

**McCARTHY, D'ALTON**, lawyer, farmer, politician, and businessman; b. 10 Oct. 1836 at Oakley Park, Blackrock (Republic of Ireland), son of D'Alton McCarthy and Charlesina Hope Manners; m. first 23 Oct. 1867 in Barrie, Ont., Emma Catherine Lally (d. 1870), and they had a son and a daughter; m. secondly 15 July 1873 Agnes Elizabeth Lally, widow of Richard Barrett Bernard; they had no children; d. 11 May 1898 in Toronto.

D'Alton McCarthy received his early education at schools directed by clergymen in Blackrock and near Dublin. The family immigrated to Upper Canada in 1847 and settled near Barrie, where D'Alton completed his education at the local grammar school. McCarthy Sr, a lawyer from a distinguished legal family in Ireland, tried farming before resuming his legal career in 1855 in partnership with D'Arcy **Boulton\*** in Barrie. He was an active Orangeman and a grand master in the order, but in 1870 he would deplore attempts to rouse Orange passions following the death of Thomas **Scott\*** during the Red River uprising, and he pleaded with his fellow Orangemen to remain united behind the Conservative party.

D'Alton Jr had joined his father's law firm in 1858 and was called to the bar the following year. He knew how to interest juries, and he gained a reputation for placing the affairs of his clients above all other considerations. In 1869 father and son ended their partnership with Boulton and established their own firm. Elected a bencher of the Law Society of Upper Canada two years later, the younger McCarthy was named solicitor for Simcoe County in 1873.

With his legal career safely launched, D'Alton McCarthy could attend to other pursuits. He was athletic, was an avid horseman, and eagerly participated in the sports of his day. He was determined to be a gentleman farmer. As a lawyer and a member of the local gentry, he had a natural interest in politics. In the federal election of 1872 he was defeated in Simcoe North by millionaire lumberman Hermon Henry Cook, who reputedly had spent \$15,000 on his campaign. At the urging of Sir John A. **MACDONALD**, McCarthy dutifully protested the election but failed to substantiate his charges. The young lawyer was rewarded with a QC on the prime minister's recommendation. Their bond was sealed when McCarthy took the presidency of the Conservative riding association for Simcoe in 1873. That year he married his late wife's sister, widow of Macdonald's brother-in-law, thereby adding a family connection to his political relationship with the Conservative leader.

This close association endured the débâcle caused by the Pacific Scandal and by the rejection of the Conservatives at the polls in January 1874, when the Barrie lawyer was again defeated by Cook. This time he successfully protested the election only to lose the resulting by-election in December. Undaunted, McCarthy threw himself into the provincial contest the following year as riding association president, and was rewarded with a Conservative sweep of the Simcoe ridings. Even though he had lost three elections himself, his organizational talents were vindicated, and John Hillyard **Cameron\***, MP for Cardwell, predicted that “ere long the Conservative flag would wave over his head as the member for the North Riding.”

McCarthy encouraged Macdonald’s revival as an effective leader in 1875 and shared in the resurgence of the Conservative party. Macdonald urged McCarthy to acquire hold of his riding and come to Ottawa to help. “We in opposition are in want of a legal man of good debating power,” Macdonald told him, “and you would have an opportunity of securing at once a status in Parliament which you may never have again.” In 1876 Macdonald took matters into his own hands when Cameron died and a by-election was called, offering McCarthy the safe seat of Cardwell. McCarthy wavered but deferred to the leader’s judgement Macdonald sent in his best stumper, Charles **Tupper\***, and McCarthy canvassed the riding thoroughly. In December he won and could at last join Macdonald in the commons.

The two years McCarthy spent in opposition were essentially campaign sessions, with “the two parties bespattering each other with mud,” in the opinion of the governor general, Lord Dufferin [**Blackwood\***], in April 1877. McCarthy emerged as a relentless critic of the Liberal government’s professions of honesty and economy; his wit and sarcasm, coupled with carefully prepared briefs, earned him Tupper’s appellation “an object of terror” to those he attacked. McCarthy’s intention to contest Simcoe North at the next election and to stake his political future on the result led to a series of clashes in parliament with Cook, who, McCarthy said, had defeated him “on two or three occasions – the House knew by what means.” Outside the house, McCarthy benefited from Macdonald’s belief in the efficacy of assigning all of the party’s electoral matters in a province to one counsel, and he succeeded in capturing most of the party’s legal patronage in Ontario. Cases involving controverted elections allowed the parties to continue their battles through petitions, counter-petitions, appeals, voidances, and by-elections. McCarthy proved ideally suited to this warfare,

sometimes offering his services just “for the love of the thing,” and he quickly established himself as the party’s leading counsel on elections.

