Urban Democracy and the Canadian Constitution : A Brief

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by the Institute of Urban Studies & The University of Winnipeg
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URBAN DEMOCRACY AND THE CANADIAN CONSTITUTION

A brief prepared by the Institute of Urban Studies, University of Winnipeg for the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada.

September, 1970.

INTRODUCTION

The twentieth century is an age of change and nowhere has change occured more dramatically or had such a profound effect as upon the cities of this nation. At the turn of the century, for example, Canada was still primarily a rural society. In 1961 seven out of ten Canadians were classified as urban residents.[I] With this increase in population has come a whole host of new social, economic, and political factors. Canada's metropolitan areas are now our centers of growth, vitality, culture and political power. New urban issues have appeared. Old city problems have remained or grown worse. Today the great trek to our cities continues unabated, with the result that the phrase "urban crisis" has become a familiar and distressing cry to most Canadians.

Given this background of urban turmoil and ferment, it is entirely appropriate that a Parliamentary Committee should be examining the question of constitutional change. A State's constitution not only outlines its basic framework of government, but it as well stipulates the broad ethical values that determine political behaviour. Of the many functions fulfilled by constitutions within a federal state, three of the most important include:

(1) Describing the government structure and distribution of power among the various units of the state.

(2) Providing explicit and implicit limits on government action for the protection of the individual.

(3) Assuring stability and continuity in the law.

A condition essential to the achievement of the above objectives is that of relevancy. A constitution must conform to present reality

as well as past antecedants. It must be in tune. If a constitution stipulates outdated duties or has been too inflexibly interpreted, it can only lead to stalemate and frustration. As a result the streets not the ballot box may become the areas of political action. To a degree, this situation prevails with regards to the B.N.A. Act. The Fathers of Confederation had no way of foreseeing the great demographic, economic and social upheavals which have altered irrevocably the Canada they knew and ruled. The responsibilities allocated to our government units no longer correspond to the resources given them. The constitution is in clear need of revision or at least re-interpretation.

The Government of Canada then deserves applause for the process of re-examination that it has initiated. This Committee can perform a useful service for the country by educating Canadians and making them aware of constitutional needs; it can analyse the new needs of the country and recommend changes or offer advise as to how or where the constitution needs re-interpretation. Constitutions need to change because conditions change. The requirement of relevancy thus demands that the Constitution be continually re-examined. To achieve that end we recommend that this Special Committee be made a Standing Committee of the House of Commons so that it can carry out its mandate on a long term basis.

However, if the Government deserves acolades for the initiation of the debate, its proposed reforms fall short of the mark. Like an overanxious racehorse it has started fine but is fading in the stretch.

In its preoccupation with linguistic rights and institutional reform, the Government has tended to neglect other vital areas of concern. The Government's ideas on the Supreme Court and entrenching rights are fine as far as they go, but they are only partial reforms. The process of urbanization has produced in Canada a whole new set of issues and problems- what about the relation of government to new corporate structures, does urban Canada need new representative institutions, what about citizen participation, or the influence of new technology? These questions deserve answers. The Prime Minister is rightly concerned about national unity but his whole program is directed towards the cultural side of federalism - linguistic right, bi-culturalism, etc. It may be that in the future Canada's unity will be more threatened by social discontent arising out of neglect for urban problems than by any number of visits by Charles De Gaulle. In terms of the constitution then, the problems of urban Canada demand at least as much attention as the rights of Franco-Albertans.

There is a further reason for the study of the constitution and of urban affairs. For years ministers of the crown have retreated behind the mystic clouds of the B.N.A. Act, whenever they were asked why houses were not being built or slums cleared. The constitution has become an all purpose "Linus blanket" for Canadian politicians - safe, near at hand and instantly reusable. Inaction has been defended by legal obfuscation and the principle of democratic accountability has become lost in the shuffle. It is time that this particular tactic be exposed for what it is - a failure of will - rather than a constitutional straightjacket.

As Sir Kenneth Clark reminded us in a discussion of the difference between men's intentions and results in the Civilization series:

"If I had to say which was telling the truth about society, a speech by a minister of housing or the actual buildings put up in his time, I should believe the buildings."

