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R. B. BENNETT AS A REFORMER

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R. B. Bennett has had a bad press, and no wonder. His failure as a political leader, his unattractive personality, the unrelieved depression throughout the five years he was in power, the devastating defeat of his government in the 1935 election, the inaccessibility of his personal papers even twenty years after his death — these negative factors suggest some reasons why Bennett's efforts have received almost no positive assessment. By contrast, and as a further explanation for his negative image, there is the saga of Mackenzie King. Time and Dame Fortune were ever on his side. After his 1935 victory, King did little to fight the depression, except to set up royal commissions and to wait the results of court decisions. By 1940, the depression had been swept away by the Second World War. After 1945, the post-war boom and the Cold War enabled him to defeat his nearest political rivals, the C.C.F. As he neared the end of his long reign, King retired in a most orderly fashion by choosing first his successor and then his literary executors. Bennett planned to retire in 1934 and finally did so in 1938, and then only after an eleventh hour decision against attempting to succeed himself at a leadership convention. His last days were spent far from the Ottawa political scene and even now his personal papers are still being indexed at the Public Archives.

What follows is an attempt to restore a certain balance in modern Canadian historiography. There will be no in-depth study of the Bennett psyche. Most would agree with the observations made in 1940 by George Black, former Conservative member for the Yukon and later Speaker of the House of Commons :

Bennett is clever, well-informed, has a remarkable memory and, when his own financial interests are involved, an able businessman. He is disgustingly conceited and feels he outweighs all other Canadians in importance. He is contemptuous of the intelligence and efforts of others — in every respect a lone wolf (except perhaps in the rutting season when, of course, no male associates are welcome).¹

Black's assessment of the events of 1934 and 1935 are more pertinent inasmuch as they reflect the general view of Bennett's legislative record :

¹ Public Archives of Canada, *Manion Papers*, George Black to Manion, January 12, 1940.

The Grit bill-board slogan of "King or Chaos" in 1935 was most effective in influencing the votes of businessmen to King. They were frightened by that avalanche of ultra vires socialistic legislation that Bennett jammed through in 1934 on the advice of that Public Nuisance No. 1, Bill Herridge, apeing the New Deal of Roosevelt. The underdogs, the labourers, were not attracted to our party by it, when handed out to them by the capitalist millionaire Bennett. They didn't believe he was genuinely their friend -- and he wasn't.

The so-called Bennett New Deal is a misnomer in the first place and an unlikely and inaccurate point of departure for any assessment of Bennett's legislative record. It was little more than an election slogan and a poor one at that. The words of Herridge that Bennett mouthed to a national radio audience in January, 1935, certainly sounded like a dramatic conversion, but if Bennett assumed the reformer's mantle, as I think was the case, he did so at least three years before those broadcasts.

Radio had much to do with Bennett's conversion, but in a different sense. There is little doubt that the Privy Council decisions on radio communication and aeronautics handed down in 1932 started Bennett thinking about new legislative approaches to fight the depression. As one who had appeared many times to argue cases before this highest court in the Empire, Bennett could appreciate probably more than his astute rival King the implications of their Lordships' judgment. They reasoned that, although the 1922 Convention which had prompted the disputed legislation was not a treaty as defined in section 132 of the British North America Act, "it amounted to the same thing." Furthermore,

it is Canada as a whole which is amenable to the other powers for the proper carrying out of the convention, and to prevent individuals in Canada infringing the stipulations of the convention, it is necessary that the Dominion should pass legislation which should apply to all the dwellers in Canada.²

Given such encouragement, why did Bennett wait another two years and more to introduce legislation implementing the other parts of the Convention? Over the next few months after the 1932 decisions, this question was asked repeatedly and not only in Parliament. In 1933, at the first annual Liberal-Conservative summer school held at Newmarket, Prof. Harry Cassidy of the University of Toronto outlined a detailed plan for unemployment insurance, arguing that such legislation would be in the tradition of the great British Tory, Lord Cecil. Bennett was also present and, when questioned about the possibility of amending the British North America Act to