McCarthy shared Macdonald’s opinion that Alexander **MACKENZIE’S** indecisive leadership of the Liberal party and its stubborn retention of theories of free trade inapplicable during an economic depression would prove to be its Achilles’ heel. He joined his leader in adopting the National Policy of protection as the vehicle of Conservative resurgence. Protection of home industries would place Canada’s commercial relations with the United States on a “fair and equitable basis,” he claimed during the 1878 election, and it was essential to national greatness.

The Conservatives won a glorious victory and McCarthy was finally triumphant in Simcoe North. As Macdonald’s protégé, he was considered the coming man in the party, a potential successor to the old chieftain. In private life, as well, he had succeeded. Having established a branch office in Toronto in 1876, the following year he founded the legal firm of McCarthy, Hoskin, Plumb, and Creelman, which became one of the most prestigious in Canada. In 1879 he moved his permanent residence to Toronto, but he did not sever his relationship with his constituency. He remained county solicitor, maintained a branch office in Barrie, and argued a number of much-publicized cases that kept him before the public. He had a house in Barrie, a summer home on Kempenfelt Bay, and a large farm, Oakley Park, where, the *Montreal Herald* later observed, “in his character as Cincinnatus” he raised “thoroughbred cattle, high-stepping horses and preternaturally fat pigs.”

McCarthy’s narrow victory in 1878 led him to consolidate his political base. He proved adept at looking after his constituents’ interests, procuring federal funds for harbour improvements, navigational aids, and post offices. As county solicitor he participated in the county’s bonusing the Hamilton and North Western Railway to create competition to the Northern Railway. After those lines entered a joint operating agreement in 1879, however, he complained that the resulting reduction of competition meant economic hardship in Simcoe, a view that contributed to his advocacy in the commons, beginning in 1882, of a federal court of railway commissioners to regulate rates, amalgamations, and practices. In parliament during the early 1880s and as president of the Northern and Pacific Junction Railway from 1884 until its takeover in 1887–88 by Joseph Hickson, he championed the interests of Toronto’s northern hinterland against the regional pretensions of the

Montreal-based Canadian Pacific Railway, which he nevertheless supported as a national project. Electoral redistribution in 1882 lopped from his riding several townships that had gone against him. For the remainder of his political career, Simcoe North remained solidly behind the “Simcoe Boy,” “whichever way the cat jumped.”

After the formation of the Conservative government in 1878, McCarthy emerged as its spokesman on election law, the legal system, and dominion-provincial relations. As Macdonald’s *alter ego*, McCarthy argued the case for federal dominance in confederation. He believed the task of the Conservative party was the creation of a strongly centralized nation state. The task would be accelerated by the establishment of one law for all of the provinces. This homogeneity could be achieved by the Supreme Court of Canada [see T elesphore **FOURNIER**; Sir William Johnston **RITCHIE**] and through federal powers of reservation and disallowance. Quebec’s use of French law and the Civil Code frustrated federal attempts to legislate uniformly but it was Ontario that proved to be the stumbling-block in the implementation of the Macdonaldian concept of a centralized federation. Ontario’s Liberal premier, Oliver **Mowat\***, refused the subordinate role Macdonald planned for the provinces, defended provincial rights, and fought for a true federal system. McCarthy faced Mowat in three constitutional battles in the 1880s: the Ontario boundary award, which had made it an empire province with an enormous hinterland; the rivers and streams case, which hinged on the province’s right to legislate in its own constitutional sphere without interference; and the liquor licensing case, which involved an appeal against McCarthy’s legislation to extend the federal general powers over an assigned provincial jurisdiction. All of these were carried to the Judicial Committee of the Privy Council in London and in each instance it upheld the provincial position. Macdonald accepted the verdict of the courts and public opinion as represented at an interprovincial conference in 1887. He retreated.

Macdonald continued to value McCarthy’s legal expertise. Twice in 1884 Macdonald offered him the justice portfolio, but McCarthy refused, claiming that his debts compelled him to continue in legal practice. Despite his leader’s esteem, however, McCarthy’s views on confederation were diverging from those of many other Conservatives during the 1880s. His desire for the creation of a strongly centralized nation state, his notion of uniformity of law in all provinces, and his concern for “progressive legislation” on such matters as his court of railway

commissioners were all opposed by French Canadian mps, who continued to demand special status for Quebec and its laws.

