

FROM CENTRALIZATION TO SOVEREIGNTY-ASSOCIATION: THE CANADIAN LABOUR CONGRESS AND THE CONSTITUTIONAL QUESTION

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This article surveys positions on constitutional reform of the Canadian Labour Congress (CLC) from a historical perspective. In addition to analyzing how Canada's largest labour organization has approached issues of national unity, federalism, and constitutional reform, the article underscores how Canadian constitutional struggles were reflected within the labour movement by focusing on how constitutional politics affected the relationship between the CLC and its Québec affiliate, the (Québec Federation of Labour) FTQ. Specifically, the article traces the gradual eclipse of the CLC's preference for centralization and the emergence of sovereignty-association as a political position which the CLC has both externalized politically and internalized organizationally.

Cet article passe en revue les positions du Congrès du travail du Canada (CTC) sur la réforme constitutionnelle sous une perspective historique. En plus d'examiner la manière dont l'organisation syndicale canadienne la plus importante a abordé des questions liées à l'unité nationale, au fédéralisme et à la réforme constitutionnelle, l'auteur souligne la façon dont les luttes constitutionnelles canadiennes ont été reflétées dans le mouvement ouvrier en se concentrant sur l'effet qu'a eu la politique constitutionnelle sur les rapports entre le CTC et sa filiale québécoise, la Fédération des travailleurs du Québec (FTQ). En particulier, l'article retrace l'éclipse progressive de la préférence du CTC pour la centralisation et l'apparition de la souveraineté-association en tant que positionnement politique que le CTC a à la fois extériorisé politiquement et intériorisé du point de vue de l'organisation.

I. INTRODUCTION

The fact that so many political conflicts resolve themselves into constitutional struggles stands as stark testimony to abiding fractures in the Canadian polity. However, constitutional discord is not something that plays out only among formal actors in the state system. The political dynamic that underlies Canada's constitutional travails, as well as the effects of official constitutional discourse, reverberate throughout civil society. The Canadian labour movement provides an example of the pervasiveness of this dynamic and discourse. Understanding the labour movement's evolution vis-à-vis constitutional issues

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is key to explaining how constitutional struggles have caused certain patterns of behaviour among labour unions — patterns of behaviour which have not only been externalized politically, but also internalized organizationally.

Although a number of academics, primarily from Québec, have attempted to explain how the labour movement has been shaped by Canada's constitutional struggles,¹ constitutional scholars have, for the most part, overlooked organized labour's role in constitutional politics. This article addresses this gap in the literature by surveying the evolution of Canada's constitutional struggles through the lens of the labour movement. In particular, the article focuses on the issues of national unity, federalism, and constitutional reform with a view to explaining how Québec's nation-building strategy has been reflected in the politics of the Canadian Labour Congress (CLC) and its Québec affiliate, the Québec Federation of Labour (FTQ or Federation). This will be accomplished by examining the parallel evolution of the CLC, the FTQ, and their antecedents, with specific attention paid to how these labour organizations, and their leaders, responded to constitutional politics from the late nineteenth century to the present.

1 See e.g., Louis-Marie Tremblay, *Ideologies de la CSN et de la FTQ 1940-1970* (Montréal: Les Presses de l'Université de Montréal, 1972); Roch Denis, *Luttes de classes et question nationale au Québec, 1948-1968* (Montréal: Presses socialistes internationales, 1979); François Cyr & Rémi Roy, *Eléments d'histoire de la FTQ: la FTQ et la question nationale* (Laval: Éditions coopératives Albert Saint-Martin, 1981); Diane Lamoureux, *Question nationale et mode de radicalisation de la classe ouvrière au Québec (1970-1976)* (M.A. Thesis, Université du Québec à Montréal, 1977) [unpublished]; Gilles Bourque & Anne Légaré, *Le Québec: la question nationale* (Paris: François Maspero, 1979); Jacques Mascotto & Pierre-Yves Soucy, *Sociologie politique de la question nationale* (Montréal: Éditions coopératives Albert St-Martin, 1979); Louis Fournier, *Louis Laberge: La syndicalisme c'est ma vie* (Montréal: Dossiers Documents, 1994); Jacques Rouillard, *Le syndicalisme québécois: deux siècles d'histoire* (Montréal: Boréal, 2004); Jean-Marc Piotte, *Du combat au partenariat: interventions critiques sur le syndicalisme québécois* (Québec: Éditions Nota bene, 1998); Gilles Bourque & Nicole Laurin-Frenette, "Social Classes and Nationalist Ideologies in Quebec, 1760-1970" in Gary Teeple, ed., *Capitalism and the National Question in Canada* (Toronto: University of Toronto Press, 1972) 185; Mona-Josée Gagnon, *Le syndicalisme: état des lieux et enjeux* (Québec: Institut québécois de recherche sur la culture, 1994); Ralph P. Guntzel, "Rapprocher les lieux du pouvoir: The Quebec Labour Movement and Quebec Sovereignism, 1960-2000" (2000) 46 *Labour/Le Travail* 369; Jim Laxer, "Quebec in the Canadian Federal State" in Robert M. Laxer, ed., *(Canada) Ltd: The Political Economy of Dependency* (Toronto: McClelland and Stewart, 1973); Carla Lipsig-Mummé, "Quebec Unions and the State: Conflict and Dependence" (1980) 3 *Studies in Political Economy* 119; Tom McIntosh, "Organized Labour in a Federal Society: Solidarity, Coalition Building and Canadian Unions" in Harvey Lazar & Tom McIntosh, eds., *How Canadians Connect* (Kingston: McGill-Queen's University Press, 1999) 148; Kenneth McRoberts, *Quebec: Social Change and Political Crisis* (Toronto: McClelland and Stewart, 1988); Kenneth McRoberts, *Misconceiving Canada: The Struggle for National Unity* (Toronto: Oxford University Press, 1999); and Leo Panitch & Donald Swartz, *From Consent to Coercion: The Assault on Trade Union Freedoms*, 3d ed. (Aurora, Ont.: Garamond Press, 2003).

Part II of this article provides a brief historical account of the early labour movement's position on constitutional issues from the late nineteenth century up until the creation of the CLC in 1956, documenting organized labour's strong preference for centralization in the realm of constitutional politics. Part III considers the CLC's evolving outlook on constitutional questions in the 1960s and 1970s. In particular, this section reviews how Québec's emerging nation-building project impacted organized labour's view on constitutional issues and how it affected relations between the CLC and the FTQ. Part IV looks at the CLC's experience with constitutional reform in the 1980s and 1990s, further documenting the Congress' shift from supporting centralization to accepting asymmetrical federal structures, and eventually to embracing a form of sovereignty-association within its own organization. Part V summarizes the findings and provides some concluding remarks.

II. THE EARLY LABOUR MOVEMENT AND CONSTITUTIONAL POLITICS

As early as 1887, the Trades and Labour Congress of Canada² was urging the federal government to revise the *British North America Act*.³ However, it was the Judicial Committee of the Privy Council's controversial decision in the *Toronto Electric Commissioners v. Snider*⁴ case which really sparked the labour movement's interest in Canada's constitutional affairs.

In 1925, the British Judicial Committee of the Privy Council (JCPC) ruled in *Snider* that Prime Minister Mackenzie King's *Industrial Disputes Investigation Act*⁵ was unconstitutional because it violated Canada's federal-provincial division of powers. The *Snider* case dealt with the Toronto Electric Power Commission's refusal to recognize a federally appointed conciliation board to mediate a labour dispute between the Commission and its workers. The conciliation board, which drew its authority from the *IDIA*, was illegitimate, according to the Commission, because the federal government did not have the constitutional authority to pass laws affecting municipal employers or civil rights.

2 Executive Council of the Trades and Labour Congress of Canada, "Workers' Right to Organize" (Report presented at the fifty-third annual convention of the Trades and Labour Congress of Canada, Chateau Laurier Hotel, Ottawa, Ont., 13-18 September 1937) (1937) 37 *Labour Gazette* 1082 at 1082.

3 Renamed the *Constitution Act, 1867* (U.K.), 30 & 31 Victoria, c.3, reprinted in R.S.C. 1985, App. II, No.5 [*BNA Act*].

4 *Toronto Electric Commissioners v. Snider*, [1925] A.C. 396 (P.C.) [*Snider*].

