address to the Mining Society of Nova Scotia

by

V.C. MacDonald, K.C.,  
Dean, Dalhousie Law School.

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## OUR CANADIAN GOVERNMENT.

### INTRODUCTION

The Canadian people have just come through a great war fought in large measure to maintain their cherished way of life from external aggression. They have also just emerged from a National Election conducted in accordance with basic principles upon which that cherished way of life has been developed. These two facts constitute a great reason why we should pause and reflect for a moment upon the general nature of that great heritage of democratic government which has been in ~~power~~ for five long years, and which has been preserved to us by the efforts and blood of our sons. [They constitute also, I think, a great reason why we should look a little closer at the principles which underlie Parliamentary institutions in Canada; and in particular <sup>consider</sup> what manner of men constitute our newly elected Dominion Government, what they are supposed to do and how they are supposed to do it, and what we, the people, have to do with the business of government.]

First, a glance back at the National Election and its result. A short time ago the Canadian people exercised the great privilege of determining the men by whom, and the general policies by which, this country as a whole, is to be governed for the next five years.

Each voter was untrammelled in his choice, and each man's vote counted alike in the final result; for this is a Parliamentary Democracy. Though individually cast the votes were counted on a territorial basis; for ours is a system of territorial-representation.

Superficially the Canadian elector voted upon the merits of 1000 candidates, but actually he determined which of three or four great Political Parties should govern the country, and he was guided in that determination by Party Policies, as enunciated by their leaders; for ours is a system of Party Government.

Nominally the Canadian elector was called upon simply to determine the personnel of the House of Commons to the number of 245; but actually he did more than that, for he determined from what fraction of the House of Commons the Cabinet or active Administrators of the country should come; for ours is a system of Responsible Cabinet Government.

In all of this the Canadian elector was selecting only one of ten elected Legislatures and only one of the ten governments in Canada; for ours is a Federal system with Dominion and Provincial Parliaments and Cabinets exercising defined and restricted powers.

Parliamentary Government. The recent Dominion Elections.

The fact that in Canada we live in a Parliamentary democracy, wherein a constitutional monarch reigns, but the people rule themselves by representatives, selected by, and ultimately responsible to them; a system wherein government is carried on in accordance with the will of the people as to how, and by whom, they shall be governed.

Such a system assumes the personal worth of every citizen and the equal right of each to a voice in the management of the State. It is predicated on the theory that the people will best know how to fashion and administer the laws so as to give each individual the maximum liberty of expressions and action, consistent with the good of all, and the assurance of impartial administration of those laws.

Since not all can engage directly in the management of the country there has arisen the idea of a government by representatives elected by the whole adult population or that portion of it which exercises the great privilege of the franchise.

In order that the exercise of the franchise may not result in the expression of a mere chaos of personal views we have developed the party system as a means of enabling the people to deliver an intelligible verdict as to the policies by which, and the men by whom, they desire to be governed and represented. The dominant Party in the elected Legislature selects from its members an Executive Committee, or Cabinet, to conduct the Departments of Government. The Cabinet remains responsible to the elected representatives of the people and if it loses their support will be turned out of office; just as the representatives themselves will fail of re-election if their conduct runs counter to public opinion.

If we are to have government by opinion, each citizen must be able to think freely, speak freely, dissent from majority views freely, associate freely, and be free to seek to convert the majority.

In Canada all citizens have these great freedoms, and in addition we have the machinery to make our views effective in selecting and controlling our government. Thus we have in truth a democratic system based on individual liberty, secured by laws which are the expression of public opinion, freely formed, and freely expressed

### Federal Element.

It is important to recall also that Canada is a Federal country, which means that governmental power is sharply divided in point of law as between the central and Provincial Legislatures and governments. This means that questions of legal power constantly arise in administration, and not infrequently result in paralyzing or delaying appropriate action. Moreover Canada is sharply divided into five natural or geographic areas, and into various economic areas; whilst its population is also divided sharply in point of racial origins, and of language, and of religions and culture. Thus whilst the country is divided as between the Centre and the Provinces in point of law, it is also divided into many segments of peculiar interests which do not coincide with the lines of legal division, but which enter largely into the problems of national government; for all these elements of provincialism, regionalism, racialism, lingualism and various other group-interests enter into the process of law-making and administration.