Following the trial and execution of Louis Riel\* in 1885, McCarthy saw his ideal of a united Canada threatened as never before. He himself was in England during the trial but Britton Bath Osler\*, his law partner since 1882, was one of the crown prosecutors. As a lawyer McCarthy believed there was “no pretense for the pleas of insanity.” “Let the law take its course,” he told Macdonald. Sympathy for Riel and the resulting agitation among French Canadians was a nationalist problem, not a religious one, resulting from “their desire to have another province made in the Dominion.” One Quebec was “more than enough.” In 1870 Riel had succeeded in planting the seeds of another French province in Manitoba and McCarthy was determined that he not be allowed to repeat the process in the North-West Territories, where Canada’s future lay. Agitation over Riel’s death culminated in a mass meeting in November 1885 in Montreal [see Edmond Lareau\*]. Riel was portrayed as the victim of English and Protestant bigotry, and race and religion were invoked to avenge his execution. Honoré MERCIER, the charismatic leader of the provincial Liberal party, was ready to lead a movement and urged both Liberals and Conservatives to form a single party – a Parti National – to punish the federal government and to protect French Canadian rights.

In the first of what was to be a series of responses to perceived provocations by Mercier, McCarthy warned his constituents at Creemore in December that, “if overthrowing the present Cabinet is to be followed by the planting of French ascendancy – and such in effect is Mr. Mercier’s program – then as Britons we believe the Conquest will have to be fought over again.” The Parti National did not materialize at the federal level, but Mercier succeeded in defeating the Conservative government in Quebec in late 1886 and in turning the 1887 session in the Legislative Assembly into a referendum on Riel’s execution. This nationalist agitation drew a spirited reaction in Ontario, where the *Toronto Daily Mail* began a counter-crusade to establish an English Protestant party [see Christopher William BUNTING], but its campaign was perceived as an assault upon all Catholics and threatened the Conservative party’s reliance upon the Roman Catholic vote in both provinces.

As president of the Liberal-Conservative Union of Ontario, which he had helped to found in 1884, McCarthy took an outspoken stand on the Riel issue in election

campaigns in 1886 and 1887. At a federal by-election in Haldimand in September 1886 he fired the “first shot” in what was considered to be a test of the strength of the anti-Riel cry in Ontario: “This country is young and prosperous and needs the united effort of all. If instead . . . we are to have the English people banded against the French, or the English people divided and fishing for a French vote, we shall have progressive legislation entirely blocked.” McCarthy’s plea went unheeded. Haldimand remained Liberal, Mercier’s Parti National continued to threaten a war of races, the *Mail* sustained its course, and the Liberals fished for a French vote. McCarthy saw only disaster unless decisive action was taken. Macdonald had gone west during the summer and upon his return McCarthy demanded that a “definite policy” be decided on, “to try and hold the RC’s and get an Anti-Catholic defection from the Grit ranks.” Unfortunately not enough Protestant Reformers drifted to the Conservatives to alter the party’s fate in the provincial election of December 1886. A gloomy William Ralph **Meredith\***, Ontario’s Conservative leader, suggested that if Riel, rather than the anti-Catholic policy of the *Mail*, had remained the central issue in the campaign, his opponents would have been on the defensive.

With a federal election scheduled for March 1887, Macdonald took a greater interest in Ontario. When he found that the *Mail* would not change its course, he renounced all connection with it and lobbied the Catholic bishops. To communicate the Conservative platform McCarthy organized an interim replacement, the *Daily Standard*, edited by Louis P. Kribs, and played a major role in founding the *Empire*. He sought to put the Riel issue in the forefront and called upon English-speaking Reformers in Ontario to join with the Conservative government on the federal level to contain French Canadian nationalist aggression. The approach seemed plausible. Many Reformers were uncomfortable with the Liberal policy of “wooing the French” and others could not bring themselves to condemn the government’s hanging of Riel, which they deemed justified. At Barrie in early February, at the height of the federal campaign, McCarthy called upon Ontario to stand by the government. He once again voiced his conviction that “it is not religion which is at the bottom of this matter but . . . a race feeling. . . . Don’t we find the French today more French than when they were conquered by [James **Wolfe\***] on the Plains of Abraham? Do they mix with us, assimilate. . . . No, everything with them is conducted on the French model; . . . I say that they are the great danger to the Confederacy.” The Conservatives won both Quebec and Ontario, although by reduced majorities. Macdonald relaxed. McCarthy,

frustrated by Meredith's defeat the previous year and concerned about the future, reminded Ontarians that constant vigilance was the price of freedom.

