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Bourassa's constitutional aims would hurt our integrity

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OTTAWA — Premier Robert Bourassa says that before he can agree to repatriation of the Canadian constitution, Quebec must be guaranteed additional powers over language, immigration and communications.

His argument is that Quebec will need these powers to protect and preserve its culture if some future federal government, having the constitution under its thumb in Ottawa, decides to change it to weaken the rights of the provincial government and the French language.

This is the purest moonshine. The truth is that the federal government and the other provinces have already agreed on a formula which would fully protect Quebec's rights if the constitution—the British North America Act—were repatriated from Britain to Canada.

Ottawa and the provinces have been talking for more than half a century about repatriating the BNA Act and the problem has always been to agree on an amending formula. In other words, if the act is removed from the control of the British Parliament, who will have control of it in Canada?

If the federal government were to be given exclusive control, Bourassa's concern would be justified. Some future government might make changes injurious to Quebec or to other provinces. But if, to guard against that danger, it were to be provided that changes could be made only with unanimous consent of Ottawa and all the provinces, even desirable changes would be hard to make because of the difficulty of bringing 11 governments to agreement.

Federal and provincial leaders, therefore, have been searching for some 50 years for an amending formula which will guarantee everybody's rights and yet not be too rigid.

Edge of success

Prime Minister Pierre Trudeau and the 10 premiers appeared to be on the edge of success by 1971. They had negotiated a formula under which major changes would need the approval of Ottawa, each of the provinces with 25 per cent of the population—which meant Ontario and Quebec—plus two of the Atlantic provinces plus two or more of the Western provinces con-

taining at least 50 per cent of the Western population.

Under this arrangement, no change concerning Quebec could be made in the constitution without the consent of the Quebec government.

But that was not enough for Bourassa in 1971. As the price for approving the amending formula and allowing the BNA Act to be brought home, he demanded that Quebec be guaranteed control of social policy. He argued that in order to develop its own society with regard for French-Canadian tradition and priorities, the provincial government, and not Ottawa,

should have power over social security plans such as family allowances, old age pensions and unemployment insurance.

The crunch came at the Victoria constitutional conference in the summer of 1971. The federal government offered to go part way to give Quebec more constitutional authority over social policy, but after taking some weeks to consider the issue and test Quebec opinion, Bourassa decided to reject the deal.

No guarantee over social policy; no agreement on a formula to amend the constitution, and so no repatriation of the BNA Act.

It was a disappointment for Prime Minister Pierre Trudeau and the premiers of the English-speaking provinces who had thought that after years of painstaking negotiation, they were on the edge of an historic success. Repatriating the constitution would have mainly symbolic value, but it would end the irritating situation in which Canada is the only independent country in the world which does not have the power to amend its own constitution.

Bourassa's situation

But one could also understand Bourassa's situation. He felt he needed a spectacular gain over social policy to persuade his voters that, in agreeing to repatriation of the BNA Act, he was not selling out to Ottawa and the English—a charge made by nationalists and separatists.

It was true also that Bourassa and his widely respected minister for social affairs, Claude Castonguay, had made a good case for more provincial control over social policy, quite apart from the constitutional deal.

In fact, the case was so persuasive that

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since 1971, Ottawa has made administrative arrangements to give Quebec, and other provinces, greater control over social policy programs. It is true this new provincial power is not guaranteed in the constitution as Bourassa asked in 1971, but in practice, he has what he wanted.

Now he has a new list of demands, and it is harder to justify his case for provincial control of language, immigration and communications.

As he has already shown with Bill 22, the Quebec government has broad power to promote the use of French and discourage the use of English in Quebec. It's not clear what more he wants.

Shared jurisdiction

Immigration is a jurisdiction shared by the federal government and the provinces. The federal government, in effect, makes policy and operates the immigration service with the advice and assistance of Quebec and other provinces. It would surely be impractical to give Quebec complete jurisdiction to decide how many and what foreigners to admit, if only because its internal borders with other provinces must remain open. Quebec might want to bar a particular group of immigrants, but it could not stop them from being accepted into Ontario and then making their way to Quebec — unless it set up immigration controls on the border with Ontario, which would amount to separatism.

One of the things that defines a nation-state is freedom of communication within its borders. People can recognize themselves as citizens sharing a country only when they are able to communicate and discover they have common problems and goals.

For this reason, broadcasting in Canada has always been regarded as an essential tool for maintaining and strengthening national unity. To grant Quebec jurisdiction over communications would be to concede it is a separate state with freedom to unplug from the national network if it desires.

The important thing to remember, however, is that Quebec does not need any of these powers to protect its position under the existing constitution. Under the 1971 formula, Quebec would have a veto over any changes in the constitution.

The reality is that Bourassa wants an amended constitution giving Quebec more power than it now enjoys. He is saying that his

price for agreeing to the amending formula and thus permitting repatriation is increased authority for Quebec in the fields of language, immigration and communications.

The conclusion is that an agreement to repatriate the constitution under the 1971 formula would in no way threaten the integrity of Quebec, but a deal on Bourassa's terms would imperil the national integrity of Canada.

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Bourassa is far from being the only politician who seeks to manipulate the constitution and federal provincial relations for political advantage. Most Canadian politicians do it at some time.

For example, in the current Ontario election, Premier William Davis is calling for a clearer definition of federal and provincial jurisdictions to simplify government and reduce costs. He also implies that Ottawa and not Ontario is to blame for inflation and unemployment.

At the same time, he is assuring voters Ontario is four-square for Confederation and not seeking to reduce the federal power to manage the economy.

But consider the evidence of H. Ian Macdonald, now president of York University and formerly a top Ontario civil servant and senior economic adviser to Ontario premiers. In a recent speech in Toronto, he described the growing economic powers of the provinces in comparison with federal powers.

Macdonald went on: "As a result, a determined provincial administration, in conjunction with its municipalities, can exert a significant counter-influence on fiscal policy to that of the federal government and, in conjunction with large agencies such as a hydro-electric power corporation, can have a major impact on domestic capital markets and, through foreign borrowings, on capital flows and exchange rates.

Provincial fiscal policy

"The countervailing influence of provincial fiscal policy is exactly what happened in 1970 and 1971 in Ontario and I have been surprised it did not attract more attention. At that time, the federal government was seeking to offset inflation and was practising a policy of fiscal restraint, with particular discretionary attention directed at the urban areas of Ontario. However, in the view of the Ontario government, unemployment was the more serious threat at the time and a deliberate effort was made, through the 1970 and 1971 budgets, to stimulate the economy, particularly in the basic investment sector. The direct challenge to the Minister of Finance was not lost on him . . ."

So much for simplifying federal-provincial powers and allowing Ottawa all the tax power it needs to manage the economy.