OBJECTIVES OF THE CONSTITUTION

Almost every writer dealing with constitutional matters lists a different series of goals, objectives or tasks which he feels the constitution should prescribe. All these various goals can be classified into two primary aims; ideally constitutions should:

(1) Maximize democratic control over government

(2) Maximize the effectiveness and efficiency of government operations.

In terms of urban needs at least, neither of these objectives are being met by the present framework of the British North America Act.

(1) Democratic Rights

As the Federal Government itself has realized - "Canada's main constitutional documents - the British North America Act, 1867 and the amendments, contain few guarantees of specific liberties."[2] The B.N.A. Act has not been interpreted to guarantee any fundamental freedoms and the 1960 Canadian Bill of Rights has not served as a constitutional limitation on Parliament or the courts. The government has thus taken a wise and long overdue step in proposing a constitutionally entrenched Bill of Rights. However, we feel that the content of the proposals lacks sufficient guarantees for the democratic rights of Canadian citizens, as opposed to the individual liberties which are mentioned.

In the section on political rights, the Government has enumerated various freedoms such as the freedom of expression, freedom of conscience and religion, and freedom of assembly and association. These freedoms should be broadened to include a set of specific democratic rights.

The highest priority for this nation is to build a system where people can fully and actively participate in the basic decisions of planning and executing changes in the urban setting. But the truth is, that our present practices and our existing institutions are not very democratic. Decisions are made by small coteries of influentials; there is limited access to the forumsof decision making; and there are large numbers of people who have no power to act. Our representative chambers and our political parties - the devices we proclaim, provide access to the system - provide it only in an intermittent way and on some occasions.

Participation is an issue of national importance. It is not one that can be or should be confined to the local level. It is of course, in the local area that the demands for participation are being heard and the counter reactions being felt. But it is an issue of pre-eminence for our federal government because it involves ultimately the fate of the majority of Canadians living in the cities. As we read it, the imperative of "peace, order and good government" means that our national government must be the guardian of our democratic order. The federal government should have as its first order of business the protection of the democratic rights of citizens. Under the general goal of ensuring democratic participation, the federal government should entrench these rights into our constitution:

a) The Right to Information - This means that every man has a right to be alerted to activity that affect his interests. Citizens must be informed about new transportation routes, expansion of hospitals, removal of public libraries, which all affect their community. And it is not enough to say that a plan was published and hearings held - because these are means that reach only the articulate, organized portion of the population.

b) The Right to Access - There must be citizen access at both those times and places where actual critical decisions are made, not consultation after plans are already determined. New institutions may have to be developed - such as Neighbourhood Development Corporations - to give meaning to the participation process, but the right to access must become one of the essential principles of our political community.

c) The Right to Fair Forum - the opportunity to present one's case is meaningless if the decision or action which follows is made in a forum which is closed or prejudiced against consideration of the interests being presented. What chance does the immigrant family have, or the individual who doesn't possess middle class verbal skills to compete in the arena of decision making? Government must assure not only the right to access but the right to use that access fully and equally.

The inclusion of these democratic rights of participation in an entrenched Bill of Rights would enable citizens to use the vehicle of the courts to redress their grievances. In the United States for example,

a California citizen's organization has used the Bill of Rights to claim that suburban bars on low income housing are a denial of the rights of the poor to choose freely where they want to live. In Canada, we too should be able to use our system of justice to protect people's essential rights.

(2) The Effectiveness of Government

If the state then, must make a major committment to the goal of achieving democratic rights, so too, it must seek to make itself effective. To be effective and efficient, the responsibilities of each level of government must be roughly commensurate with the resources open to that level of government. In every federal-provincial conference the point has been driven home that the responsibilities of the provinces - in education, highways, health and welfare - are not equal to the fiscal resources which they possess.

