

R. V. SINCLAIR, K.C.

BOOTH BLDG.,
SPARKS STREET

OTTAWA, June 16th, 1936.

F.R. Scott, Esq.,
McGill University,
Montreal, Que.

Dear Mr. Scott:-

I have your letter of the 13th instant, which I have read, with interest.

Dealing with your first point, the Privy Council is not concerned with consequences. It is there to interpret the law. The mere fact that the Dominion, in 1917, usurped Provincial rights in a national emergency, does not give the Dominion an unqualified right to continue the encroachment upon Provincial rights.

With regard to the recent decisions, the Aeronautics Case, and the Radio Case have no bearing upon the question, at all. These two subjects are the natural development of powers conferred by the B.N.A. Act, upon the Dominion, while the Coal Combine Case was nothing more than an attempt, by way of the Statute of Westminster, to permit an appeal to the Privy Council, upon a criminal matter.

With regard to the Caron case, it does not apply. The facts were not stated, and as a matter of fact, the question of the constitutionality of the claim was only argued in the Privy Council, before which none of the facts regarding the relative rights of the Dominion and the Provinces, were argued.

With regard to your third point, that is answered by the fact that it is absurd to suggest that, in the matter of Taxation, the most vital question in the whole Confederation there was to be over-lapping. It simply means this, that the Dominion agreed to pay a subsidy to the Provinces out of the known sources of revenue, then in existence, which at the time were entirely indirect and, by direct taxation, recover the eighty cents subsidy, by direct taxation within the Province.

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With regard to the rule of interpretation, that does not arise, and you entirely answer your three points in your own words, when you say that "I do not believe you could persuade a Court to look at the highly uncertain and indefinite passages from Political speeches, and abandoned draft resolutions and bills which preceded the final wording of the B.N.A. Act, itself".

Political speeches and abandoned drafts and bills do not enter into the question. The Quebec Resolutions, which is admitted to be an agreement, is clear and unambiguous. If you will confine your attention to the provisions of the Quebec Resolutions, which is admitted to be a contract between the Provinces, which nobody had any authority to alter, then, you answer your own arguments, and are compelled to admit that the Dominion filched from the Provinces, the right of direct taxation, and it is a matter of indifference at what time the wrong has been discovered, the injured party is entitled at any time to have the wrong redressed.

Yours faithfully,

W. Murdoch

The Dep. Minister of Justice admits that the Quebec Resolutions is an agreement. How can you get away from that?