Our system of representation by territorial constituencies does not take these basic matters into account. They must, however, be taken into account. This is done in two chief ways. First the national parties seek to be so broadly based as to attempt by their policies to minister to, and reconcile these diverse interests. Secondly, the score or so

of members of Parliament who constitute the Cabinet are selected with them in mind, so that collectively the Dominion Cabinet is as nearly as may be a cross-section of the various ~~economic~~<sup>national</sup>, racial, language and religious groups which make up the total population.

It cannot be pretended that any Canadian Parliament or Dominion Cabinet is a complete reflection of our group interests or that our Federalism makes for complete equality of treatment or benefit, of all areas or interests. Nevertheless we do in general attain to a fair degree of balance in the adjustment of these competing interests. We must always remember that our Federalism was born of compromise, and must continue to exist on the basis of compromises of all kinds, periodically corrected and re-directed, as wisdom and experience require.

### Constitutional Change.

Before I leave this federal element in our Parliamentary Democracy I must remind you that the considerations of which I speak are of particular importance, in a time when great national problems press for solution, and when great national programmes are projected.

Such a time is upon us now, as we pass from the Western war into the Transition Period, and face the Reconstruction and Post-War Periods, and seek by legislative action to arm our Government with powers adequate to the needs arising out of the aftermath of war, and to meet the clamorous desires of the public for great measures of social ~~and~~ betterment and of economic control. It is well for us to face the inescapable fact, that the very nature of Canada as a federal country, will produce great difficulties in our attempts to meet those needs, and satisfy those desires. For, being a federal country all law-making and

executive power is sharply divided as between the Central and Provincial Legislatures and Governments, so that each of them though supreme ~~within~~ its prescribed limits is impotent outside those limits; whilst there are inherent difficulties in attempting to bridge the lines of ~~division~~ <sup>division</sup> ~~diversion~~ by merely co-operative action. These restrictive - and sometimes retarding - effects of a federal constitution can not be dismissed impatiently as mere legal technicalities; for they are the very conditions which maintain our system of government. Indeed we should rather recognize <sup>the</sup> the lines of division must on occasion prove ill-adapted to the necessities of particular times, and be content to re-examine and re~~draw~~ <sup>draw</sup> them from time to time.

At all events this situation is at the basis of the calling of a Dominion-Provincial Conference for August 6th - at which it seems inevitable that questions of constitutional change must be faced as a pre-requisite to adequate solution of present and post-war problems requiring legislative action.

The experience of similar Conferences in the past suggests that there will be differences of opinion at the forthcoming Conference, calculated to thwart or delay appropriate action. These differences will stem from divergent interests, and from ingrained attitudes of particular ethic, social, sectional or economic groups to one another, or from disagreement as to the ultimate basis of Confederation as being, or not being, a Contractual Compact requiring, or not requiring, unanimity as the basis of any new division of powers, functions and sources of revenue, as between the Central and Provincial Governments. These can, I believe, be overcome if approached on the footing of common recognition that changes there simply must be, if our federal system is to endure as an efficient basis of government; and if recognition of the necessity of

particular group or sectional interests or attitudes being subordinated to the ultimate good of all. At all events this Conference will prove whether for the days of Peace which lie ahead the Canadian people place more value on the things which divide us or upon the things which unite us. Upon that choice much of our future will depend.

### The House of Commons.

Leaving out of consideration the appointive Senate we shall soon be able to look upon the Parliament of Canada in the form of the House of Commons which we have just elected directly, and of the Cabinet, which we have selected indirectly.