5 S.C. 1907, c.20 [*IDIA*].

The JCPC agreed with the Commission and declared the *IDIA* unconstitutional. Shortly thereafter, the federal government reworked the bill to reflect the position that it only applied to areas of federal jurisdiction. Provinces were free to pursue their own distinct regulatory labour regimes. This event served to fragment an already divided labour movement by creating a multitude of jurisdictions relating to labour relations in Canada. In response, many labour organizations began actively lobbying the federal government for constitutional reform. At the 1925 Trades and Labour Congress (TLC) convention, delegates supported an executive report recommendation which stated that:

[T]he time has arrived when amendments to the British North America Act should be secured which would give greater authority to the Dominion Parliament and bring about more centralization of our laws which vitally affect the conditions of wage earners in this country, and that it is only by such a step that any essential social reform can be brought about and made equally applicable to all citizens of Canada.⁶

The TLC's recommended changes to the *BNA Act* included abolishing appeals to the JCPC, abolishing the Senate, and shifting responsibility for social and labour legislation to the federal government.⁷

The TLC made the same request, more or less, to the federal cabinet for the rest of the decade and throughout most of the 1930s. In 1929, the Québec Provincial Council of Carpenters went one step further by presenting a successful resolution to the TLC's convention which called on the federal government to request amendments to the *BNA Act* to accommodate the labour movement's demand for an eight-hour work day and a forty-hour work week.⁸ Soon after its creation in 1927, the All-Canadian Congress of Labour (ACCL) joined the TLC in calling for constitutional changes.⁹ However, union requests for constitutional change were ignored by the federal government.

Trade unions renewed their efforts to amend the *BNA Act* after 1931, when

6 "Trades and Labour Congress of Canada: Summary of the Proceedings of the 41st Annual Convention" (Report of the Executive Council, the Auditorium, Ottawa, Ont., 31 August - 4 September 1925) (1925) 25 *Labour Gazette* 891 at 894.

7 "Trades and Labour Congress of Canada: Legislative Programme Submitted to Dominion Government" (legislative proposals submitted to the Dominion Government, Ottawa, Ont., 31 March 1926) (1926) 26 *Labour Gazette* 336 at 337-38.

8 "Trades and Labour Congress of Canada: Synopsis of the Proceedings of the 45th Annual Convention" (Report of the Resolutions Committee on proposed amendments to the British North America Act, Admiral Beatty Hotel, St. John, N.B., 26 August 1929) (1929) 29 *Labour Gazette* 1009 at 1014-15.

9 "All-Canadian Congress of Labour: Proceedings of Third Annual Convention, Winnipeg, November, 1929" (Report of the Executive Board, Winnipeg, Man., 4-7 November 1929) (1929) 29 *Labour Gazette* 1359 at 1365.

Canada became a sovereign dominion within the British Commonwealth under the terms of the *Statute of Westminster*.¹⁰ In the new political climate created by the *Statute of Westminster*, there were calls for a new constitutional order that would strengthen the central government. Trade unions were joined in their quest for centralization by the newly formed Cooperative Commonwealth Federation (CCF), which called for the *BNA Act* to be amended to facilitate the creation of a national labour code.¹¹ The CCF argued that Canada's regional and linguistic divisions, exacerbated by Canada's federal system of government, "are unnecessary and are the result of the inherent contradictions of capitalism."¹²

In 1937, the JCPC dealt another blow to the labour movement by ruling that the federal government did not have the constitutional authority to implement the laws regarding basic employment standards that it had agreed to in international treaties. The *Labour Conventions*¹³ case required that implementation of international treaties respect the constitutional division of powers — thus preventing the federal government from fulfilling its obligations under international law.¹⁴

Between 1937 and 1940, the TLC, the ACCL, and the Railway Transportation Brotherhood all pressed, once again, for constitutional reform. Even the independent Canadian and Catholic Confederation of Labour (CCCL),¹⁵ in a 1939 memorandum submitted to the Québec provincial cabinet, argued in favour of greater centralization. The memorandum stated specifically that the CCCL "est en faveur d'un système d'assurance chômage à base contributoire . . . notamment, en faveur d'une assurance chômage contributoire, établie sur le plan national."¹⁶ The findings of the Royal Commission

10 1931 (U.K.), 22 & 23 Geo. V, c.4, s. 2.

11 Article 7 of the Regina Manifesto cited in Edwin Black, *Divided Loyalties: Canadian Concepts of Federalism* (Montreal: McGill-Queen's University Press, 1975) at 47-48.

12 David Lewis & Frank Scott, *Make This Your Canada: A Review of C.C.F. History and Policy* (Toronto: Central Canada Publishing Co., 1943) at 104.

13 *Canada (Attorney General) v. Ontario (Attorney General) et al.; Reference re Weekly Rest in Industrial Undertakings Act*, [1937] A.C. 326 (P.C.) [*Labour Conventions*].

14 Garth Stevenson, *Unfulfilled Union: Canadian Federalism and National Unity*, 4th ed., (Montreal: McGill-Queen's University Press, 2004) at 268-69.

15 Inspired by the social doctrines of the Catholic Church, the CCCL, founded in 1921, rejected socialism, communism, and even the idea of class struggle. Instead, the CCCL focused on the "harmony of capital and labour and the right to national autonomy." Suspicious of Americans, international unions, and foreign capital, the CCCL in many ways represented a reaction to industrialization's threat to traditional French Canadian values. Confédération des Syndicats Nationaux, *The History of the Labour Movement in Quebec* (Montreal: Black Rose Books, 1987) at 14.

16 "Royal Commission on Dominion-Provincial Relations: Recommendations Concerning

on Dominion-Provincial Relations in 1940 (also known as the Rowell-Sirois Commission), which led — by way of constitutional amendment — to the subsequent adoption of federal unemployment insurance legislation, temporarily calmed the labour movement's demands for constitutional reform. However, the election of a CCF government in Saskatchewan firmly committed to the idea of centralization renewed organized labour's interest in pushing for amendments to the *BNA Act*. Edwin Black has argued that Saskatchewan CCF premier Tommy Douglas "sought continuously to reduce the areas in which unanimous provincial consent would be required to make constitutional amendments effective, and to enlarge the number of provisions which would require approval of a simple majority of the provinces."¹⁷

In its 1950 brief to the federal cabinet, the Canadian Congress of Labour (CCL) pressed for a National Labour Code which would establish "uniformity in the legislation governing labour relations, particularly with respect to industries of national scope."¹⁸ In its brief of the same year, the TLC went one step further by urging that "all jurisdiction over matters of health, social welfare and labour relations be placed under the Federal Government and the Parliament of Canada."¹⁹

Organized labour's strong preference for a centralized federation had been consistent since Confederation. The labour movement's support of the federal power of disallowance is perhaps the best indication of how strongly it felt about the degree of centralization required in Canada. The constitutional power of disallowance enables the federal executive to disallow provincial laws, even if the province is acting exclusively within its own jurisdiction. Disallowance, which theoretically violates the federal principle of two separate and sovereign orders of government, was becoming a constitutional relic in Canada by the 1950s, but that had not prevented the labour movement from urging the federal government to use this contentious centralizing power. Québec's anti-communist *Padlock Act* of 1937,²⁰ Prince Edward Island's repressive legislative attack on trade unions in 1948,²¹ and Newfoundland's undemocratic decertification of the International Wood Workers of America

Unemployment Insurance, Labour Legislation, etc.—Demarcation of Jurisdiction in Social Services" (1940) 40 *Labour Gazette* 545 at 549.

17 Black, *supra* note 11 at 53.

18 "Legislative Proposals of Labour Organizations" (1950) 50 *Labour Gazette* 637 at 639.

19 "Legislative Proposals of Labour Organizations" (1950) 50 *Labour Gazette* 460 at 461.

20 *An Act respecting Communistic Propaganda*, R.S.Q. 1941, c. 52 [*Padlock Act*]. See also Eugene Forsey, *Freedom and Order* (Toronto: McClelland and Stewart Ltd., 1974) at 182.

21 J.R. Mallory, *The Structure of Canadian Government* (Toronto: Gage Publishing Ltd., 1984) at 370.

in 1959,²² all prompted the labour movement to call for the power of disallowance to be used against provincial governments. The federal government consistently declined to use its controversial power to prevent the adoption of anti-union legislation at the provincial level.