However, even more dramatic than the plight of the provinces, is that of this country's municipalities. The services which cities are supposed to provide - housing, transportation, welfare - are the fastest growing items of government expenditure, but at the same time fiscal resource of urban areas - the property tax - is a regressive, non-growing resource. The cities' have been shut out of any share in the dynamic taxes on personal or corporate income. In a word, Canada's cities do not have enough money to do the required job. And with the great population influx into our urban areas, the problem can only get worse.[3]

There are only two possible solutions to this urban dilemma - an increase in municipal revenues or a reduction in municipal responsibilities.

By and large, the solution arrived at has been the latter one - the provinces have increasingly taken over the responsibilities for education, welfare, ect. And one reason why the shift has gone - services to the provinces, rather than revenues to the municipalities-has been the legal subordination of the cities to the provinces.

However, this drift of services to the provinces has largely been an ad hoc, unplanned phenomenon. There has been little conscious planning of the kind that, for a certain type function, the province is the level of government which can best do the job. It has been a process of necessity, not planning.

And, in order for government to be effective, there must be conscious planning. There must be a vigorous analysis of which level of government is best suited to the tasks which have to be accomplished. As the Prime Minister wrote some years before:

"the ideal state would therefore seem to be one with different sizes for different purposes. And the ideal constitution for it, would be one that gave the various parts, whatever their size, the power they needed to attain their own particular objectives."4

Not only should the constitution provide for an equality between responsibilities and resources, but as well, it should allocate those responsibilities according to the criterion of what level of government can best do the job.

In applying the above criterion to Canada's urban crisis one fundamental fact emerges - local governments have a vital role to play. In fact it is safe to say that the cities are facing a whole new set of issues

which only local structures can really deal with. The major problems of the cities - transportation, substandard housing, crime - have faced governments for thousands of years. But these problems, as they apply in the cities, have totally different dimensions; each of these problems grows from the concentration of large numbers of people into small areas. It is urban concentration which so increases the magnitude of city problems and the solution depends upon local initiative.

Many of the services provided by cities must be local in order to be effective. Problems in housing, welfare and crime are of differing magnitude and scope in different areas. Sometimes there are great variations from one street to another. Services like welfare or housing affect people's most basic needs and the delivery of these services often depends upon a knowledge of the individual people concerned. Urban renewal programs or transportation activities dramatically change people's neighborhoods or living patterns. Only a government close to the people can possibly know the human dimension involved and the people should be as close as possible to the governments which are changing their lives. In the provision of urban services then, local municipalities are the level of government best suited for meeting the human needs of the urban community.

However, if these problems are local in nature, they are national in scope. Across the land from Halifax to Vancouver cities are experiencing the same general difficulties. Urban issues are much too vital to the national well being of the nation, not to have the national government involved. The amounts of money which will have to be spent to make a

dent on the single problem of urban poverty alone are staggering. Only the Federal Government has the resources capable of dealing with such national problems and the Federal Governmant can not turn the control of these funds over to the provinces; Ottawa must retain the ability to direct this nation's economy and control of taxation is a vital part of this power. In fact some economists believe the federal government has already given too many tax points over to the provinces, with the result being a lack of power necessary to control inflation. The responsibilities for providing services to urban Canada, then must remain with the local municipalities; the resources, with the Federal Government.

The solution is obvious. Local government must deliver the services, the Federal Government must fund them. The Federal government must assume the role of international development institutions - providing research, ideas, experts and money. The cities must put the program into operation. Provincial Governments, despite their legal responsibility for urban matters, are often too large for effective implementation of urban programs and too poor for the type and amount of funding which is required. The Provinces, of course, will continue to play a role - if only because of their legal responsibilities. But the real key to the solution of urban Canada's problems is the involvement of the Federal Government. And before Ottawa can become involved the constitutional situation must be resolved; what has the Federal Government done in the past, and what does the B.N. A. allow it to do? It is to an examination of these issues that we must now turn.

THE CONSTITUTION, URBAN CANADA, AND THE FEDERAL GOVERNMENT

The B.N.A. Act already allows the federal government, at least in the area of spending, a wide scope of action on matters of urban interest. The problem with federal participation has not been the constitution but rather a lack of will and concern.

The responsibility of the provinces for urban matters is outlined in Section 92, subsections 8, 10, 13 and 16.