Looking at the House of Commons in session we shall be able to classify its members in various ways:

1. They will represent territorial units or constituencies.
2. They will be grouped in Parties. ~~usually two but sometimes more.~~
3. One of these Parties will be the Government Party, a Committee of which (composed of the Prime Minister and the Ministers of the various Departments) constitutes the Executive Body or Cabinet. The members of the Cabinet thus discharge a dual function: they will carry on the administrative functions of government and answer to the House of Commons for their administrative acts; whilst as Legislators they will lead the majority (of government) party and thereby assure the passage of their own measures.
4. The opposite Party, or one of the other Parties, will be the official Opposition Party - having the recognized right to criticize the Government and to seek to replace it.

5. The members as a whole will vary vastly as to occupation, education, intelligence, race, religion and social and economic points of view.

### THE CABINET.

*a great characteristic of our*

No account of Parliamentary Government, or even of the strictly legislative aspects of government, could be accurate if it did not refer to the peculiar inter-relationship of the Cabinet and the Legislature. The Cabinet is the result of that great step in the evolution of government, whereby the constitutional convention arose that the Executive should be responsible to the elected representatives of the people.

This body in point of doctrine, merely advises the King in matters of administration; yet in point of fact it governs, whilst the King merely rules. In point of doctrine and of ultimate fact, it is the servant of the House of Commons yet in point of practice and normal fact, it leads and controls the Legislature so long at least as it enjoys the confidence of the majority of the members. As Bagehot said, the peculiar essence of English Parliamentary Government is the almost complete fusion of executive and legislative powers through the connecting link of the Cabinet, which is "the hyphen which joins, the buckle which fastens, the legislative part to the executive part of the State."

### FUNCTIONS.

The House of Commons has four main functions:

- (1) to make laws regulating the relations of the State and citizens inter se, and of citizens to one another;
- (2) to control the public purse - by prescribing how money shall be raised and spent;



- (3) to examine and control the actual conduct of the business of the State by the Government of the day, and to reject or endorse the policy of that Government, and acts done pursuant to that policy;
- (4) to serve as a Forum of Debate, wherein the Government and the Community at large are informed of the grievances and needs of special sections of the public; wherein by the introduction of bills or resolutions the Government may test the state of public opinion; wherein the Opposition may seek to destroy public confidence in the Government policy, and seek to secure endorsement of its own contrary policy; and wherein the Private Member may seek to secure support for measures beneficial to his own constituents or to the state at large. It is in respect of this fourth function that the principle of territorial representation and the diversity in character of the elected representatives, combine in a great opportunity for the expression of all shades of public opinion on all sorts of questions affecting the welfare of the state; for the reconciliation of competing claims of conflicting interests; and for the translation into law or action of the dominant opinion. *fact that ours is a system of government by* fundamental discussion, government by public opinion. In the interval between elections it is the House of Commons which affords the opportunity for the public (though its representatives) to meet; for the opinion of individuals and groups to be expressed; and for the dominant public opinion to be discovered.

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LAW-MAKING.

I have not time to discuss further the executive aspects of government nor the various specific duties which the elected Legislators

annually discharge - but I do wish to dwell for a space on the fact that a primary function is that of making laws. Of enacted laws there are many types, but I wish to concentrate on laws of a public nature which involve great matters of policy, as to things social or economic.

### PHILOSOPHY OF GOVERNMENT.

Perhaps I can make my points best by a brief discussion of the main characteristics of modern legislation. These proceed from the fact that the extent and variety of legislative enactments are always the expression of the current philosophy of the function of Government, and this in turn is conditioned by the then state of the nation, and its conceived needs.

A century ago the prevailing philosophy was that there should be as little government as possible - that the government should interfere to the minimum extent in the affairs of men, or with the principles of the ordinary law. Beginning with the vast consequences of the Industrial Revolution, there came an increasing recognition that this "hands-off" conception must be replaced by the conception that government had a positive duty to provide for the welfare and security of the state and its citizens, by the enactment of laws for the provision of needed public services, in economic and social matters and for the modernization of the ordinary law.