² R. A. Olmstead, *Decisions of the Judicial Committee of the Privy Council relating to the British North America Act, 1867, and the Canadian Constitution 1867-1954* (Ottawa, 1954), Vol. II, p. 731.

make possible some form of unemployment insurance, he indicated his willingness but added that he could do nothing until he received "the cooperation of the provinces."³ A few months earlier, a Dominion-provincial conference called to deal with just this question broke up when Ontario and Quebec opposed any constitutional changes that necessarily would involve existing taxation agreements. The probable solution, in Bennett's view, was "enactment of legislation by the federal authority which will become effective only on the province adopting it."

This was precisely the procedure already being adopted by the Bennett administration. In the late autumn of 1932, the Liberal member from Vancouver, Ian Mackenzie, moved an amendment calling for a large public works program to deal with unemployment. Bennett answered that he intended to bring down an unemployment insurance act. "At that moment Canadian unemployment insurance was born." That was the view of the late R. K. Finlayson, Bennett's executive assistant from 1932-1938, whose task it became to supervise the drafting of this very complex piece of legislation. In view of Finlayson's important role in what is, in my opinion, the most sweeping example of reform legislation passed by the Bennett government, and probably by any Canadian government in this century, Finlayson's account contained in his unpublished Memoirs has special merit. It also reveals the extensive use Bennett made of senior civil servants and non-government experts and associations.

A. D. Watson was the Chief Actuary in the Insurance Department of the Ministry of Finance and was quite familiar with the actuarial computations involved in an unemployment insurance scheme, but he could not at the time see how such legislation would benefit the economy of Canada, and he practically refused to do anything about it. After I had suggested to him that there was no sense in quarrelling with a definite Government decision on policy, Watson went to work earnestly with a view to framing a measure that would cause as little disruption as possible. Our first step was to get R. H. Coats, the Dominion statistician, to engage a special labour economist to sort out the relevant facts relating to employment, having regard the seasonal factor. Then Watson persuaded me to engage an actuary named Hugh Herbert Wolfenden, a chartered accountant, who had been briefed by the Manufacturers' Association of Canada.

When in London attending the World Economic Conference [1933] Bennett arranged a meeting with the Minister of Labour which enabled me to look into the British unemployment and health insurance schemes. I was thus in a position to observe their working all the way from the centre in Kew to the unemployment offices throughout the country, and I came back to Ottawa pretty well informed about

³ *Canadian Problems as Seen by Twenty Outstanding Men of Canada: a Collection of Papers read at the first annual Liberal-Conservative Summer School at Newmarket, Ontario (Toronto, Oxford University Press, 1933), p. 28.*

the British schemes and similar measures in force in other countries. I was especially interested in the unemployment insurance enactment of German Chancellor Bismarck.

When the drafting of the bill was completed in 1934, I took it over to Tom Moore and P. M. Draper, the President and Secretary, respectively, of the Trades and Labour Council of Canada. I met with them for a few hours, saying not a word in the discussion, only making notes of their objections. Then I arranged for a meeting between them and Watson. Watson's actuarial provisions first provided for a forty-week employment period before entitlement to benefit. Moore suggested a thirty instead of a forty-week waiting period, a higher rate of benefit, bringing construction and mining industries under the act, and further, but not drastic, extensions. Moore always entertained the idea that in forwarding progressive labour legislation the important consideration was to have something started. Finally, taking a leap in the dark, I said I was going to suggest a basis of compromise. My suggestion was that we agree to all the changes put forward by Moore and Draper but one, namely, that we leave undisturbed the forty-week work period before entitlement to benefit. The two [Labour] representatives agreed; Watson remained silent. I wondered what was going to happen when I walked home with him as I did that evening. To my surprise he was not only satisfied but delighted. He still had the forty-week waiting period instead of thirty, as it was in Britain, and he thought that on such a basis the measure could be defended as actuarially sound. Before we were through with that measure, Watson, who hated the sight of it at the beginning, became one of its most enthusiastic protagonists and, for several years after his retirement, advised the succeeding governments of Mackenzie King and St. Laurent on measures brought forward to amend it.