Section 92:

"In each Province the legislature may exclusively make laws in relation to matters coming within the classes of subject next hereinafter amended, that is to say ..

(8) Municipal Institutions in the Province
(10) local works and undertakings
(13) Property and civil rights in the Provinces
(16) Generally all matter of a merely local or private nature in the province. "

However, the Federal Government also possess important powers. In the planning and implimentation of urban development schemes the Federal Government has direct involvement in:

(1) Research and Statistics

(2) Transportation and Communication

(3) Rural Housing

(4) The Regulations and Provision of Economical Resources.

Of these powers the most important is the last, the so called "spending power" but the others also clearly give the federal government a role to play.

1) Research and Statistics

Investigation and planning are necessary to the making of legislative schemes. The gathering of relevant facts and statutes is thus an important

power. In the case of the Federal Government, Section 91 (6) clearly specifies the power of "the census and Statistics".

2) Transportation and Communication

Legislative power concerning the means of transportation and communication in the country are divided, but very important parts belong to the Government of Canada. Railways, pipelines, telephone lines, which are interprovincial are industries under federal jurisdiction. Canals, waterways, and airports are a federal responsibility, as are interprovincial highways. Aerial navigation, radio and television are federal by virtue of the federal general power in the opening words of Section 91 of the B.N.A. Act. The long distance transportation and communication needs of major urban centres thus requires a federal input.

3) Rural Housing

Housing, of course, is a concern associated with urban areas but there is also a need to encourage better housing on farms. The Federal Parliament has concurrent legislative power with the provincial legislature over agriculture with the federal legislature paramount in the case of conflict.

4) The Regulation and Provision of Financial Resources

So far as the provision of financial resources is concerned, the federal powers over banking and interest rates (Section 91 (15) (16) (19) are important and the federal spending power is vital.

The nine principal private banks of Canada are fully under federal control as a result of the federal Bank Act. The courts have said that banking is an expression which is wide enough to embrace every transaction

coming within the legitimate measures of banks (See Tenant 6 Union Bank of Canada (1894) A.C. 31) The Federal government can thus encourage banks to lend on first mortgages or direct their lending operations to either types of urban problems. The federal government, of course, can go into the banking - business itself, through the means of a crown corporation. Central Mortgage and Housing Corporation and the National Housing Act are examples of this type of operation. The most important potential power available to the Federal Parliament, however, is that of the spending power.

THE SPENDING POWER

The Federal Government, in a legal-constitutional sense, has the power to spend its money on housing or other urban programsif it so wishes. Politically the actions of the Federal Government in regards to housing may be questioned, legally the Federal Government has full power to spend its money where it chooses.

The Federal Government's so-called "spending power" is based on Section 91 (3) of the B.N.A. Act which gives the Parliament of Canada the power to raise money by any mode of taxation and Section 91 (A) which gives Parliament the right to make laws respecting public debt and property. Other constitutions such as that of the United States or Australia clearly outline the spending power of the central government; thus Article I, Section 8, of the American constitution reads "The Congress shall have the power to levy and collect taxes... and provide for the... general welfare of the United States,"

and Section 96 of the Australia Constitution Act provides that the Central Parliament "may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit."

Although the "spending power" of the Dominion government is not as pointedly expressed as in these other constitutions, it has been successfully upheld in the courts. In 1936, the Supreme Court of Canada, decided on the Employment and Social Service Act (scr.427) that Parliament did have a so-called "spending power". Justice Duff wrote of these points that:

> "Parliament by properly framed legislation may raise money by taxation and dispose of its public property in any manner that it sees fit. As to the latter point it is evident that the Dominion may grant sums of money to individuals or organizations and that the gift may be accompanied by such restrictions and conditions as Parliament may see fit to enact. It would then be open to the proposed recipient to decline the gift or to accept it subject to such conditions." 5

On appeal, the Privy Council also supported the concept of a "spending power"; "That the Dominion may impose taxation for the purpose of creating a fund for special purposes and may apply that fund for making contributions in the public interest to individuals, corporations or public authorities, could not as a general proposition be denies." [6]