The passage of the Jesuits' Estates Act by Mercier's government in 1888, providing a monetary settlement partly arbitrated by Pope Leo XIII [*see Antoine-Nicolas Braun\**], provoked an anti-Catholic outcry in Ontario that threatened for a time to sweep the province. To McCarthy the act was the "culmination of a series of actions which convinced him that French nationalism had to be checked." He believed the resulting agitation was "founded on a depth of feeling not unlike that which produced the burning of the Parliament buildings in Montreal" (in 1849). It took the form of a demand for disallowance by the federal government. When the government announced in January 1889 that it would not interfere, McCarthy, convinced of the rightness of his English nationalist and federalist position, was one of those determined to bring the issue before the house. Disregarding Macdonald's pleas and the party's censure, McCarthy and William Edward O'Brien, MP for Muskoka, said that they would move for disallowance in the next session.

The bill O'Brien introduced in March 1889 was prepared in close collaboration with McCarthy. After making what might have been the most eloquent and closely reasoned argument ever made in parliament for a fearless use of disallowance, McCarthy admitted that although there might be honest difference of opinion on the constitutionality of the act, there could be none on the broad grounds of principle, "which we thought was determined for all time when the secularization of the clergy reserves took place." He answered those who spoke of provincial rights by taking the higher ground of national rights: "The only way of making a united Canada, and building up a national life and national sentiment . . . is by seeing that the laws of one Province are not offensive to the laws and institutions . . . of another." But McCarthy found little support.

When the vote was taken in the early morning of the 29th, no more than 13 members (8 Conservatives and 5 Liberals) could be found to support O'Brien's motion. The fact that only 13 MPs supported disallowance actually inflamed the debate instead of ending the agitation. McCarthy carried out his threat to resign as chairman of the Liberal-Conservative Union of Ontario and maintained a low profile after the session. But he felt compelled to attend a reception planned for the "noble thirteen," as Macdonald had called them, in Toronto on 22 April. When the prime

minister tried to reason with him, Macdonald discovered a growing gulf between them over the future of their party. On the 17th McCarthy had written to his old leader, “The duty of the Conservative party is to hold by and lean on the English Provinces, whilst so far as I can understand yours is rather to depend on Quebec.” Of more immediate concern was the likely consequence of his attendance at the reception: “Having reaped to sow the wind I must in decency be prepared to withstand the possible whirlwind.” His aim was “to prevent the agitation . . . from being controlled by the Grits – and to be guided or kept for the Conservative cause.” Perhaps McCarthy saw in the Jesuits’ estates agitation a solution to the dilemma which he had first posed in 1886, of how to gain a defection of Protestant Reformers to replace the lost Catholic vote. Still, as David Creighton, editor of the *Empire*, pointed out to Macdonald, it was a dangerous experiment to inflame the people and still expect to carry Ontario for the Conservatives.

McCarthy spoke for more than two hours on the 22nd before a crowd of some 5,000. His main topics were French Canadian nationalist aggression and the need for one language. In a not-so-subtle fashion, he sought to direct the anti-Jesuit agitation away from religion and towards French aggression, and away from Macdonald and the Conservatives towards the provincial rights principles of the Liberals.

McCarthy did not attend the organizational convention of the Equal Rights Association on 11–12 June 1889 but he was elected to its executive committee and was recognized as one of its leading spokesmen. The founding of the ERA, theoretically devoted to the equal rights of all religious denominations before the law with special privileges for none, prompted a spirited response from French Canada. Later in the month, at a Saint-Jean-Baptiste Day celebration, Mercier called upon his compatriots to unite under the French tricolour flag of national defence. He vowed that Quebec would remain French and Catholic, and one of his National Conservative colleagues, MP Guillaume **AMYOT**, warned the militia to be prepared to defend French Canadian institutions and laws against Anglo-Saxon aggression.

Mercier’s defiance prompted McCarthy to break the silence he had maintained since the Toronto reception. Despite the warning of the ERA’s president, the Reverend William **Caven\*** of Knox College, against turning the agitation into an anti-French crusade, McCarthy was more convinced than ever that the real danger to

Canada was not religion but the nationalistic aspirations of French Canada. On the “Glorious Twelfth” he addressed an Orange picnic at Stayner, in his own constituency, and bared his political soul. He was not an Orangeman because he did not believe that the feuds of the Old World should be introduced into Canada, but his father had been Orange and he was not ashamed to uphold the principles of the order – equal rights to all and loyalty to the crown. Although still a Conservative, he differed from Macdonald in the matter of the Jesuits’ estates and would not retreat from his “equal rights” course however it might affect the party. To his earlier emphases on what was the question at issue he added language. “As long as Frenchmen learned their laws and their history in French, they would remain French in sentiment.” He contended that in Ontario the schools in French-speaking districts must be made public and English-speaking; in the northwest the duality of language must be abolished. “Now is the time,” he proclaimed in language both inflammatory and flamboyant, “when the ballot box will decide this great question before the people, and if that does not supply the remedy in this generation, bayonets will supply it in the next.”