The bill was drafted on the understanding that it was beyond the competence of the Dominion Parliament to enact and would come into force only after an appropriate constitutional amendment was secured. I then gave Bennett the ribbon copy. With a searching glance, he said, "Is it actuarially sound? Is it an effective measure?" et cetera. I said the measure itself was all right, but until workers were in receipt of benefits, it would be a political liability. He scoffed at the idea of thinking politically when drafting a constructive piece of legislation. After delivering a copy of the bill to Skelton, Finance Deputy Minister Clarke, and some others, I met with Fred Varcoe and John Read, as well as Watson, to go over the measure. By the time we were through, both Read and Varcoe decided it was a valid measure within the powers of the Dominion Parliament to enact. Their opinions were based largely on the ground of an expanding Dominion jurisdiction as enunciated in the aeronautics and radio cases. Supported by that judgment, the bill was enacted into law in the session of 1935.⁴

As members of the academic community quickly pointed out, Bennett's Employment and Social Insurance Act could help only a limited group of the unemployed. It exempted about a third of the

⁴ R. K. Finlayson, *Life with R. B., That Man Bennett* (unpublished ms.), pp. 233-236.

work force, notably those in seasonal occupations like agriculture, trapping, logging and transportation by water. But it would help "a large proportion of the insured persons over their time of unemployment," and local authorities would "no longer be obliged to deal with them."⁵

As further evidence of the wide influence of this Bennett legislation, in 1942, the King administration introduced another unemployment insurance bill, virtually the same as the 1935 Act, except that the employees were divided into three categories of income groups and paid premiums and received benefits accordingly.

To meet the desperate plight of Canada's farmers excluded from this act, Bennett introduced at least three others of radical proportions. One was the Natural Products Marketing Act, passed in 1934, well before the New Deal broadcasts and largely at the insistence of Grote Sterling, whose constituency in the Okanagan Valley was in dire need of marketing legislation to replace a provincial act that had been successfully challenged in the courts. As originally drafted, the Natural Products Marketing Act "covered all farm products (except wheat and other grains) and natural products in general, notably lumber."⁶ The Liberals, with the notable exceptions of their former Minister of Agriculture, W. R. Motherwell of Saskatchewan, and J. L. Ilsley from Nova Scotia's Annapolis Valley, bitterly opposed the bill. The ensuing debate occupied more than two of the five months making up the 1934 session.

The second measure to assist Canadian farmers was the Farmers' Creditor Arrangement Act. When first submitted to Bennett late in 1933, it provided for reduction of mortgage and interest debt by conciliation only. According to Finlayson, Bennett "threw it back to the draftsmen and said: 'I want an authority created by Parliament which will have the power to cut both interest and principal down to the productive level of the farm.'⁷ This posed quite a problem, but eventually Fred Varcoe, the deputy Minister of Justice, produced a revised draft providing "for a receiver whose task would be to endeavour to bring the two parties together, failing which the issue would be turned over to a board of review presided over by a Superior Court Judge. The Board was to have the authority to do what it believed just in dealing with any farmer's debt situation." Such widespread federal activity in the agriculture industry would have been unheard of ten years earlier.

⁵ L. Richter, "The Employment and Social Insurance Bill," *The Canadian Journal of Economics and Political Science*, Vol. I, p. 442.

⁶ Finlayson, *op. cit.*, p. 240.

⁷ *Ibid.*, p. 239.

Bennett personally piloted this bill through the Commons, along with the Canadian Farm Loan Act. He argued that an earlier Privy Council decision handed down in the 1880's had established the Dominion government's exclusive jurisdiction to deal with bankruptcy and insolvency.