Much of the labour movement's centralizing tendencies during this period were influenced by Eugene Forsey, who worked as research director for the CCL from 1942-56 and for the CLC from 1956-66. Forsey, an expert on constitutional affairs, wrote his doctoral dissertation on the King-Byng affair and used his position within the labour movement to promote his views on Canada's constitutional questions. J.E. Hodgetts noted: "one gets the impression that his colleagues in the CCL sometimes thought he misspent his time chasing constitutional exotica . . . Forsey, ever the independent, was always more comfortable speaking on his own account, even though he might be signing a letter in one of his many official capacities."²³ His view of Canada's constitutional questions closely mirrored that of the CCF — both favoured a strong central government to promote national economic planning and national social programs. Forsey was a member of the CCF, served as president of the party's Québec provincial council in the 1930s, and ran unsuccessfully for the party several times during his stint as research director for the CCL. Forsey's strong ties to the labour movement and the CCF — inside and outside of Québec — go a long way in explaining why labour federations in both Québec and English Canada did not diverge in any significant way on constitutional questions during this period. Forsey, for example, pushed for both the CCF and the labour movement to advocate use of the power of disallowance, drafted detailed labour memoranda calling for centralization of labour law and social policy, and passionately defended national unity and the British constitutional tradition from the separatists and provincialists who began to make waves towards the end of his career at the CLC.²⁴ Although Forsey played a key role in influencing the labour movement's position on constitutional issues in English Canada, his ideas were not fully embraced by organized labour in Québec.

In 1953, the Union Nationale government of Maurice Duplessis launched the Royal Commission of Inquiry on Constitutional Problems (also known as

22 Richard Gwyn, *Smallwood: The Unlikely Revolutionary* (Toronto: McClelland and Stewart Ltd., 1968) at chapter 18.

23 J.E. Hodgetts, *The Sound of One Voice: Eugene Forsey and his Letters to the Press* (Toronto: University of Toronto Press, 2000) at 5-6.

24 Frank Milligan, *Eugene A. Forsey: An Intellectual Biography* (Calgary: University of Calgary Press, 2004) at 161-233.

the Tremblay Commission). In its submission to the Tremblay Commission, authored in conjunction with Pierre Trudeau and Eugene Forsey, the Québec Federation of Industrial Unions (FUIQ) condemned the anti-union agenda of the Duplessis government and argued in favour of the establishment of a single federal labour code, in keeping with the traditional centralizing demands of organized labour.²⁵ Nevertheless, even before the Tremblay Commission reported its finding in 1956, the FUIQ's appetite for centralism was clearly already on the wane. In October 1955, the FUIQ found itself at odds with the CCL and the CCF when it supported a two-nations conception of Canada, as well as the Québec government's calls for fiscal decentralization.²⁶ Without the intellectual influence of Pierre Trudeau and Eugene Forsey, the FUIQ's political outlook took on a more nationalist character. However, there was certainly no monolithic constitutional view among unions in Québec.

The Québec-based CCCL offered a unique perspective on constitutional questions in Canada. Despite its support for a national system of unemployment insurance a decade earlier, the CCCL's constitutional outlook in the 1950s was based firmly on the notion of provincial autonomy, expressing the view that Québec's attitude toward the issue of constitutional reform had grown "firmer" due to the province's unique "ethnic, linguistic and religious characteristics."²⁷ During this period, the CCCL also pressed the federal cabinet to reconsider its ties to the British Empire by requesting the introduction of a new flag which would not include any "foreign emblem." More controversial was the CCCL's request that the federal government, in the words of the *Labour Gazette*, "proclaim the complete independence of Canada in order to make it an autonomous republic."²⁸

The CCCL's perspective on constitutional issues in Canada stood in stark contrast to that of TLC-affiliated Québec Provincial Federation of Labour (QPFL). In its annual brief to Premier Maurice Duplessis in March 1950, the QPFL argued, with regard to federal-provincial relations, that "our political leaders have placed the welfare of Canada above their political interests. We were also pleased to note that the Québec political leaders have proved themselves to be well-informed statesmen and to be primarily seeking the interests and welfare of the Canadian people."²⁹ The QPFL's brief reflected its

25 Québec Federation of Industrial Unions, *Mémoire de la Fédération des unions industrielles du Québec*, 2d ed. (Montréal, 10 mars 1954) at 24.

26 Tremblay, *supra* note 1 at 137.

27 *Labour Gazette*, *supra* note 19 at 476.

28 *Ibid.* at 468.

29 *Ibid.* at 474.

subordinate position as simply a branch of the TLC, made up of American-based affiliates. Unlike the CCCL, which frequently found itself at odds with the TLC and CCL, there is no evidence to suggest that the QPFL ever contradicted the policy preferences of its parent organization. This reflected the QPFL's weak membership base, its lack of financial resources, and an absence of ideology.

The labour movement's participation in debates concerning the constitutional division of powers in the immediate postwar era basically consisted of repeated calls for a more centralized federation. With the exception of the CCCL, and to a lesser extent the QFIU, trade-union organizations in Canada preferred a strong national government which could focus on centralized economic planning, national policy frameworks, and the delivery of social programs on a nationwide basis.

The demise of Québec's Union Nationale regime after the death of Premier Duplessis in 1959 ushered in a new era of Canadian constitutional politics. The election of Jean Lesage's Liberals in 1960 precipitated a Quiet Revolution in Québec, which would forever change the relationship between Québec and the rest of Canada. The familiar national unity crises, which would eventually emerge from this powerful political transformation, would also have a significant impact on organized labour and its perspective on constitutional questions.

III. THE BIRTH OF THE CANADIAN LABOUR CONGRESS AND THE QUESTION OF QUÉBEC

In 1956, the TLC and CCL merged to form the Canadian Labour Congress (CLC or Congress); their respective provincial sections followed suit over the course of the next few years. From its formation in the late 1950s until the mid-1960s, the FTQ, the Québec affiliate of the CLC, maintained cordial relations with the CLC. Although no provincial federation of labour wielded much power or influence due to a lack of resources, the Congress' first president and one of its vice-presidents were from Québec. If the FTQ struggled for change, it was to have the CLC become an officially bilingual organization. At its 1960 convention, for example, FTQ delegates passed resolutions calling for a French version of the CLC constitution, publication of bilingual CLC documents, and simultaneous translation at CLC conventions.³⁰

30 Québec Federation of Labour, *Politique de la FTQ, 1960-1967* at 96.

Similar language struggles were reflected in Canadian society at large where francophones were demanding more representation in Ottawa in business, and in other positions of power.

Amidst the changes of the Quiet Revolution, the FTQ began questioning its status vis-à-vis the Congress. The CLC's controversial brief to the Royal Commission on Bilingualism and Biculturalism (also known as the Dunton-Laurendeau Commission), written by Forsey in 1965, is a good representation of the growing disunity between the two organizations. The CLC was one of the many organizations that submitted a brief to the Dunton-Laurendeau Commission. Surprisingly, however, the Congress did not consult the FTQ before presenting its brief, which made bold pronouncements on the status of English and French in Canada. The CLC addressed the issue of Québec in economic terms, condemning uneven regional development in Canada. According to the CLC's brief, "the breeding ground for nationalism in its more extreme forms is exploitation, social and economic inequality, ignorance and insularity."³¹ As a remedy, the Congress argued in favour of regional redistribution of wealth, and a policy focus aimed at narrowing the economic wage gap between francophone and anglophone workers in Canada. The CLC also made known its preference for a policy of official bilingualism in Canada, and trumpeted the fact that the Congress had adopted such a policy within its own organization in 1962. What was most interesting about the CLC's brief to the Dunton-Laurendeau Commission, however, was what it did not contain. The two-nations paradigm, which had won the endorsement of the FTQ and the newly created New Democratic Party (NDP), did not find its way into the CLC brief.³² In fact, by characterizing French Canada as a "series of French-speaking islands large and small throughout Canada,"³³ the Congress seemed to be rejecting the notion that Québec represented a French-Canadian nation within the Canadian state. The CLC was also silent on the issue of constitutional reform, special status for Québec, and the province's right to self-determination. These glaring omissions obviously reflected the political bias of the CLC's research director, Eugene Forsey. As a recognized expert on constitutional politics, Forsey used his position within the labour movement to advance his particular vision of Canada. However, Forsey's clear distaste for Québec nationalism did not sit well with the FTQ, which had slowly begun to embrace a more nationalist approach to constitutional questions.

31 Canadian Labour Congress, *Submission to the Royal Commission on Bilingualism and Biculturalism* (13 December 1967) at 7.

32 Forsey earlier resigned his membership in the NDP in protest against the party's support for the two-nations policy.

33 Canadian Labour Congress, *supra* note 31 at 8.

When the Federation protested that it had not even received a copy of the CLC's submission to the Commission, the Congress responded with a reminder that it was the CLC that had exclusive jurisdiction over making presentations to the federal government and that the presentation was made on behalf of the Canadian labour movement — a movement which, according to the CLC, included rank-and-file members of the FTQ.³⁴ The CLC's unapologetic stand unquestionably raised the ire of the FTQ and reinforced the Québec labour movement's sense of nationalism.