McCarthy’s intemperate speech brought strong condemnation from many Ontario Conservatives, who urged Macdonald to drop him, but the prime minister remained calm. He believed that the agitation would die out after 8 August, when the time within which disallowance was possible would have passed. Besides, Macdonald told John Fisher **WOOD** on 29 July, “McCarthy has a large section of the Conservative Party with him, including the Orangemen and extreme Protestants, and if he were denounced by me, he would take with him a large body of secessionists which we might find great difficulty in getting back.” Macdonald might not have been so confident had he known that McCarthy was about to carry the “equal rights” campaign to the west and then into the House of Commons.

During a holiday trip to the west McCarthy made two speeches in August, at Portage la Prairie, Man., and Calgary, in which he attacked French Canadian nationalism but said little about Catholic schools. Still, these speeches have been widely interpreted in relation to their impact on subsequent school and language legislation in Manitoba. McCarthy can hardly be seen as an instigator – indigenous causes in Manitoba and the province’s leaders and people provide adequate explanation – but he and the ERA did provide a sort of legitimacy for the actions. Upon his return from the west, he made a number of “equal rights” speeches, which

culminated at year's end in Ottawa, where he boldly claimed that with public support the ERA could control elections in every constituency.

Determined to carry the “equal rights” platform into the commons, McCarthy introduced a bill in January 1890 calling for the abolition of French-language guarantees in the North-West Territories Act of 1875. The preamble to the bill – that “in the interest of national unity in the Dominion . . . there should be community of language among the people of Canada” – was as provocative to the French as was Mercier's in the Jesuits' Estates Act to English Protestants. In the debate that followed, which historian Peter Busby Waite has described as “one of the great debates in the history of the Canadian Parliament,” the members discussed “what Canada was and what it should be.” McCarthy's unilingualism was based upon the assumption that national unity required cultural uniformity. That assumption in turn was grounded in both the “practical” experience of Lord Durham [**Lambton\***] in the past and the “science of language” espoused by such modern nationalist thinkers of his own day as Oxford professors Edward Augustus Freeman and Max Müller, all of whom McCarthy quoted. Sir John Stephen **Willison\*** later recalled that he spoke for “three or four hours with superb self-control, remarkable precision of statement and complete concentration upon fundamental facts and principles. . . . The man was in his cause.” If the French in Canada had been encouraged after the conquest to speak English, McCarthy argued, Canada would be united, English in fact and in sentiment, and there would have been no attempt to set up a French and Catholic nation separate from the Canadian nation. McCarthy endured savage attacks and stood almost alone (the most effective defence came from the minister of justice, Sir John Sparrow David **THOMPSON**, a Roman Catholic), but he remained loyal to the logic of his argument on how to achieve national unity.

It appeared that the house would be divided along racial lines until a compromise by Thompson defused the debate. The use of French in the courts and court proceedings of the North-West Territories would continue to be guaranteed by parliament, but its Legislative Assembly would be allowed to decide the language of debate and its record. Thompson's amendment carried by a huge majority, but McCarthy vowed to continue his fight until all vestiges of dualism were eradicated from the west. His limited success in the house was more than compensated for by “equal rights” gains elsewhere. In Manitoba Joseph **Martin\***, attorney general in the Liberal government of Thomas **Greenway\***, carried through the assembly in the 1890

session legislation which abolished the official use of French and separate schools. In Ontario Meredith pushed ERA measures calling for curtailment of the French language and separate schools, forcing Mowat's Liberal government to modify the educational system.

The ERA had presented itself as non-partisan and, although partisanship was never entirely absent from it, Caven and other leaders had managed to mask these internal conflicts. However, under the pressure of the provincial election campaign in Ontario in the spring of 1890, party politics burst forth. John **Charlton\***, a federal Liberal and strong supporter of the ERA, came out for Mowat; McCarthy was more circumspect, but he believed Meredith could win and he attempted to steer the ERA in a Conservative direction. In May its executive divided over whether the Liberal changes had gone far enough. Charlton believed that McCarthy was trying to make the ERA a "donkey-engine of Toryism." McCarthy angrily responded that it was Charlton and the Reformers who were deserting ERA principles for party purposes. Charlton campaigned openly for the Liberals; McCarthy, increasingly critical of Mowat, supported the extreme ERA demand for a constitutional amendment to abolish separate-school guarantees in Ontario.