Not only were these significant pieces of legislation passed before the New Deal broadcasts, but they also had little to do with the so-called Stevens Inquiry into price spreads and mass buying. It had started out in February, 1934, as a Select Commons Committee and later continued into the next Parliamentary session as a Royal Commission. The widespread publicity of this investigation, coupled with the resignation of H. H. Stevens as Minister of Trade and Commerce, led the public and many politicians to believe that Bennett, by making his New Deal speeches, was trying to appease Stevens and as well to make a pre-election pitch by promising to reform the sick capitalistic system. Undoubtedly he had half an eye on the next election, but he seemed more concerned with the legislation at hand, much of it placed on the drafting table months and even two years before. Of course, the Price Spreads Inquiry did produce important legislation, notably amendments to the Companies Act and the Criminal Code, and the Dominion Trade and Industry Commission Act. However, they were introduced almost grudgingly and certainly with apologies by the Ministers concerned about their doubtful constitutional validity. Most observers and parliamentarians at the time suspected their expedient nature, and in any case, these acts should not be included as positive evidence of Bennett the Reformer.

Not so the legislation introduced to enable Canada to fulfil her treaty obligations under the 1922 Conventions. The Weekly Rest in Industrial Undertakings Act, the Minimum Wages Act, and the Hours of Work Act were in the same category as the Aeronautics and Radio Communications Acts. That these three later acts were within the competence of the Dominion government, Bennett's legal advisors were firmly convinced. So were other legal experts. Writing in 1934, Prof. Frank Scott of McGill's law school urged the Dominion government to follow up the 1932 decisions :

If radio can be thus controlled, why not wheat production, hours of labour, and so forth? True, there were additional grounds for Dominion control of radio, but a progressive government at Ottawa might feel reasonably sure of constitutional support in any attempt to bring the industrial and economic life of Canada into line with a general world programme agreed upon at an international conference.⁸

⁸ F. R. Scott, "Social Reconstruction and the B.N.A. Act," *League for Social Reconstruction*, Pamphlet No. 4, 1934, p. 9. Cited in J. R. H. Wilbur, *The Bennett New Deal: Fraud or Portent?* (Toronto, Copp Clark, 1968), p. 59.

As is generally known, the new King administration referred all of this legislation to the Privy Council but, contrary to the popular view, not all of the 1937 decisions returned *ultra vires* verdicts. Their lordships did reverse their 1932 decisions and declared against the acts complying with the 1922 Convention, but in due time Lord Wright, a member of that 1937 Privy Council, revealed that this was by no means a unanimous decision, and he strongly endorsed the argument of Chief Justice Lyman Duff of the Supreme Court, which had been based on the 1932 decisions.⁹ The Wright article appeared in 1955, six years after Canada ended appeals to the Privy Council, an action prompted largely by the outcry from the legal fraternity following the 1937 rulings.¹⁰ Thus, Bennett's legislation was a major factor in Canada's coming of legal age. It was small comfort at the time, but he must have taken some satisfaction in the fact that the Privy Council had upheld his amendments to the Criminal Code, and both the Dominion Trade and Industry Commission Act and the Farmers' Credit Arrangement Act were declared "good." The Employment and Social Insurance Act was *ultra vires* in their Lordships' view, because "it did not purport to deal with any special emergency" and hence encroached on provincial rights. The Natural Products Marketing Act narrowly missed receiving complete approval, but was thrown out because of an amendment inserted at the insistence of the Minister of Agriculture "by which a Dominion appointed board could give the dairy farmers of eastern Saskatchewan the benefit of the market in metropolitan Winnipeg."¹¹

Thus, Bennett's reform legislation performed a valuable service. By declaring much of it *ultra vires*, the Privy Council was signalling the end of its usefulness as the interpreter of Canada's constitution. And as we have noted, a Mackenzie King Government did introduce an Unemployment Insurance Act and a national employment service. Bennett's Act had also provided for a National Health Insurance scheme, which only now is becoming a reality.