The FTQ may have agreed with CLC president Claude Jodoin's position that separatism was not the answer to the conflict between French and English in Canada, but it did not share the CLC president's support for centralization. This was apparent both politically and organizationally. By calling for greater autonomy, the FTQ was implicitly arguing that French Canadian workers in Québec would be better served by a structure which divided CLC services linguistically.³⁵ It did not take long for the FTQ to reach the conclusion that any attempt to convince the CLC to provide better services to FTQ members was a dead-end strategy.³⁶ In short, the FTQ had come to accept the view that reforming the CLC was pointless. This marked another important turning point in the relationship between the CLC and the FTQ. No longer would the Federation attempt to reform the CLC by trying to make the Congress more representative of Québec, more bilingual, and more in tune with the specific needs of the Federation. Instead, it would concentrate on building the FTQ by simply assuming the role of the CLC in Québec.

Assuming the role of the CLC in Québec meant that the FTQ would also be taking responsibility for making its own unique views known on wider social and political issues, such as the Fulton-Favreau formula which emerged as an important constitutional issue in the early 1960s.

Fulton-Favreau was a proposal for a formal constitutional amendment formula developed by Justice Ministers Davie Fulton and Guy Favreau in the

34 Cyr & Roy, *supra* note 1 at 113-14.

35 The decentralist demands of the FTQ were spelled out in a briefing note entitled "Notes sur la situation actuelle au Québec des unions internationales et nationales." The briefing note, authored by the FTQ's executive committee, won widespread support within the FTQ and its affiliates in 1963. It provided an analysis of the political transformations taking place in Québec and warned that unless the FTQ became a genuinely Québécois trade union central, it would surely be eclipsed by the more nationalist Confédération des Syndicats Nationaux.

36 Émile Boudreau & Léo Roback, *L'Histoire de la FTQ: des tout débuts jusqu'en 1965* (Montréal: Fédération des travailleurs et travailleuses du Québec, 1988) at 346-47.

early 1960s.³⁷ The formula called for unanimous provincial consent for constitutional amendments affecting all provinces; amendments affecting specific provinces would only require the consent of the provinces involved, and any amendment which did not concern provincial powers would require support of two-thirds of the provinces representing at least 50 percent of the population. Previous attempts at reaching an amending formula had failed, largely because they threatened Québec's interests by proposing qualified majorities for the purposes of constitutional reform. The principle of unanimous consent embodied in the Fulton-Favreau formula attempted to rectify this obstacle. However, the Quiet Revolution had raised the stakes considerably and Québec was not willing to accept an amending formula which treated the emerging nation as one of ten equal provinces. In its "Déclaration à l'occasion du débat sur la formule Fulton-Favreau" of April 1965, the FTQ noted "nous aimerions bien que le Québec aille au bout de sa compétence en matière de planification économique et de sécurité sociale."³⁸ After having initially supported the formula, Premier Lesage, under pressure from Québec nationalists, backed off. His government's decision to withdraw its support for Fulton-Favreau effectively killed the formula. Québec nationalists were thrilled by the result and support for sovereignty, although marginal, began to increase.

Addressing delegates to the 1964 CLC convention, President Jodoin argued that "[i]t is time for us who believe in a strong and in a united Canada to speak out. It is typical of some destructive minorities that they talk with loud voices. We must not let ourselves be fooled by this. It is time to put these narrow-minded pursuers of selfish objectives in their place."³⁹ Jodoin's comments were directed at the new separatist movement emerging in Québec.

Under Jodoin's leadership, the CLC was hostile to any suggestion that powers or responsibilities be devolved to the FTQ, and the Congress successfully resisted calls for greater autonomy for several years. However, the rise of the Confédération des Syndicats Nationaux (CSN) in the early to mid 1960s forced a significant change in the way the CLC interacted with the FTQ. In the early 1960s, the FTQ was facing a membership-retention crisis. Its major rival, the CSN, formerly the CCCL, was expanding at an impressive rate; it was organizing vigorously in the public sector and aggressively raiding FTQ locals in the private sector. The CCCL had undergone a profound secularization in the 1950s, which led to its rebirth as the nondenominational and

37 For more on the formula, see Guy Favreau, *The Amendment of the Constitution of Canada* (Ottawa: Queen's Printer, 1965).

38 Québec Federation of Labour, *Déclaration à l'occasion du débat sur la formule* (15 April 1965).

39 Canadian Labour Congress, *Proceedings* (Constitutional Convention, 1964) at 2.

more militant CSN in 1960. Although the CSN shared the FTQ's reservations about separatism during this period, the CSN effectively tapped into the rising tide of Québec nationalism of the early 1960s. The CSN challenged the FTQ's dominant position in the Québec labour movement, and criticized it for being little more than a puppet of the CLC and its affiliated national and international unions located outside of Québec. Between 1963 and 1964, the CSN picked up thousands of FTQ members. The CSN, led by Jean Marchand at this time, also shared close ties to the Lesage government, which helped the union in its quest to organize new members, particularly in the public sector.⁴⁰ The CLC and the FTQ reacted to the CSN's raiding strategy by mounting a resource-heavy counteroffensive which was finally able to contain the rival trade union central by 1966. In many ways, the CSN's aggressive raiding strategy in the private sector legitimized the FTQ's call for greater autonomy by exposing it as weak and vulnerable. For the latter half of the 1960s the FTQ pressed the Congress for more autonomy as a way to defend itself from the nationalist CSN, but the CLC resisted each time. At the 1966 CLC convention, future FTQ president Fernand Daoust argued that "the bi-national aspect [of Canada] must be transposed into relations between the [FTQ] and the CLC so that we may see to it that the [FTQ] is not a federation just like the others, that it has particular status within the labour structure of our country."⁴¹ The CLC once again rejected the FTQ's calls for reform.

Because the CLC would not voluntarily devolve powers, the FTQ decided to bypass the Congress and begin acting as its own proper trade union central. In many ways, the FTQ's approach to dealing with the CLC and the federal government in this period mimicked the strategy of the Québec government vis-à-vis the federal government. In April 1966, the FTQ joined with the CSN and the Union Catholique des Cultivateurs (UCC) to present a joint submission to the Québec Legislative Assembly Joint Committee on the Constitution. The Québec labour movement argued that the constitutional problem could be resolved by adapting the federal system to the current reality of Québec. The group of Québec labour organizations proposed a form of "flexible federalism" which would grant exclusive provincial jurisdiction over education and culture, shared federal-provincial jurisdiction over radio and television, and federal consultation with the provinces over immigration, and monetary and fiscal policies, together with equal representation of fran-

40 The irony, of course, is that Marchand, along with Pierre Trudeau and the CSN's Gérard Pelletier, all ran and won seats as Liberals in the 1965 federal election – their mission was to defeat the rising tide of Québec nationalism in Canadian politics.

41 Canadian Labour Congress, *Proceedings* (Constitutional Convention, 1966) at 88.

cophones in federal institutions.⁴² Between 1960 and 1967, the FTQ stepped up its own independent activity as a pressure group by presenting, or co-presenting with the CSN, no less than twenty submissions to government standing committees or commissions looking at pressing political issues.⁴³ In March 1968, the FTQ overstepped its jurisdictional authority by signing an agreement with the CSN committing both organizations to stop raiding one another. When the Congress pointed out to the leaders of the FTQ that the Federation had violated the CLC constitution, the FTQ decided to make political hay out of the dispute by asking delegates to the 1968 CLC convention to retroactively approve the negotiations and the agreement with the CSN. In order to avoid a potentially embarrassing convention fight, the leadership of the CLC brokered a deal with FTQ president Louis Laberge, and instead delegates were presented with a resolution which would include the CLC in non-raiding talks with the CSN. The resolution was adopted unanimously.⁴⁴ At the same convention, the FTQ proposed the decentralization of CLC services to the FTQ. However, when the FTQ leadership went off to plan a strategy for achieving their demands, CLC president Jodoin gained the support of the convention to rule the FTQ's resolutions out of order.⁴⁵ FTQ vice-president Jean Gérin-Lajoie complained that the Federation's affiliates were simply "a milking cow for the CLC" because they paid into the CLC, but could not access most of the CLC's unilingual services.⁴⁶ The CLC's continuous rejection of the FTQ's demands for devolution only served to renew the Federation's energy and drive.

In a 1968 submission to the Parliamentary Committee on Labour and Employment,⁴⁷ the FTQ boldly cautioned Members of Parliament that they may "have been deceived by an impression that the Québec Federation of

42 Jacques Rouillard, *Histoire de la CSN, 1921-1981* (Montréal: Boréal Express, 1981) at 233.

43 Jean Gérin-Lajoie, *Les Métallos 1936-1981* (Montréal: Boréal Express, 1982) at 173.

44 Canadian Labour Congress, *Proceedings* (Constitutional Convention, 1968) at 34-35.

45 Jodoin explained that the FTQ's calls for greater power and autonomy were objectionable because they had only been approved by the Federation's executive without having been approved by its affiliates.