Mowat won a resounding victory in June and only one ERA candidate was elected (George Campbell in Durham East), although a number of successful Conservatives and Liberals were pledged to "equal rights" principles. Macdonald was gratified with the poor showing of the ERA and he moved quickly to recapture the allegiance of both disenchanted Catholics and militant Protestants before the 1891 federal election. McCarthy, while continuing to maintain his "equal rights" principles, returned to the fold and once again ran successfully as a Conservative. The ERA had no impact in the election, but it had done harm in fostering the schools and language controversies. Macdonald had expressed his concern on 10 July 1890 to James Robert **Gowan\*** of Barrie: "The demon of religious animosity which I had hoped had been buried in the grave of George Brown[\*] has been revived. . . . McCarthy has sown the Dragons teeth. I fear they may grow up to be armed men."

Macdonald died in 1891 after the election, and at his death McCarthy appeared reconciled with his party. He put forth a claim to the leadership when he asserted that Macdonald's legacy was to build a great nation within the British empire, but few Conservatives supported it. Although he kept his seat on the front benches, he

refused to serve in the cabinet, under either John Joseph Caldwell ABBOTT or his successor, Thompson, unless the government adopted his “equal rights” platform. It was neither language nor the school issue, however, but his ideas on imperial federation and tariff reform that led to a final break with the party.

McCarthy had become president of the Canadian branch of the Imperial Federation League in 1885, but he had not pressed its policies on Macdonald. He put his faith in the natural development of the imperial relationship and also realized that the French Canadian wing of the Conservative party was suspicious of closer relations with the mother country. When a section of the Liberal party took up the cry for commercial union with the United States in 1887–88, he countered with the suggestion of imperial preference in tariffs. He was careful to present the idea as a goal, in no way antagonistic to the National Policy. The Jesuits’ estates controversy had then captured his attention and, as a result of his leading role in it, McCarthy stepped down from the presidency of the league and maintained a low profile on tariff reform until developments in the early 1890s revived his concern.

Although the Conservatives won the federal election of 1891, the Liberals polled a larger percentage of the popular vote in Ontario. McCarthy took these Liberal gains seriously and blamed the *Empire* for failing to counteract the annexationist propaganda of Sir Richard John Cartwright\*, but he recognized that a more fundamental reason existed – the increasing sentiment for tariff reform among the farmers of Ontario. He renewed his imperial federationist course, feeling that the party must take cognizance of that reform sentiment; in fact, he went farther and criticized the National Policy. Canadian industries must now be prepared to stand alone or with a reasonable amount of protection, he argued. The Liberals’ call for unrestricted reciprocity was no solution – it was not for Canadians to go to Washington to beg for tariff favours, and be rejected unless they were prepared to accept annexation. Convinced that the Conservative government intended to adhere to the National Policy in the interests of the manufacturers, McCarthy returned to Simcoe North in late December 1892 to secure a mandate for challenging the government on tariff reform. Discovery of his intentions by David Creighton of the *Empire* led to an editorial attack on 30 December, which culminated in McCarthy’s open break with the party in January 1893.

For “wobbling” on tariff policy, McCarthy was read out of the party by Creighton, who had been urging such action since the Jesuits’ estates controversy. McCarthy, who had been prevented from exercising a significant role in the *Empire’s* policy, had been critical of Creighton’s management. In 1891 Creighton had attached himself to Thompson, urging him to disregard McCarthy’s opposition and take the leadership of the Conservative party; Thompson’s elevation to prime minister the following year brought the rivalry between Thompson and McCarthy to a head. McCarthy was suspicious of Thompson’s church-state position and held him responsible for the “hollow compromise” forced on the house in the North-West Territories legislation. He would also be critical of Thompson for his government’s challenge in the Supreme Court in 1893 to Manitoba’s school legislation. Thompson, for his part, felt that he had paid enough deference to McCarthy’s “scant following” and after becoming prime minister refused to take any action to reclaim him.

Once it became apparent that the party would not retract the *Empire’s* attacks on him, McCarthy called a meeting of his constituents, at Stayner for 25 Jan. 1893, to explain his course. He claimed to be as good a Conservative as any man in the government and insinuated that he represented the true legacy of Macdonald. In the past “The Old Man, the Old Policy and the Old Flag” constituted the assets of the party. Now, the “Old Man” was gone, the party could have the “Old Policy,” and, in a gesture close to demagoguery, McCarthy waved the Union Jack above his head shouting “I’ll take the Old Flag.”

McCarthy vowed to take an independent stand on the cross-benches, where his actions in the 1893 session were at odds with the government on the two most important issues before the house, schools and tariff reform. By the end of the session that spring, encouraged by widespread support, McCarthy had founded the Equal Rights League, a third party based upon his familiar themes. Its planks supported tariff reform and opposed any coercion of the provinces in matters of language or education. They constituted the McCarthyite defence against French Canadian encroachments on the true nationalization of Canada and expressly denied that confederation promised French-speaking and English-speaking Canadians an equal share in the new western domain.