### SOCIAL AND ECONOMIC LAWS.

*slowly*  
In the field of social and economic matters Canadian Legislatures have enacted numerous measures under which Governments have themselves gone into business, such as running railways, selling liquor and power, conducting banks, and so on. More often they have provided aid to particular classes, by way of Poor Relief, Unemployment relief, Old Age Pensions, family allowances, workmens compensation,

price floors for farmers and fishermen, and so on. They have regulated competition and business generally, by laws relating to public utilities, combinations in restraint of trade, marketing and grading, sales of securities and so on. They have regulated the relations between labour and capital, by laws relating to minimum wages, industrial standards, industrial disputes, collective bargaining and so on.

### DELEGATED POWERS.

The increasing extent to which governments have sought to ameliorate social conditions, and to participate in, or regulate, economic activities has produced a very significant development in the technique of government. This is the great use which is now being made of the device of creating administrative and regulative bodies, and delegating to them the capacity to make rules having the force of law, and to make decisions as to the application of laws to particular cases.

Such a development was inevitable; for the truth is, that great schemes of social betterment and economic control cannot be worked, without the invention of detailed rules, and their application to multitudes of individual cases. Since legislatures have not the time to devise such detailed rules, nor government departments always the equipment, for their daily application, the Legislatures have had, perforce, to content themselves with enactments laying down the basic rules, and creating subordinate boards and commissions empowered to fill-in the skeleton rules, and to decide the particular cases arising under them. By these means Governments and Legislatures have been left free to concentrate on the formation and enactment of general principles of economic and social policy.

## Future Developments.

Both of these great modern trends in the law-making and executive branches of government, have been strengthened and accelerated during the ~~post-war world~~. Indeed one need only recall the nature of the programmes of social and economic reforms proposed by the great National Parties, <sup>in the recent election,</sup> to realize how much use of legislation will be made, in the endeavor to attain to a brave new world by planned government action in matters social and economic. All of this is in accordance with, or in response to, a new conception of the affirmative duty of governments actively to promote human welfare, and to regulate business activities in the interests of all citizens.

Hand in hand with this development it seems inevitable that the technique of creating numerous subordinate agencies of government will continue, and that the number and variety of Boards exercising delegated law-making and decision-making powers, will exceed that of the pre-war years.

There are many who view this latter development with alarm, as involving the creation, or perpetuation, of a great Bureaucracy - of officials making laws in the manner of Legislatures, but with little direct control over their activities, and of others determining legal rights as if they were Courts - but without the safeguards afforded to individuals by the rules, the traditions and the independent personnel of the established Courts of Justice.

Certain it is that these subordinate bodies do offend against certain fundamental notions of plain citizens who feel, instinctively that laws should be made by legislatures composed of the people's representatives and

after due debate, and that human rights should be declared, openly, by men following the principles and processes of the ordinary law. Certainly there are dangers in this expanding bureaucracy, which may well counter-balance any merely technical advantages it may possess over the functioning of legislatures and Courts. How far this tendency should be allowed to go, is a question which well merits great study by all citizens; but it is well to remember that it is simply a technique of government, and one which flourishes in direct proportion to the people's demand on government for more paternalistic legislation; and that to a great degree it will be part of the price we will pay for our desired New Social Order, for a Planned Economy or for Cradle to the Grave Security.

### Conclusion.

Now if I have preached any lesson at all tonight it is all our democratic institutions rest upon public opinion freely formed and freely expressed by individual citizens, or by their representatives, in every possible vehicle or forum of public discussion. That as Woodrow Wilson wisely said "The whole purpose of democracy is that we may hold counsel with one another, so as not to depend on the understanding of one man, but to depend upon the common counsel of all."

Since much of what I have said has related to the enactment of laws I should like to remind my fellow-citizens that public opinion - that is the opinion of ordinary citizens - is the activating agent of even this supreme process.

Accordingly I conclude with this pertinent quotation:

"The process of making law is not exclusively the work of Legislative bodies. The most important element in the entire process of law formation, is that silent working of a million individual minds each forming and expressing opinions, beliefs and feelings; setting up ideas, analyzing and judging the myriad facts of daily life; having all the time no conscious purpose of helping in any task of making laws, yet creating by their combined influence that environment which molds the minds, and shapes the purposes of those who act as legislators, and also creating that condition of popular opinion which itself will decide the destiny and effect of any enacted law."