46 Dominique Clift, "Now Quebec labor seeks 'special status'" *Toronto Daily Star* (23 April 1966) 28.

47 The Committee was looking at a proposal by Manpower Minister Jean Marchand to break up national bargaining units to better reflect the country's linguistic duality. Marchand's proposal enjoyed the support of the CSN, but was being contested by the CLC. Both Marchand and the CSN framed the debate in terms of minority rights for francophone workers. This enraged the FTQ which felt the need to intervene in the debate as the largest trade union central in Québec. The Federation argued that the CSN, with the help of its former president, Jean Marchand, was simply trying to bolster the union central's membership under false pretenses. See generally, Québec Federation of Labour, *Brief on Bill C-186 to the Parliamentary Committee on Labour and Employment* (1968).

Labour is only a branch of the CLC, and more its Québec spokesman than spokesman for Québec workers . . . we are well and truly the autonomous spokesman for Québec workers as we submit this brief to you."⁴⁸ A year later at the FTQ's 1969 convention, nationalist forces within the Federation scored a number of important victories which would only serve to compound the growing discontent between the CLC and the FTQ in the 1970s. The convention delegates passed a resolution in favour of French unilingualism (a direct contravention of the CLC's position in support of official bilingualism in every province). Delegates also rejected, for the first time, an antiseparatist resolution and elected openly sovereignist Parti Québécois (PQ) activists to three of the seven vice-president positions (Jean Gérin-Lajoie, United Steel Workers of America (USWA); Robert Dean, United Auto Workers (UAW); and Jacques Brûlé, Canadian Union of Public Employees (CUPE)).⁴⁹ The events at the FTQ's 1969 convention, combined with the impact of the October Crisis on nationalist politics in Québec, foreshadowed the unprecedented intersection of class and nation which would unfold in Québec during the 1970s.

In the early 1970s, Québec's largest trade union centrals, partially inspired by recent political events in France, put forward three separate radical political manifestos offering explicitly anticapitalist analyses of the state and economic life in Québec.⁵⁰ All three manifestos embraced the common objective of freeing Québec from anglo-imperialist domination through the establishment of a socialist society. In all three cases, socialism figured more prominently than sovereignty or independence as a political goal. This radical, although short-lived critique of capitalism in the early 1970s, stunned the more moderate CLC leadership and widened the gap, in both discourse and practice, between the Québec labour movement and its English Canadian counterpart.

Between 1971 and 1976 several bitter strikes were fought over the issue of making French the language of work in Québec.⁵¹ These struggles set the stage for Québec labour's new militancy. On 4 November 1971, the *Toronto Star's* lead editorial noted that "Quebec unions, it seems, are in the process of dramatic switch to socialism."⁵² The Common Front strike of 1972, which

48 *Ibid.* at 3.

49 Fournier, *supra* note 1 at 52.

50 The FTQ published "The State is Our Exploiter," the CSN published "It's Up to Us," and the CEQ published "Phase One," all reprinted in Daniel Drache, ed., *Quebec: Only the Beginning* (Toronto: New Press, 1972).

51 Cyr & Roy, *supra* note 1 at 159.

52 "The new radicals" *Toronto Daily Star* (4 November 1971) 6.

involved roughly 200,000 union members, and which resulted in the jailing of the presidents of the FTQ, CSN, and the Centrale de l'Enseignement du Québec (CEQ), was perhaps the most vivid display of Québec labour militancy in this period.⁵³ However, the Québec labour movement's sharp turn to the left did have some significant repercussions for the CSN — repercussions that reverberated throughout the entire movement. The central's civil service union broke away to establish its own independent union during the Common Front struggle, as did CSN affiliates in construction, clothing, and mining, all of which broke away to create the Centrale des Syndicats Démocratiques (CSD). These defections represented roughly one quarter of the CSN's membership. The creation of the CSD also had a deradicalizing effect on the FTQ. Several affiliates, and in particular the steelworkers union, began to actively challenge the FTQ's sharp turn to the left.⁵⁴ Although what remained of the CSN continued to endorse a radical syndicalist approach to politics, it was clear that the Québec labour movement's anticapitalist discourse was beginning to wane. This opened a political void on the left as socialism increasingly took a back seat to nationalism. What emerged in its place was a strong separatist undercurrent within the ranks of organized labour, which eventually became linked to the PQ's proposal for sovereignty-association. The October Crisis and the progressively more divisive debates concerning language policy increased support for sovereignty among union members in Québec.⁵⁵

In a very short period of time the FTQ went from defending federalism (in the 1960s), to advocating smashing the state in 1972, to arguing that the Québec state could be used, in USWA Québec section president Gérin-Lajoie's words, as the Québec labour movement's "instrument of liberation."⁵⁶ This shift in direction was spearheaded by the Québec sections of the USWA and CUPE, unions which were the most firmly rooted in the pro-PQ camp.

53 The Common Front brought together over 200,000 trade unionists from the FTQ, the CSN, and the CEQ whose demands included a minimum wage of \$100 per week for all public sector workers. The Common Front's struggle with the Québec government led to unprecedented labour unrest, strikes, demonstrations, arrests, and eventually occupations. The leaders of the three union centrals were eventually arrested for encouraging their members to defy court injunctions and back-to-work orders. The imprisonment of union leaders, (the FTQ's Louis Laberge, the CSN's Marcel PÉpin, and the CEQ's Yvon Charbonneau) sparked a province-wide general strike in both the public and private sectors. At least 75,000 workers (mostly in the construction industry) closed schools, hospitals, mines, and factories across the province. After serving four months of a one year sentence, the presidents of the FTQ, CSN, and CEQ were released and shortly thereafter, the Common Front came to an end as Québec's three largest labour centrals decided to pursue their own parochial interests.

54 Gérin-Lajoie, *Les Métallos*, *supra* note 43 at 238.

55 Guntzel, *supra* note 1 at 374-75.

56 Michel Lizée, "The Unavoidable Struggle" (1974) 10 *Canadian Dimension* at 11.

A delegate to the FTQ's 1973 convention encapsulated the prevailing view among FTQ activists: "The PQ is not a workers' party. But it is the party closest to the workers. Moreover, it is democratic. All of us trade unionists should work to improve it."⁵⁷ Québec trade unions, lacking both the political will and capacity to create their own labour party, tended, to varying degrees, to embrace the PQ's left-wing nationalist project.

The FTQ's growing sympathy for the PQ was the cause of much concern amongst the CLC leadership. If the FTQ was willing to align itself with separatists to achieve political gains, what would it be willing to do to win concessions from the CLC? The FTQ and CLC had diverged on several important constitutional questions: separation, self-determination, the two-nations concept, unilingualism, and now even the arena of electoral politics seemed questionable. The FTQ did not seem concerned with the growing divergence between it and the Congress. In fact, the FTQ seemed almost pleased with the way that it constantly ignored the concerns of the Congress with regard to the political direction and focus of the FTQ. The CLC did not take kindly to this approach, and dispatched William Dodge to diffuse the FTQ's calls for greater autonomy and the rising tide of separatism in the Québec labour movement.⁵⁸

At the 1973 FTQ convention, Dodge told the Federation that it was making a tactical error by asking for more powers from the CLC. He focused his argument by drawing a parallel between the CLC and Canada's federal system. Dodge argued that Québec's demands for greater autonomy within the Canadian federation divide the working class in the same way that the FTQ's demands for greater autonomy weaken the CLC. According to Dodge, replacing English bosses with French bosses would not change the fact that they were bosses. He pleaded with the FTQ to not confuse national oppression with exploitation.⁵⁹ Dodge was appealing directly to the class interests of FTQ members, but in doing so, he found himself out of step with many rank-and-file trade unionists who refused to separate the goal of social liberation from the goal of national liberation.

57 *Ibid.*

58 Dodge had been a member of the CLC executive since 1958 and secretary-treasurer since 1970. He was a member of the Canadian Brotherhood of Railway, Transport and General Workers (CBRT&GW) since 1930 and was appointed by his union as general representative for Québec in 1955. Dodge was university educated, a veteran of the Second World War, and had run several times under the CCF banner in Québec. His background as an anglophone Quebecer and his previous political affiliation with the CCF unquestionably contributed to his centralist views on Canada's constitutional question.