By the end of 1893 McCarthy’s third party had only one parliamentary follower, W. E. O’Brien. In spite of the optimism of some McCarthyites, the league had yet to

demonstrate its viability as a political party. Little money had been raised, there had been no electoral contests, and the convention planned for November had been postponed. But after a tour through western Ontario in early 1894, William G. Fee, the league's organizer, reported several ridings canvassed and prospects high. McCarthy scheduled as many speaking engagements as he could manage with his heavy legal responsibilities, preferring to speak in places that he could reach by train for evening meetings and still return to Toronto the next morning before the courts opened.

Possibilities for alliance seemed to lie with two movements that had come into Canada from the United States in the early 1890s – the Protestant Protective Association [see Oscar Ernest **Fleming\***] and the Patrons of Industry [see George Wesley **Wrigley\***]. If McCarthy, who, however, consistently overestimated the strength of popular feeling and movements, could establish a close relationship with one or both groups, perhaps he could claim a balance of power in the next dominion parliament.

The PPA, a secret, oath-bound organization, seemed to the *Mail* a natural ally for McCarthy because it largely shared the same Orange constituency. McCarthy squelched such rumours of an alliance in a series of speeches made between October 1893 and January 1894. He refused to attend a PPA convention and denied he had ever claimed to be the Protestant champion. He could not accept a platform which sought to make Catholics second-class citizens, nor had he ever said anything derogatory about a man's religion. But as the fortunes of the association sagged, it sought to appropriate McCarthy's leadership and respectability by claiming to have concluded an alliance with him. McCarthy repudiated any idea of a merger with the PPA, associated as it was with bigotry, but he welcomed its voting strength as long as no strings were attached.

The Patrons were obviously more important to McCarthy, who had encountered this farmers' movement in 1893 when he spoke in the house on tariff reform and agrarian discontent over the National Policy. After the Ontario election of June 1894, in which the Patrons made a strong showing, he openly courted them for national politics. McCarthy was popular with their rank and file but he found grand president Caleb Alvord **Mallory\*** and his board difficult. As a populist movement, the Patrons distrusted professional men such as lawyers, whom they considered exploiters of

society. In turn McCarthy could not accept the radical reforms in the Patrons' platform, but he flattered them that they might become the majority party in Ontario's next house. The trade question was the vital one for the next federal election and McCarthyites and Patrons, though independent of each other, were closely allied on that issue: farmers wanted cheaper goods, and McCarthy was doing all he could. Despite the board's reluctance to conclude an alliance, support among the Patrons for McCarthy was mounting.

By the fall of 1894 there were signs that McCarthy was making significant progress towards achieving the balance of power he sought, the one great party of independent and patriotic men. The PPA, though weakened and discouraged, was coming his way out of principle; in many areas the Patrons, in defiance of their board, promised him support and kept alive the possibility of a closer alliance. McCarthy also consolidated his gains within the Orange order, where laymen were disgusted with the leadership of Nathaniel Clarke **Wallace\***. One of the "noble thirteen" and now controller of customs, Wallace had tried in the commons in 1893 to discredit McCarthy in his opposition to separate schools because his stepdaughter, Mary Agnes Fitzgibbon [**Bernard\***], whom he supported, was a Catholic. And, finally, relations with the Liberals were much friendlier now since McCarthy's ideas on tariff reform had gained widespread support within that party and his break with the Conservatives had made him a likely ally.

The death of Thompson in December 1894 was a devastating blow to the Conservative party. There were few outstanding men in the cabinet, but any possibility that McCarthy might return to the government's ranks to lead the party was destroyed when a cabinet member, Senator Sir Frank **Smith\***, told the press that month: "There is one gentleman who has missed his chance, I mean Dalton McCarthy. He might have succeeded Sir John Thompson had things been otherwise." The Conservatives settled on Mackenzie **Bowell\***. Speculation that McCarthy might serve under the old Orangeman brought a typically blunt clarification from McCarthy. Because Bowell was determined to continue the policies of coercion and tariff protection, the same differences would continue between himself and the new government. Bowell suffered the common weakness of Orange leadership – he never voted for Protestantism unless it squared with his party. The truth was that no man in Ottawa had the courage to antagonize the French vote. McCarthy stood alone as an example of what might be expected if one opposed that

vote. “I dare say that I would have been Premier of Canada if I had remained in the Conservative ranks – but I suppose I never will be . . . and may never hold office,” he declared in a speech at Picton, Ont., in December 1894.