Some mention must also be made of at least four other major break-throughs by the Bennett administration. It produced the Bank of Canada Act, and although changed slightly by King in 1937, it has remained essentially as Bennett and his advisors had conceived it. A central bank was long overdue. Most western nations had had their own for years before the 1930's, but it was new for Canada and,

⁹ Lord Wright, "Rt. Hon. Sir Lyman Poore Duff, G.C.M.G.," *The Canadian Bar Review*, Vol. 33, 1955, pp. 1125-1128.

¹⁰ See *The Canadian Bar Review*, Vols. 15, 25, 29 and 33. Note especially articles by Bora Laskin (Vol. 25); Vincent C. MacDonald (Vols. 15 & 29); and F. R. Scott (Vol. 15).

¹¹ Finlayson, *op. cit.*, p. 240.

since it helped to modernize our credit and currency controls and played a major role in the successful financing of the Second World War, the Bank of Canada Act should be included in any list of reform legislation.

Another inclusion would be the Canadian Wheat Board Act of 1935, which was "widely acclaimed." According to the late Prof. V. C. Fowke, "since 1935, the Canadian Wheat Board has been the outstanding agency in the Canadian grain trade."¹² Admittedly, as Fowke pointed out, "to western farmers and farm leaders the Wheat Board set up in 1935 was only the inevitable, if somewhat delayed, reconstitution of the Wheat Board of 1919," but at least Bennett bowed to the farmers' demands, which is more than could be said for the King administration from 1921-1923.

According to the popular accounts, the prairie farmers' symbol for the Tory leader was the "Bennett Buggy," or horsepulled car. Today, with the depression only a grim memory, their trademark for Bennett might be the PFRA. Those household initials stand for the Prairie Farm Rehabilitation Act, passed in April, 1935, and significantly not referred by King to the Privy Council. It was a sound piece of legislation, as the Liberal leader knew, providing a practical approach to counter the effects of drought and soil drifting. In 1937, sixteen PFRA community pastures, ranging from 6,000 to 25,000 acres, were established in the drier areas of Saskatchewan, and by 1947 "work was completed or well advanced on 108 large projects, which would develop or restore irrigation on 202,000 acres."¹³

Still another example of Bennett's impact was the Canadian-American trade agreement of 1935. It was signed by Mackenzie King and the American Secretary of State, Cordell Hull, on November 15, just one month after Bennett's resounding defeat at the polls. But as the American economic historian Richard Kottman has pointed out, "well before June, 1934" Bennett had attempted "to revive the once-active bi-lateral trade."¹⁴ In 1933 Bennett had "noted publicly that Washington should make the initial overtures, but privately he assured a legation official that he wanted to negotiate an agreement." And shortly after that agreement was signed, Hume Wrong of the Canadian legation wrote John W. Dafoe in Winnipeg :

It is rather bitter for Herridge, who probably did more than anyone to make the signature at this time possible, that he will get

¹² V. C. Fowke, "Dominion Aids to Wheat Marketing, 1929-39," *The Canadian Journal of Economics and Political Science* (August 1940), p. 398.

¹³ Grant MacEwan, *Between the Red and the Rockies* (Toronto, University of Toronto Press, 1952), p. 273.

¹⁴ Richard Kottman, "The Canadian-American Trade Agreement of 1935," *Journal of American History*, Vol. 52, No. 2, p. 278.

no public credit and will be condemned in his own party for not getting the agreement through before the election – which could not have been done.¹⁵

And this was the agreement which, in Kottman's opinion, "led to a new era in Canadian-American relations and a prelude to the close military and political cooperation during World War II."

Public credit eluded Bennett even more than it did Herridge, and the reasons can be traced to his arrogance and his political ineptness. With the notable exception of the 1930 general election, his rival Mackenzie King upstaged him at every turn and walked away with the honours. But two decades now separate us from these friendly enemies – time enough to look more objectively at their legislative records. Elections notwithstanding, it is this record that matters in the long run. A closer study might reveal that of all the administrations governing Canada in this century, the most conservative have been led by Mackenzie King and the most reforming by R. B. Bennett.

¹⁵ Cited in Kottman, p. 296, n. 66.