59 Cyr & Roy, *supra* note 1 at 119.

The FTQ's effort to build the Québec state continued to coincide closely with a campaign to increase the Federation's autonomy within the CLC. For example, during the 1970s the FTQ, contrary to the CLC constitution, maintained links with affiliate organizations that had severed their affiliation with or refused to join an international union.⁶⁰ The Federation also initiated its own union education service, in direct contravention of the CLC's rules. The FTQ reasoned that by asserting its autonomy without regard for the CLC's jurisdiction, the Congress would be forced to negotiate a special arrangement with the Federation. According to former FTQ president Laberge, "on est mieux de mettre le pied dans le porte et de négocier ensuite. De créer des précédents, comme font les Anglais. La réalité est plus importante que les textes."⁶¹ The growing divergence between the FTQ and the CLC became quite apparent when the Federation cancelled English language translation services after the FTQ convention of 1971.⁶² The 1971 FTQ convention also amended the Federation's constitution to drop the section pledging official support for the NDP.

For years, the FTQ had tried to convince delegates to the CLC's national convention to give more autonomy to the Federation. Each time, the CLC leadership recommended against the FTQ's proposals and the convention would comply with the wishes of the leadership. However, at the May 1974 CLC convention, the FTQ came prepared with a comprehensive proposal and a coalition of allies determined to convince delegates that the FTQ required special status.⁶³ The convention's reform group aligned itself with the FTQ and supported its demands for greater autonomy in return for the FTQ's support for its cause, which pitted the Federation against the leadership of the Congress.⁶⁴ Ralph Guntzel has characterized the two sides of the special status

60 This type of dual unionism angered the building trades (AFL-CIO) which threatened to leave the CLC if it did not force the FTQ's hand. In March 1981, the CLC Executive Council suspended 14 international building trades unions with more than 229,700 members for non-payment of dues — ten of them went on to create the Canadian Federation of Labour. See Esther Déom & Jean Boivin "Union-Management Relations in Quebec" in Morley Gunderson, Allen Ponak, & Daphne G. Taras, eds., *Union-Management Relations in Canada*, 5th ed. (Toronto: Pearson Addison-Wesley, 2005) at 464.

61 Fournier, *supra* note 1 at 244.

62 *Ibid.* at 132.

63 The FTQ's cause was given a boost by the fact that it had aligned itself with the convention reform group, which consisted of CUPE, the British Columbia Government Employees' Union (BCGEU), the Canadian Brotherhood of Railway, Transport and General Workers, the Canadian Union of Postal Workers (CUPW), the Letter Carriers' Union of Canada, and the Public Service Alliance of Canada (PSAC). The convention reform group was a coalition of national unions pressing the Congress to more strictly enforce autonomy guidelines for Canadian sections of affiliated international unions.

64 Philip Resnick, *Land of Cain: Class and Nation in English Canada, 1945-1975* (Vancouver: New

debate as follows:

CLC unionists were divided over the issue of the FTQ's demands. The majority of the CLC executive officers wanted to thwart any movement towards special status for the FTQ. In fact, MacDonald and many of his fellow officers felt that behind the FTQ's demands lay an ingeniously planned separatist conspiracy. They feared that the demands constituted a springboard for the creation of a separate Quebec trade union movement. Some executive officers such as McDermott, on the other hand, and many junior officers believed that compromise was the key to avoiding trade union separation. Failure to give in the FTQ's demands, they feared, would almost certainly lead to the FTQ's departure. In their view, special status was the price the CLC had to pay to attain the ultimate goal of preserving organized labour's unity and solidarity.⁶⁵

Basing its demands entirely on the specificity of Québec's system of labour relations, the Federation's arguments clearly won over the delegates. Although the CLC's committee on structures recommended against adopting the FTQ's proposals, CLC president Joe Morris, sensing defeat, proposed adoption of the FTQ's resolution for more autonomy without explanation or amendment.⁶⁶ As a result, the FTQ won jurisdiction over union education and organization in Québec, jurisdiction over local and regional labour councils, and the transfer of both human and financial resources from the CLC to the FTQ in amounts equivalent to that which Québec trade unionists contributed to the CLC.⁶⁷ The CLC also agreed to the establishment of a formula which would allow the FTQ to recoup any money for CLC services which did not benefit FTQ members because of linguistic or political differences.⁶⁸ This form of special status within the CLC gave the FTQ a unique role and both represented and reflected the growing influence of Québec nationalism in Canadian politics.

However, the decision to grant the FTQ special status did not halt the Federation's desire to build itself up at the expense of the CLC. Rather, special status empowered the FTQ to continue to ask for more autonomy based on Québec's distinct linguistic and cultural status within Canada.

This clear divergence between the CLC and the FTQ was initially de-

Star Books, 1977) at 182.

65 Ralph P. Guntzel, *In Quest of Emotional Gratification and Cognitive Consonance: Organized Labour and Québec Separatist Nationalism, 1960-1980* (Ph.D. Thesis, McGill University, 1997) [unpublished] at 319.

66 Cyr & Roy, *supra* note 1 at 179.

67 Fournier, *supra* note 1 at 244.

68 Déom & Boivin, *supra* note 60 at 464.

tected within the affiliates of both organizations. Unions like the UAW, CUPE, and the USWA amended their structures to accommodate the aspirations of their respective Québec wings. These unions were at the forefront of the struggle to achieve special status for the FTQ within the CLC. They also helped the FTQ lead the charge in 1978 to convince delegates to the CLC convention to adopt a statement on national solidarity which affirmed the labour movement's support for self-determination in Québec. The English Canadian labour movement's accommodation of Québec nationalism within the house of labour was initially a product of necessity — the Congress feared the FTQ would initiate a split if it were not given more autonomy. However, that initial uneasiness evolved into a partnership of mutual respect throughout the 1980s. While the FTQ did not hesitate to take strong positions on divisive constitutional issues, the CLC continued to struggle with developing a concrete constitutional position which enjoyed pan-Canadian labour support from both inside and outside Québec.

IV. ORGANIZED LABOUR AND SOVEREIGNTY-ASSOCIATION

After the defeat of the 1980 Québec referendum on sovereignty-association, sovereignist forces in the FTQ, and the Québec labour movement more generally, were temporarily calmed. However, Prime Minister Trudeau's plan to patriate the Constitution with a Charter of Rights and Freedoms⁶⁹ reignited nationalist sentiment and drew strong opposition from Québec trade unionists. The CLC's decision not to participate in the patriation process was influenced by its desire to neither alienate the FTQ, nor exacerbate the internal dissension over the Charter that existed within the labour-friendly NDP. Underlying this strategic decision was the labour movement's longstanding distrust of courts and the judicial system. In particular, many activists in the labour movement adopted the position that the Charter could undemocratically threaten the collective rights of unionized workers at the expense of the individual rights of an employer. While CLC executive members argued over strategy and how best to deal with party-union relations in the face of constitutional questions, the NDP was internally divided over both the substance and the process of constitutional reform. The Saskatchewan NDP, in particular, argued that unilateral federal patriation of the Constitution with a Charter violated provincial rights and would give too much power to unelected and

69 The proposed Charter eventually became the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 [Charter].

unaccountable judges. On the other side, federal NDP leader Ed Broadbent and the party's establishment argued that support for patriation was a long-standing party policy and that the Charter would protect the interests of minorities. In the end, Broadbent's position prevailed and Saskatchewan premier Alan Blakeney eventually agreed to a modified patriation scheme. The CLC's position on patriation was shaped by its allies in both the NDP and FTQ. In the eyes of many English Canadian labour leaders, the FTQ's strong opposition to Trudeau's constitutional vision was offset by Ed Broadbent's enthusiastic support for a strong Charter. Reluctant to offend its political allies in either camp, the CLC decided to remain officially a neutral observer as the debate over patriation and the Charter unfolded.⁷⁰ Subsequent rounds of constitutional reform in the late 1980s and early 1990s reconfirmed the divergent constitutional interests of the CLC and the FTQ.

The federalist victory in the 1980 Québec referendum, and the PQ's shift to the right in the mid-1980s, temporarily calmed separatist forces within the Québec labour movement — in this period sovereignty was viewed as more of an insurance policy than an immediate priority. In the 1984 federal election, Brian Mulroney's Conservatives, running on a campaign promise to bring Québec back into the constitutional fold, took 58 of 75 seats in that province and formed an impressive majority government. During the 1984 election campaign, the provincial PQ machine, motivated by a desire to see the federal Liberals go down to defeat, helped put Québec nationalists running under the Conservative banner over the threshold to success in many Québec ridings. At the same time, Québec premier René Lévesque's "beau risque" strategy of supporting Mulroney's Conservatives in the 1984 federal election in an effort to boost Québec's constitutional fortunes had alienated hardline sovereignists in the PQ and prompted the resignation of several cabinet ministers. However, the election of Jacques Parizeau as PQ leader in 1988, and the explosive debate over the 1987 Constitutional Accord (Meech Lake Accord), reinvigorated nationalist sentiment in the PQ and among Québec's working class.⁷¹

In early 1987, Prime Minister Mulroney and the ten premiers met to hammer out a set of constitutional amendments that became known as the Meech Lake Accord. The Accord contained five major proposals that Québec premier Robert Bourassa insisted be accepted in order to secure his government's support for constitutional reform. It committed governments to recognizing

70 For more on labour involvement in patriation, see Larry Savage, "Organized Labour and the Charter of Rights and Freedoms" (2007) 36 *Supreme Court Law Rev.* (2d) 175.

