

# CASTOR COMMENT

## Not Hatched Yet

The Federal government should not crow too soon over the agreement obtained in the House on sending the Constitution to London. It still has to be approved by the Supreme Court.

In effect, the Supreme Court will be asked whether it is within the power of the Federal Parliament to rewrite Canada's Constitution in matters within provincial jurisdiction, over the objections of a majority of the provinces.

A Manitoba provincial court has returned a split decision on the issue; a Newfoundland court has rejected unilateral amendment in matters concerning both parties. A Quebec court has said that Mr. Trudeau's approach is legal but destructive of provincial rights.

All of these are provincial courts with no power to rule out an action by Parliament, the highest court in the land.

The provincial courts had difficulty deciding what the Constitution actually represented. Most of the judges agreed that it was not a pact (perhaps because none wanted to revive the shade of Maurice Duplessis); some said it was a statute of the United Kingdom Parliament; all seemed uncertain of its Canadian parthenogenesis.

There is really no mystery about it. Confederation is an agreement and the Constitution is the written expression of that agreement. The B.N.A. Act simply represents the terms of the contract to which the provinces gave their assent on entering Confederation. The original signatories of the agreement were four provinces, Upper Canada, Lower Canada, Nova Scotia and New Brunswick. The other six entered in the course of time. When they did so, they accepted the terms of the Confederation agreement and became signatories of the contract.

Speaking in the Confederation Debates, John A. Macdonald made it plain that agreement by the governments of the provinces was essential to the existence of Confederation. He prided himself on having obtained that agreement. He said it was unlikely, if Confederation failed, that the agreement would ever be obtained again.

He left no doubt from the tenor of his remarks, and his actual words that the thought of proceeding without agreement by the provinces had never crossed his mind.

Confederation is more than a legislative union. Confederation was the building of a nation. Confederation created a central government, which did not exist up to the passing of the B.N.A. Act; and that central government, too, was bound by the terms of the articles.

When John Robarts was Premier of Ontario, that government issued the theory that the central government was a creature of the provinces, in the sense that it was created by agreement among the provinces. This may have been technically accurate; but it is largely irrelevant. Once the central government and Parliament came into existence, they represented the nation; but at all times they represented the nation only in those spheres of activity given to them by the Constitution. When the central government and Parliament depart from their assigned jurisdiction, then they are acting unconstitutionally and without validity.

It is very well for the courts to say that Mr. Trudeau's course has been legal. That does not make it constitutionally valid. It may be quite legal for a man climbing a mountain to slice through a rope; but if his action sends three others tumbling to their deaths, his action must be classed as destructive. That in essence was the ruling of the Quebec court. Legal but destructive of provincial rights. This shows the folly of asking lower courts to adjudicate questions of high policy involving constitutional mechanisms.

Regardless of court decisions, the stance of the Federal Government in re-writing the Constitution, in matters assigned to the provinces (education and language) over the objections of the majority, must be faulted on a number of grounds, all of them fatal to a continuation of Confederation as we have known it.

## CASTOR REVIEW

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## Beaver Bob

RATTLED BRAINS

Men are not as dumb as they look. They have been studying for several thousand years how to get around women and they've done pretty well.

They persuaded women to have the babies, sweep out the cave, look after the fire, while the men went out and hunted sabre-tooth tigers and mastodons. At least, that's what they said they were doing.

About a hundred years ago, women started to get smart. They found out men were having all the fun by going to war, wearing smart uniforms, flying around in planes, voting themselves fancy pensions and things like that, being in business, getting big expense accounts, going to conventions; so they decided they wanted some of the action and that started Women's Lib, which has been described as the greatest disaster to hit the human race since instant mashed potatoes.

I understand that in the United States there is an organization which arranges for men to send away for Japanese brides and so far this year, three hundred have come over. That shows you the

way things are going.

The experts tell us the human race has been around for about half a million years or maybe longer. You would think in that time we would have gotten to be a lot smarter. Or would you? Maybe we started smart and got dumber.