Constitutional experts like Justice Bora Laskin and Gerard V. La Forest also support the Federal "spending power"; thus Laskin writes "The Dominion's right to spend money which it has raised through a proper exercise of its taxing power is confirmed, if confirmation be necessary by S. 91 (A) of the B.N.A. Act"[7] and Forest maintains, "the Dominion's discreation under Section 91 (A) of determining what objects are and which are not within the scope of the words "for the Public Service of Canada" is not more restricted than it is under any other head of power i.e. the legislation is valid as long as it does not

amount to a regulatory scheme falling within provincial powers."[8]

Constitutionally, then, the Federal Government has the legal power to make financial payments to people or institutions for purposes in which it (Parliament) does not necessarily have the power to legislate. As long as Parliament is financing and not administering, it is free to act. Politically, then, the Federal Government may not wish to grant further large amounts of moneys to the cities because it does not want to tread on the sensitivities of the provinces or because of inflationary pressures, but constitutionally it has the power.

EXISTING FEDERAL INVOLVEMENT:

Of perhaps even more importance than the specifics of the B.N.A. Act is the fact that the Federal Government has a role in the question of housing and urban development because it is already involved - to the tune of several billion dollars. Since 1945, Ottawa has provided a total of more than twelve billion dollars in National Housing Act laws, grant and subsidies.[9] The question we should really be asking ourself is not whether or not the Federal Government should be involved in urban matters, but how can we spend existing funds more effectively? The short resume of Federal involvment in the field of housing which follows, not only reveals the depth of the national role in urban affairs but also has some important implications for today's constitutional debate.

In 1918, under the War Measures Act the Federal Government first made available the sum of twenty-five million dollars for housing. The first major initiative of the Government of Canada, however, occured in the midst

of the Depression. The Dominion Housing Act of 1935 established a joint loan system for new housing. Evidence seems to indicate that this initial program was concerned more as an answer to the problems of unemployment than as a basic program for housing, but at least the first step was taken. In 1938 the Federal Government joined with the leading institutions in providing loans and included for the first time provisions to encourage the construction of low-rental housing.

World War II brought a new emphasis and energy to federal activity in the urban field as it did in a number of areas. A federal government initiative important from the point of view of recent debates on the jurisdictional limits of federal housing policy was the program of federal - municipal housing. War was an emergency, so all constitutional inhibitions and respect for provincial rights could be forgotten. The emergency conditions of 1939 - 45 were also carried over into the post war reconstruction period. The Wartime Housing Crown Corporation, which dealt directly with the municipalities for purposes of constructing housing for workers and returning veterans, spent over 250 million dollars, built 50,000 units and did not terminate its operations until 1949. The question which immediately comes to mind is what constitutes an emergency and who defines it? War is ordinarily an emergency situation but is post-war reconstruction?

Wartime also saw the creation of the National Housing Act of 1944. The act consolidated previous measures maintaining such provision as the joint loan technique, limited dividend loans and home improvement loans. The one addition of some importance was the federal government's first entry into

slum clearance. Under the 1949 Act, Ottawa would pay 50% for municipal acquisition or clearance of land which was to be sold to a limited dividend company or insurance company that had agreed to build a low-rental project on the site. In 1945, Central Mortgage and Housing Corporation was created as a crown agency.

Since 1945 there have been a series of amendments to the N.H.A. but, by and large, the activist role of Ottawa ended.[10] The reason for this has to do less with the constitution and more with the lack of committment to urban problems of all levels of Canadian government. On the question of low cost housing there was public indifference, and no political leadership. Once the imperative for housing as part of a war-time effert or post war reconstruction had ended, so did federal initiative. A continued activist program might have aroused some rumblings from the provinces though Ottawa was willing to push the jurisdictional limits in the health and welfare field. The explanation comes down to the basic fact that low-income housing was not high on the priority list. Support for the mortgage market could be handed over to a crown corporation which could efficiently administer the credit needs for the middle class and there was some provision for public housing so that any criticism of nothing being done could be set by the argument that the federal government was doing everything "in its power". A comparison of the federal involvement in the field of health and welfare illustrates the point; because of public pressure Ottawa actively began huge welfare programs based on the wide "spending power", while in urban matters it was content to rest only upon banking provision for CMHC. In essence federal policy was determined by votes not the B.N.A. Act.