71 Guntzel, *supra* note 1 at 387.

Québec as a “distinct society” within Canada, restricting the federal spending power, increasing provincial authority over immigration, expanding the provincial right to a veto over constitutional amendment, and giving provincial governments more input into the process of selecting Supreme Court justices and senators. Although the first ministers were all in agreement on the Meech Lake Accord, Canada’s new Constitution required that the federal Parliament and all ten provincial legislatures approve the Accord within three years before it could be proclaimed into law. This three-year window provided citizens the opportunity to more closely scrutinize the Accord and suggest amendments.

Even before the formal version of the 1987 first ministers’ agreement had been finalized, the FTQ leadership, in lockstep with the PQ, was already busy denouncing the Accord for its lack of clarity and its failure to deliver on Québec’s traditional demand for wider powers and jurisdiction over social security, manpower, and international relations.⁷² Generally, the Federation condemned the Accord for failing to adequately address the aspirations of the Québécois. More specifically, the FTQ criticized the Accord’s proposed amending formula and decentralization provisions for their lack of asymmetry.⁷³

The FTQ’s renewed support for the sovereigntist option forced the CLC to confront the issue of constitutional reform. The CLC’s approach to dealing with the constitutional initiatives of the Mulroney government was based on balancing the competing interests and objectives of the FTQ and the NDP, the party most closely aligned with organized labour in Canada. The NDP, particularly party leader Ed Broadbent, strongly supported the Meech Lake Accord as a way to end the constitutional impasse by bringing Québec into the Constitution.

CLC president Shirley Carr wrote to the Prime Minister in June 1987 asking for public hearings to be held on the Accord. A month later, the executive committee of the Congress approved a motion to make a presentation to the Special Joint Committee of the Senate and of the House of Commons on the 1987 Constitutional Accord (Special Joint Committee), set up to hear the public’s concerns over Meech Lake. In an August 1987 presentation to the Special Joint Committee written by Ron Lang, the CLC’s director of policy and planning, the Congress argued that:

72 Robert McKenzie, “Spending clause causing delays Bourassa says” *Toronto Star* (21 May 1987) A8.

73 Québec Federation of Labour, “Position de la FTQ devant la commission des institutions” 20 May 1987 at 7.

The Meech Lake Accord, in our view, clearly represents a devolution of powers from the federal government to the provincial governments. This is a dangerous development in a country which is characterized by great regional differences, mass distances and a decentralized federal system . . .

It is not a matter of tinkering with amendments; rather it is a matter of deciding what kind of country we want Canada to be before we take the leap into the abyss. The Accord does not contain the seeds of the Canadian Labour Congress' vision of Canada. We do not want a "community of communities."⁷⁴

The Congress did, however, go out of its way to point out to the Special Joint Committee that its vision of Canada was not shared by the FTQ. The submission read:

On this question of opposition to the Accord the Quebec Federation of Labour and the Canadian Labour Congress oppose it for very different reasons. Again, when it comes to the fundamental law of the land this is to be expected. As a Congress we will always support the right of our Quebec Federation to take its own independent position on such issues.⁷⁵

Between 1987 and 1990, the scope and character of the debate on the Meech Lake Accord changed enormously, but the CLC's position remained constant. Trudeau emerged as a strong and outspoken opponent of Meech Lake, and this helped to solidify opposition to the Accord in English Canada. Frank McKenna's New Brunswick Liberals, riding a wave of anti-Meech protest, swept every seat in the provincial legislature, and Meech Lake skeptics soundly defeated the NDP government in Manitoba. Subsequent first ministers conferences failed adequately to address the concerns of the newest premiers, and a week before the CLC's convention in May 1988, the House of Commons approved a motion to entrench property rights in the Constitution. These controversial new developments prompted labour activists to demand that the Congress, once again, take a firm position against the Accord.

At the CLC's 1988 convention, four resolutions opposing Meech Lake were submitted.⁷⁶ The four separate resolutions were merged into one composite resolution by the CLC's legislative committee. It called for sweeping amendments to the Meech Lake Accord including clarification of "the mean-

74 Canadian Labour Congress, "Presentation by the Canadian Labour Congress to the Special Joint Committee on the 1987 Constitutional Accord," CLC library (20 August 1987) at 8.

75 *Ibid.* at 3.

76 The resolutions were drafted by CUPE local 79, CUPE local 1004, the Canadian Brotherhood of Railway, Transportation and General Workers, and the United Fishermen and Allied Workers Union locals 1 through 99, respectively.

ing and scope of aboriginal title, recognition of women's rights and the opportunity for provincial status for the Territories, if they so choose."⁷⁷ However the resolution was never debated at the 1988 convention because it was immediately referred to the CLC executive council upon introduction on the convention floor. At a September 1988 CLC council meeting, labour leaders defeated a motion to adopt the Meech Lake resolution that had been referred from the convention.

By 1990, the CLC's 1987 submission on Meech Lake had become out-of-date and irrelevant. At an April 1990 CLC executive meeting, which took place a couple of days after the Newfoundland legislature rescinded its approval of the Accord, J.P. Hunter of the Canadian Brotherhood of Rail and Transport Workers (CBRT) reminded the council that the Meech Lake Accord had never been discussed on the convention floor. After stating that his union was against Meech Lake, Hunter admonished the Congress for not discussing the Accord.⁷⁸ In response, Jeff Rose of CUPE "expressed the view that he would be willing to duck entirely again to avoid a confrontation with Quebec,"⁷⁹ and went on to say that "[a]cceptance of Meech Lake has now become a symbol of acceptance of Quebec. If we are against it, it may mean that we drive Quebec out."⁸⁰

In a 30 January 1991 memo to President Carr, a senior CLC staff member wrote:

For the nation as a whole, recent experience with constitutional reform has been painful. The labour movement is nothing more (in this context) than a microcosm of the nation with all the same internal conflicts — regional, linguistic, cultural, etc. Consequently, it would be unreasonable to expect that our dealing with the Constitution would be any simpler than it has been for the nation. Our Anglo and Franco members are divided. Affiliate leadership is forced to be sensitive to the competing concerns of both groups. Federation of Labour leadership has to be mindful of provincial and regional priorities. The Anglo membership, on

this issue, is probably not nearly as homogeneous as its Franco counterpart. In sum, no matter what course the CLC pursues, it will have to contend with all

77 Canadian Labour Congress, "Position of the CLC on the Meech Lake Accord," CLC library (5 September 1989) at 3.

78 Canadian Labour Congress, *Executive Minutes* (10 April 1990).

79 *Ibid.*

80 *Ibid.*

these familiar tensions.⁸¹

The CLC's lack of involvement in the Meech Lake round of constitutional negotiation frustrated some members of the CLC executive council.⁸² The CLC's May 1990 convention provided the labour movement with one last opportunity to take a stand on the Meech Lake Accord, but debate was cancelled after FTQ president Laberge threatened privately to pull the Québec Federation out of the Congress.⁸³ Later that day, the CLC executive council decided to appease Laberge by arranging for the controversial resolution to be withdrawn. On 22 June 1990, the Meech Lake Accord died when provincial legislatures in Manitoba and Newfoundland failed to ratify it.

The surge in support for separation that occurred after the death of the Meech Lake Accord in 1990 can likely be attributed to the anger and frustration that Québécois felt towards English Canada. The same emotional response penetrated the labour movement. Québec's working class, like other segments of Québec society, resented the fact that the rest of Canada would not accept what they perceived to be Québec's minimal demands for jurisdiction and status as a "distinct society." In May 1990, the CSN convention had already declared support for outright independence for Québec. On 23 June 1990, the FTQ followed suit.

In response to the wave of Québec nationalism, both the governing Québec Liberals and the opposition PQ supported the establishment of a commission to advise the government on the province's future.⁸⁴ In an effort to reverse the rising tide of separatism in Québec, the first ministers in English Canada began to hammer out a new constitutional proposal which eventually became known as the 1992 Consensus Report on the Constitution (Charlottetown Accord).⁸⁵ The CLC initially resisted involving itself in this

81 Canadian Labour Congress, "Memo re: the Canadian Constitution and Quebec – Considering the CLC's Approach," personal files of Shirley Carr (30 January 1991) at 10.