Several million years ago they say, there were creatures, not quite men, but humanoids with big heads, bumps on the back of their heads and deep-set eyes. They became extinct. I thought they went to work for the government.

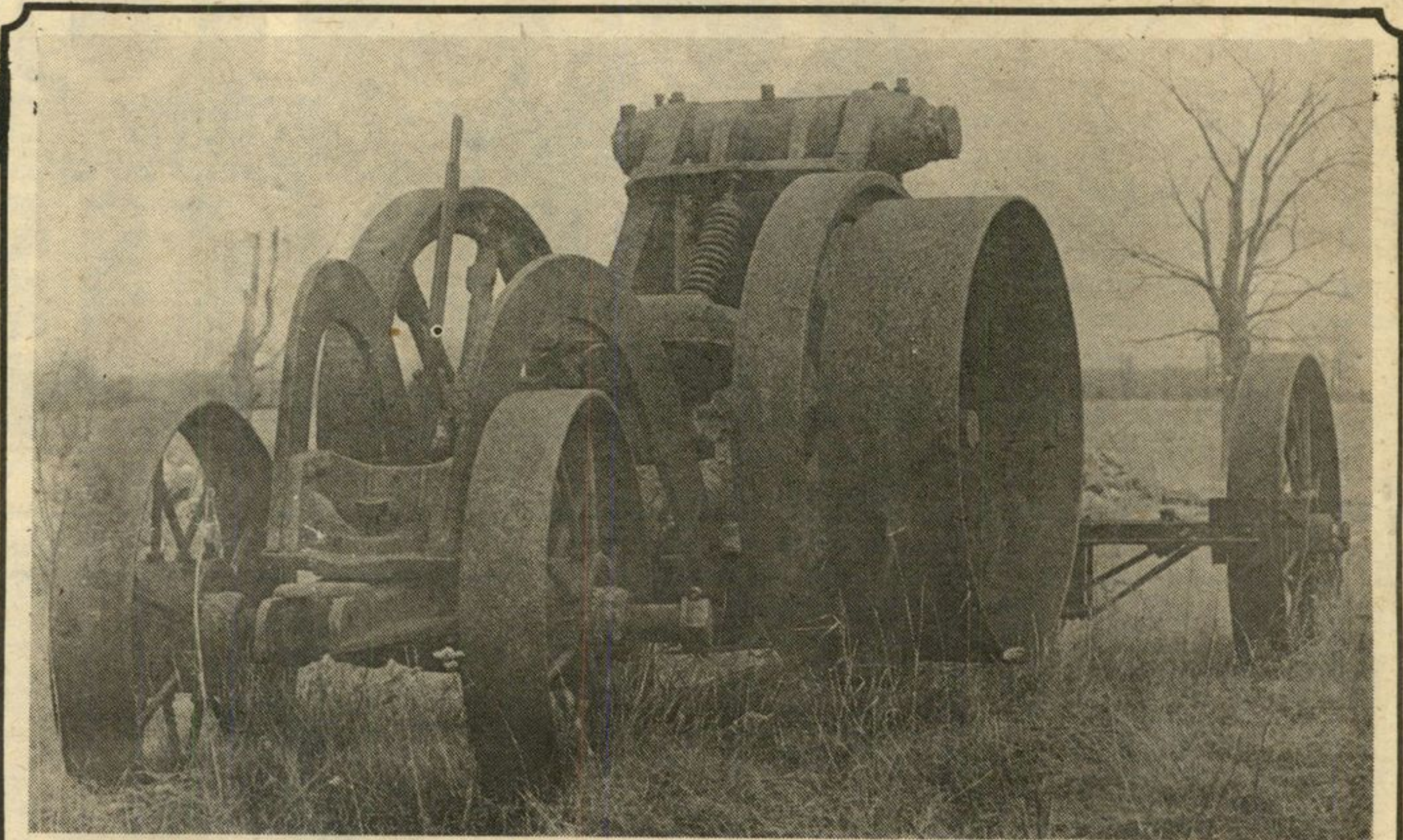
These were followed by Neanderthal Man who is not quite the creep he is made out to be. Neanderthal Man was quite a nice guy, built something like us, with a brain almost the same size. Since we use only one-tenth of the circuits in our brains, Neanderthal Man used even less. He had no real problems except to figure where tomorrow's lunch was coming from. That hasn't changed.