SPECIFIC DISPUTES

Two particular issues which have often been debated with reference

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to the Constitution are those of the creation of a federal Department of Housing and Urban affairs, and (2) direct federal loans and grants to municipalities. In both cases the federal government has the power to act if it so wishes.

On the question of the creation of a department, Section 91 (1) of the B.N.A. Act, 1949 gives the federal government power to legislate in the area of its own departmental organization. Such a department would certainly have enough to do. As is obvious from the above analysis in several key areas such as transportation or research the federal government is deeply involved in urban matters. In the field of housing up to 1968, 685,276 Canadian homes have been insured by N.H.A. and 371,331 have been financed directly. Approximately 400 million dollars has been spent on public housing, three hundred million student housing, and a 100 million for housing of the elderly, one hundred and sixty-eight urban renewal for studies have been reported and forty eight urban renewal schemes have beem implimented, at a federal cost of 125 million dollars. [11] Federal involvment has been both enormous and costly. It only makes sense to create a department to better administer, direct, and channel this effort. And such a department could also provide the political leadership necessary to solve our urban ills.

Under the terms of the "spending power" Ottawa can loan or give money to whomever it wishes. The recipient can turn down the gift but Ottawa is free to offer. A province could of course, legally forbid a municipality to accept federal money, but the onus would then be on the province. As has been mentioned above, in the reconstructing period, the federal government granted money directly to the municipalities. And in 1963 the Municipal Development and Loan Fund, loaned money directly to the municipality for public works. Legally there is no bar to this type of federal initiative.

CONCLUSION AND RECOMMENDATIONSS

The main focus of this brief has been the constitutional role of the federal government in matters of urban concern. We have addressed ourselves to this issue because (1) questions have been raised about the extent to which Ottawa can become involved in urban matters and (2) a federal presence is essential to the solution of Canada's urban problems.

As was stated above, a primary requirement of a constitution is that it should maximize the effectiveness of government. For the interest of urban Canada this was defined as requiring municipalities to deliver services and the federal government to fund them. From the proceeding analysis it is apparent that the constitution as presently interpreted, gives the federal government the power to carry out such a proposed role. Ottawa has the power to carry out urban research, employ experts, loan money and give grants. If necessary it can enter into direct agreements with the municipalities. It can certainly create a federal Department of Housing and urban affairs to better co-ordinate its existing effort.

A federal department could also help reduce present regional disparities; in wealthy cities or one or two provinces there is enough money to hire urban experts, planners, and large research staffs. But resources for such purposes are lacking in most areas of Canada. A federal department could help fill such a gap.

The Constitution, then, allows a wide latitude for federal initiative in the area of urban affairs - all that is needed is for someone to exercise the option.

The second major objective of any constitution - to maximize

democratic control and participate - is not being met in Canada. To achieve this aim, the government should include in the Charter of Human Rights, a section devoted to democratic rights. It should be clearly stated that Canada's form of government is to be democratic in character with participation and citizen control being national goals. And there should be enumeration of the specific rights of:

The Right to Information

The Right to Access

The Right to Fair Forum.

The support of these rights by the government must extend beyond mere rhetoric. If greater citizen participation is to be a national aim, the federal government should help to create and establish citizen groups. Cities are afraid of citizen groups. They either try to stop them or co-opt them. But they rarely will tolerate the existence of independent groups of citizens involved in planning and execution. Just recently, for example the Executive Committee of Toronto City Council asked the federal government to stop aiding independent citizen groups.

If the movement to greater democratization in Canada is to survive the federal government must be prepared to entrench democratic rights. And in support of these rights it must encourage challenges to existing institutions, finance experiments with new forms of organization and give its blessings to the initiative of genuine citizen movements. In the United States, on the issue of citizen participation the American federal government has caved in. It will be an interesting test of the resolve of our own government to see which side they land on.