82 "For the record, Brother Hunter voiced his disappointment, and stated that it was a sad commentary on the Congress and on the Canadian labour movement that it had not faced this issue." Canadian Labour Congress, *Executive Minutes* (7 May 1990).

83 Canadian Labour Congress, *Executive Minutes* (16 May 1990).

84 The Commission on the Political and Constitutional Future of Québec (Bélanger-Campeau Commission) included representatives from the FTQ, CSN, and CEQ.

85 The Charlottetown Accord included several controversial proposals: distinct society status for Québec; an elected Senate; a guarantee that Québec would retain at least 25 percent of the seats in the House of Commons; an ambiguous reference to aboriginal self-government; exclusive provincial jurisdiction over culture, forestry, mining and natural resources; shared jurisdiction over telecommunications, training, regional development, and immigration; stricter control over the federal spending authority; a non-justiciable social charter; and reduced barriers to inter-provincial trade.

new round of constitutional reform; however, once individual affiliates began making competing statements about the constitutional vision of organized labour, the CLC was forced to enter the debate. At the CLC's executive meeting of 4 April 1991 a resolution was passed establishing a subcommittee to elaborate "points of discussion in cooperation with the NDP."⁸⁶ Unsurprisingly, the resolution did not sit well with the FTQ. When asked by the media about the CLC's decision to wade into the constitutional debate, Laberge responded, "I suggested to them that any outsider trying to interfere with the right of Quebecers to decide their own future would not be welcome."⁸⁷

Constitutional reform continued to dominate the political headlines for over a year and reached fever pitch with the announcement that Québécois and voters in the rest of Canada would vote simultaneously on the Charlottetown Accord in an October 1992 referendum. The CLC rolled the dice and aligned itself with the pro-Charlottetown NDP, largely because the party's three provincial and one territorial governments had played an important role in shaping the content of the Accord. The FTQ joined the rest of the Québec labour movement in opposition to the Accord and managed to help defeat it in a 1992 referendum. Organized labour's opposition to the Charlottetown Accord in Québec was far stronger than the CLC's support for the Accord in the rest of Canada. Various CLC-affiliated labour councils adopted a neutral stand on the Accord, as did the Alberta Federation of Labour (AFL). Members of AFL affiliated unions, however, actively organized against Charlottetown along with the Canadian Union of Postal Workers. A study of Charlottetown voting behaviour conducted by political scientist Richard Johnston et al. indicates that union members who were aware of the CLC's position were more likely to vote against the Accord.⁸⁸ Organized labour's experience with the Meech Lake and Charlottetown rounds of constitutional reform suggested that the Congress' internal structure prevented it from engaging in effective pressure group activity in the realm of constitutional politics. Determined to put an end to the constitutional impasse within the CLC, President Bob White negotiated a sovereignty-association partnership with the FTQ which in effect gave the Federation exclusive jurisdiction over CLC affairs in Québec, along with guaranteed representation in various levels of the Congress structure. This accommodation helped ease internal tensions within the Congress, while ensuring the CLC's continued existence as a pan-Canadian labour body. The

86 Canadian Labour Congress, *Executive Minutes* (4 April 1991).

87 "Stay out of Quebec's affairs labor chief tells counterparts" *Toronto Star* (5 April 1991) A13.

88 Richard Johnston et al., *The Challenge of Direct Democracy: The 1992 Canadian Referendum* (Montreal: McGill-Queen's University Press, 1996) at 62.

sovereignty-association agreement⁸⁹ between the CLC and the FTQ is also illustrative of how political issues and institutional thinking which engages formal state actors are replayed in the arena of labour politics.⁹⁰

V. CONCLUSION

Historically, organized labour's preference for comprehensive national standards in economic and social policy, and central economic planning has always underwritten its centralist view of the state and the federal system.⁹¹ This constitutional outlook was based on the notion that a government requires control over all major economic levers in order to achieve the progressive redistributive policies traditionally favoured by the labour movement.

To be sure, this view was shared, to a lesser extent, by labour organizations in Québec during the Duplessis regime. It was only after the Quiet Revolution that the Québec labour movement began to diverge significantly from the labour movement in English Canada on questions of federalism and central economic planning. The combination of progressive nationalist self-realization, and the dominance of Keynesian-inspired economic expansion facilitated this divergence as Québécois came to see that their provincial state, which had been used to oppress workers for so long, could be used as a progressive tool to advance the interests of francophone Québécois.

Beginning in 1966, the FTQ adopted the Québec government's constitutional strategy vis-à-vis the federal government by asking the CLC for greater authority over union affairs in Québec. The FTQ finally managed to secure greater jurisdiction from the Congress in 1974, thus achieving special status

89 The sovereignty-association agreement gives the FTQ special jurisdiction (not granted to any other provincial labour federation) over labour education, labour councils, and political action in Québec. This included freedom to make submissions to parliamentary committees — even if they contradict the policy preferences of the CLC. In addition, the FTQ retained its representation on the CLC executive council. The arrangement also included a funding formula to ensure the FTQ receives a significant share of the CLC's resources.

90 For more detail on labour-constitutional politics in the early 1990s, see Larry Savage, "Organized Labour and Constitutional Reform Under Mulroney" (2007) 60 *Labour/Le Travail* 137.

91 Admittedly, the CLC's support for the provinces in their dispute with the federal government over its wage and price control program, and over the Charlottetown Accord compromised the English-Canadian labour movement's historical commitment towards centralist policies. These two examples, however, should only be viewed as a temporary tactical abandonment of centralist principles. In May 2000, CLC president Ken Georgetti reaffirmed the labour movement's preference for strong centralist policies by urging the federal government (unsuccessfully) to use its constitutional power of disallowance to prevent the Alberta government from passing a law allowing for the creation of private hospitals.

for the FTQ — it was no longer simply a provincial federation of labour *comme les autres*.

In 1975, the FTQ officially endorsed the PQ, and in April 1980 the Federation called on its members to vote *OUI* in Québec's referendum on sovereignty-association. The CSN joined the FTQ in support of a *OUI* vote, while the CEQ campaigned against federalism (without officially taking a position on the referendum question). The FTQ's strong support for the sovereignist option forced the CLC to recognize Québec's right to self-determination in its 1978 statement on national solidarity. The defeat of the *OUI* forces in 1980 resulted in a temporary setback for sovereignist forces in Québec, but the Québec labour movement continued to actively oppose attempts by the federal government to renew Canadian federalism through constitutional reform. Québec's trade union movement opposed the patriation of the Constitution, denounced the Meech Lake Accord, and successfully campaigned against the Charlottetown Accord. The FTQ was successful at convincing the CLC to remain neutral on the issue of patriation in the early 1980s, and persuaded the Congress to back off from taking a firm position on the Meech Lake Accord in the late 1980s.

In the summer of 1990, the CSN, the CEQ, and the FTQ all endorsed the independence option for Québec and began aggressively promoting sovereignty among their members. After the failure of the Charlottetown Accord in 1992, the FTQ and the CLC entered into formal negotiations which resulted in a sovereignty-association partnership agreement between the two organizations. The partnership agreement transferred resources and jurisdiction from the CLC to the FTQ in order to establish the FTQ as the independent incarnation of the CLC in Québec.

Québec's multiple trade union centrals closed ranks around the PQ's nation-building strategy when Jacques Parizeau swept into power in 1994. The FTQ, the CSN, and the CEQ all endorsed a *OUI* vote and actively encouraged their members to support the *OUI* side in the 1995 referendum on sovereignty-association. The defeat of the *OUI* forces in the 1995 referendum has not since reversed the Québec labour movement's support for sovereignty. In fact, the labour movement emerged from the referendum campaign as one of the most ardent supporters of self-determination and Québec independence. At the same time, the CLC has shown greater openness to Québec in the aftermath of the 1995 referendum. For instance, it joined the Québec labour

movement in denouncing the federal government's *Clarity Act*,⁹² and the Congress invited Bloc Québécois leader Gilles Duceppe to address delegates at its 2005 convention.

Overall, the CLC's shift from strong support for centralization to an open acceptance of sovereignty-association has come about through a combination of institutional self-preservation, and a gradual recognition that Québec and its citizens do indeed represent a unique nation within the Canadian state. To be sure, what makes the CLC's arrangement with the FTQ workable is its basis in shared economic and social values. That said, the fact that the CLC and FTQ adapted a constitutional discourse drawn from contemporary federal-provincial politics for their own organizational purposes suggests that much more can be learned about Canadian labour by examining the evolving relationship between labour unions and the constitutional order in the years to come.

92 S.C. 2000, c.26.