Scientists say that man's brain has been growing steadily at a rate of about 2% every million years. That is certainly encour-

aging. The first humanoids had small brains. They lived in trees about 4 million years ago. How scientists can tell the size of a guy's brain who was running around in the trees 4 million years ago, I wouldn't know.

Scientists can take a skull and measure the brain cavity. Let's assume the skull is carbon-dated 4 million years old. Now, if it has a small brain cavity, scientists figure the creature, homo erectus he is known as, must have had a small brain. That, of course, is based on the assumption that the brain can never be larger than the brain cavity in which it is located.

Imagine some poor slob whose brain was too big for his brain cavity. It would result in a tight fit, like shoes. Would he be in constant pain, or would he turn out a genius? They say the brain doesn't feel pain. Perhaps a tight-fitting brain is the explanation for the geniuses of history, James Watt, Alexander Graham Bell, Don Ameche, Robert Fulton, Leonardo da Vinci. Maybe the trouble with the rest of us is that our brains are too loose and they are rattling around in the brain cavity.



The Old Workhorse

(Michael VanDusen Photo)

## Correspondence

Editor,  
Castor Review;  
Re: Your March/81 Edition —  
Page 6 — "RA Report"

As a former "RA treasurer and director", I would like to compliment the finance committee initially and secondarily, highlight a few "missing pieces" to the story:

a) the "user-pay policy" is **not** new to the Russell RA Board of Directors. Back-room political pressures placed upon previous RA Boards by their sub-committees, i.e. Minor hockey; figure skating; the pool; and other groups, resulted in less than adequate revenues being generated to cover escalating expenses of the RA. I was rather unpopular with many people for even suggesting such a concept — "user pays". In fact, after almost 1-1/2 years of political interference in my proposed financial policies, I elected to resign as the RA Treasurer in lieu of being a party to the financial policies of the then RA Boards. Former Township Council Members were aware of "why" the Russell RA was having financial problems at that time, however, they chose not to get involved, with the exception of Albert Bourdeau who assisted with "Win Ontario" grants;

b) very bad and misleading budgeting by previous boards — political pressures inside of/outside of the Russell RA were responsible for this;

c) overspending — a common problem of governments, at all levels (Russell RA to the Federal Government of Canada).

A suggestion to the RA Board — tell the residents of the first four concessions what the present services cost including the value of significant subsidies being given to the various committees/groups.

Good Luck!

Keith Boothe,  
Former RA Director,  
Amherst, N.S.

## POETS OF THE... CASTOR

The End

Life and death are one  
Part of an eternal existence  
Inextractably joined  
In one endless circle  
To fear death  
Is to fear the future  
Death is as inevitable as life  
There is no such thing as an end  
For all buds are beginnings  
As all beginnings are an end  
Death too is a beginning  
The rounding of a new corner  
A new street  
To be part of and one with

## Bruno Beefs

I along with many other members of this planet have spent years believing we were in the wrong time, that perhaps our ideas were more fitting an earlier century. Only recently have I acquired insight to say that, without question, this is the greatest time in man's development.

People my age and younger will be able to experience an age of affluence which has never existed for us with the exception, perhaps, of the very beginning. We will cross the threshold of pettiness and go on to become a united world, a world of love and peaceful co-existence. We will prove to the universe that we, within a short span of time, have conquered greed and bigotry. We have truly come of age. We will become children of God, children of the universe.

To never end is to never begin  
No matter what is done or not  
Something is done  
Even if it is nothing  
Thus in finishing I start

THE BEGINNING

John Overell, Greely.