The goal of greater democratic control will necessitate further changes. A corollary to the Right of Information is that government must attempt to simplify its operations so citizens can understand what is going on. In order for government to be accountable, the people must know who is responsible for what activity. As the Prime Minister has written:

> "A fundamental condition of representative democracy is a clear allocation of responsibilities: a citizen who disapproves of a policy, a law, a municipal by-law, or an educational system must know precisely whose work it is so that he can hold someone responsible for it at the next election." 12

This means that if the federal government is to be involved in urban matters - as they must - the people should know it, and the Constitution should state it.

To achieve this objective, the government should try to establish a clear statement of responsibility from the courts. If post war reconstruction was a "national emergency", perhaps the present housing crisis is as well, An opinion should be sought. The government could base its intervention in urban matters on "peace, order, and good government" or the "commerce clause" as has been done in the United States. If the government succeeds in reforming the Supreme Court, it should use the new institutions. Put the Supreme Court to work in establishing a new generation of constitutional decisions that will have more relevance to our urban age than those set down by Lord Haldane in the holy, halcyon days of the Judicial Committee of the British Privy Council.

An alternative strategy would be to amend the constitution to distinctly establish the "spending power" on which so much federal policy is now based. At present, the spending power rests on court decisions alone.

In the interests of permanence and clarity this federal power should be enumerated to detail the specific areas of federal concern and involvement.

This brief, then, demands committments. As Canadians we must make a committment to our urban areas - a resolve to begin the process of ending urban poverty and crime, of making our cities more livable. We must also pledge ourselves to the goal of democracy. We deny this goal everyday that we allow the present system to operate. The constitution must reflect these concerns and the necessary changes will have to be made. For it we remain negligent in our urban responsibilities, and lukewarm in our support of citizen participation, then democracy in the urban age will not survive.

FOOTNOTES

1 Economic Council of Canada, Fourth Annual Report, Ottawa: Queens Printer, 1967. P. 184.

2 Canada, A Canadian Charter of Human Rights, Ottawa: Queens Printer, 1968 P. 13.

3 For further information see the brief of the JointMunicipal Committee on Intergovernmental Relations for submission to the Ministers of Municipal affairs in Winnipeg, August 19, 1970.

4 Pierre Eliott Trudeau, Federalism and the French Canadians, Toronto: Mcclelland and Stewart ed., 1968 P. 35.

5 Justice Duff, quoted in Federal Provincial Grants and the Spending Power of Parliament, Government of Canada White Papers on the Constitution, Ottawa, 1969.

6 Ibid.

7 Bora Laskin, Canadian Constitutional Law Toronto: The Carswell Co. ed., 1966, P. 666.

8 Gerrard La Forrest, The Allocation of Taxing Power Under the Canadian Constitution. Toronto: Canadian Tax Foundation, 1967 P. 37.

9 Report of the Federal Task Force on Housing and Urban Development Ottawa: Queens Printer, 1969 P.6

10 A 1946 amendment to the act allowed C.M.H.C. to become a direct lender and in 1949 two features were introduced which assumed great importance; C.M.H.C. on a 75-25 percent partnership with the provinces became involved in public housing projects. In 1964, in regards to public housing a second option became available to the provinces; the federal government would provide a 90% loan along with 50% sharing in the operating costs. In 1949 amendments also allowed the federal government to participate in land assembly schemes.

The National Housing Act was completely re-hauled in 1954. The new act altered the basic method of financing from the joint loan system to one of insured loans. Insured loans have been made available to Canadians in amounts of 90% of lending value repayable over twenty-five years. In 1956, C.M.H.C. was allowed to finance urban renewal studies by municipalities and in 1960, loans up 90% for student housing were allowed. In 1964, N.H.A. low interest loans were given to non-profit organizations for the provision of low-income rental housing,

particularly for elderly persons. In June of 1969, C.M.H.C. was allowed to provide loans of up to 90% to provinces for the purchase of land banks.

11 Report of the Federal Task Force, P. 6

12 Trudeau, Federalism and the French Canadians P. 29.