

Spruce Grove, Alta., R.R. 1,
November 23rd, 1976.

The Hon. Rene Levesque,
Premier-elect,
Province of Quebec,
Quebec, P.Q.

Dear Mr. Levesque:

Congratulations on your magnificent personal victory and that of your Parti
Quebecois in the recent Quebec election.

As a student of Canadian constitutional history and of Canadian constitutional
problems for some 40 years, I am tremendously interested in the constitutional
implications of your recent political victory.

For 14 years, from 1935 to 1949, it was my privilege to serve as a member of the
House of Commons, from the province of Alberta. The withholding of assent to
some Alberta legislation in those years by the Lieutenant-Governor and the
disallowance of other Alberta legislation by the people at Ottawa, set me to
investigating how these things could be. I was assisted in my studies by R.
Rogers Smith, who was personally acquainted with a onetime private secretary
to John A. MacDonald at the time when the B.N.A. Act was being enacted.
Through this source I have become acquainted with much information
concerning the history of the B.N.A. Act which is not to be found in text books.

All this information has led me to the conclusion that the existing constitutional
circumstances are shocking to the point of unbelief. However, in my considered
opinion, after 40 years of intensive study, these existing constitutional
circumstances are of such a nature that they can be of extreme advantage to you
in governing your province.

I am enclosing copies of some of the addresses which I delivered in the House of
Commons on the subject, as well as copies of a pamphlet by Mr. Smith, dealing
with the same subject. If you have not already been made acquainted with this
material, I trust it will prove enlightening and helpful to you in the constitutional
considerations in which you obviously are going to become involved.

Although the enclosed material should give you a clear outline of what I conceive
to be your present standing constitutionally as a province, I would like to give
you a brief summary of what I believe to be your present position.

**So far as separation. is concerned, rather than it being necessary to seek
separation rights through a referendum, THE PROVINCE OF QUEBEC IS
ALREADY COMPLETELY CONSTITUTIONALLY SEPARATED FROM THE**

REST OF CANADA ! ! ! This is equally true of every other province in Canada and has been so since December 11, 1931, through the Statute of Westminster.

HOW CAN YOU BE DIVORCED IF YOU HAVE NEVER BEEN MARRIED?

In other words, ever since the enactment of the Statute of Westminster in 1931, by the British Government, each of the provinces of Canada has been a completely sovereign and independent state, and because the provinces have signed nothing since then constituting a Federal Union and a Federal Government, and because no such treaty has been ratified by the people of Canada, the provinces still enjoy the status of sovereignty and are privileged to use it in any way they see fit.

As you will observe from the enclosed addresses, I quote eminent Canadian constitutional authorities as suggesting that the only and logical solution to the existing constitutional circumstances is the drafting and the adoption of a proper federal constitution in which the provinces can reserve for themselves any and all powers necessary to enable them to govern their provinces successfully.

I am sure you can appreciate that if this were done, you could solve your economic and other problems in Quebec without resorting to separation. I feel sure that having the ability to solve your problems and still remain constitutionally part of the country of Canada, would be much more satisfactory to your supporters as well as to others within your province.

The following is a summary of the reasons for the things I have just stated:

1. At the time of Confederation movement in Canada, the Provinces of Canada, Nova Scotia and New Brunswick desired to form a Federal Union.
2. The Quebec Resolutions of 1864 provided for a Federal Union.
3. The Bill drafted by the Canadian delegates at the London Conference in 1866 also provided for a Federal Union.
4. The Colonial Office of the Imperial Parliament was not disposed to grant the Provinces of Canada their request for a Federal Union.
5. The British North America Act enacted by the Imperial Parliament carried out neither the spirit nor the terms of the Quebec Resolutions.
6. Canada did not become a Federal Union or a Confederation under the British North America Act, but rather a United Colony. The privilege of

federation, therefore, was still a future privilege for the provinces of Canada.

7. The Parliament of Canada did not become the government of Canada, much less a federal government; it became merely the central legislature of a United Colony, a legislative body whose only power was that of aiding and advising the Governor-General as agent of the Imperial Parliament.

8. The British North America Act, as enacted by the Imperial Parliament, was not a constitution but merely an act of the Imperial Parliament, which united four colonies in Canada into one colony, with the supreme authority still remaining in the hands of the British government.

9. The privilege of federating became realizable for the provinces of Canada, only through the enactment of the Statute of Westminster on December 11, 1931. Through this statute, the Imperial Parliament relinquished to the people of Canada their sovereign rights, and through them to their Provincial governments as their most direct agents.

10. Since December 11, 1931, the Provinces of Canada have not acted on their newly acquired status in the forming of a Federal Union, nor have the people of Canada ratified a constitution. Therefore, the original proposition, namely: that all power to govern in Canada resides at the moment, with the Provinces of Canada; and, that all power legally remains there until such time as the Provinces sign an agreement and ratify a constitution whereby they may delegate such powers as they wish to a central government of their own creation. In the meantime, Canada exists as ten political units without a political superior.

Should you consider that there is merit in the information, which I have given you, I would be very happy to meet with you personally to discuss in greater depth the implications of the unprecedented constitutional circumstances prevailing in Canada.

Yours for a better Canada,



Walter F. Kuhl
[Member of Parliament for Jasper-Edson, 1935-1949]