McCarthy’s political course from 1895 was shaped by the legal rulings on Manitoba’s school legislation. The Supreme Court’s denial in February 1894 of a minority appeal against it had been referred to the Privy Council – the Brophy case, which opened the day before Thompson died. When the Privy Council decided in February 1895 that the government of Canada had the right to hear an appeal and to pass remedial legislation, representatives for both the Catholic minority and the government of Manitoba were summoned before cabinet. In March McCarthy appeared for Manitoba; John Skirving Ewart\* presented the minority appeal. Convinced that cabinet had already decided to grant the appeal, McCarthy challenged the impartiality of the quasi-judicial proceedings. As cabinet deliberated, he took his argument to the people. At a “monster meeting” he and others had organized in Toronto, he protested the coercion of Manitoba; a week later, in Orangeville, he dared Orange leaders to oppose coercion. Admitting the right of appeal, he nevertheless held that coercion “is a power so opposed to the governing principle which regulated the distribution of legislative authority between Dominion and the Provinces . . . that it is a jurisdiction which should never be assumed except in cases of the most flagrant abuse of Provincial power.” The question was whether Manitoba was to be governed by its own legislature or by the French hierarchy of Quebec. McCarthy assailed Bowell for sacrificing his Orange principles for the sake of political power and he warned Wallace, who had the opportunity to lead the Orangemen in resistance to Quebec dictation, that they would never forgive him if he remained in the ministry five minutes after a remedial order had been passed.

Cabinet passed a remedial order on 21 March requesting Manitoba to restore the minority’s educational rights and privileges. For McCarthy the government’s action was a foregone conclusion, but so was Manitoba’s. After taking “a reasonable time” to consider the order, Attorney General Clifford Sifton\* had written to McCarthy on 11 March, his government would refuse to execute it, forcing the issue back upon the Canadian government.

Outside the House of Commons the dispute was a key issue in two federal by-elections fought by McCarthy’s third party in Ontario in 1895. Haldimand, the first

contest since the formation of the McCarthyite party, was considered a crucial test of its viability. In an effort to gain Liberal support, McCarthy brought in Sifton in April and together they put the questions of provincial home rule and self-determination, two rights close to Ontario's heart, clearly before the electorate. Both men agreed that the remedial order was not a rational request for redress but rather a vengeful demand to restore a complete system of costly and inefficient separate schools. A "horde of political workers" and the government's war chest were too strong, and Jeffery A. McCarthy, a partner in D'Alton's Barrie law office, was defeated by Conservative incumbent Walter Humphries Montague.

The second by-election, in Cardwell on Christmas Eve, demonstrated the strength of the antigovernment vote when united. At a secret meeting earlier in December McCarthy, the Patrons' grand secretary-treasurer, L. A. Welch, and Liberal Edward **Farrer\*** of the *Globe* had divided Ontario's constituencies among themselves according to the estimated strength of each faction, pledging to support the candidate with the best chance of winning. At Cardwell, third-party candidate William Stubbs won a major victory, with strong Patron and Liberal support and despite the full force of the government. Stubbs, an Orangeman, became McCarthy's second follower in parliament.

In the house McCarthy set out to gather the anti-coercionist forces around himself in opposition to the government, now led by Tupper, and to the remedial bill it had drafted in response to Manitoba's refusal to act on the 1895 order. When Tupper commanded day and night sessions to prevent the bill from bogging down, McCarthy organized the opposition and his small band into "little gangs" of 15 or 20 men, to "talk out" the bill in eight-hour shifts. In exasperation, Tupper abandoned the bill on 16 April 1896 and called for an election. McCarthy's determination to force an appeal to the people had succeeded, and he was confident of what their verdict would be. Though he had continued into 1896 to deny in speeches that he was a Liberal, by the election he was in open alliance with the Liberals.

McCarthy contested both Simcoe North and Brandon, Man., where he sought to enlist Patron support and counter Tupper's heavy push into the west. Canada voted on 23 June, and thanks to a rousing victory in Quebec, Wilfrid **Laurier\*** and the Liberal party won. In Ontario the results of the third-party campaign were disappointing, but the personal success of both McCarthy (in Simcoe North and

Brandon) and Stubbs (in Cardwell) was gratifying. As a result of McCarthy's failure to obtain a reconciliation with Wallace, the Orange vote had been divided. Of more importance might have been Tupper's acceptance of anti-coercionist Conservative candidates. The alliance among McCarthyites, Patrons, and Liberals, though it did not achieve the success desired, did work for the overall purpose of defeating coercion. If McCarthy's goal was the downfall of the Conservative party, he succeeded; although his attempts to persuade party supporters to pledge themselves to him were fruitless, a large number of anti-coercionist Conservatives were returned and their role in opposition actually strengthened their resolve.

Despite the failure of his third party, McCarthy's principles triumphed. Within the Liberal party Cartwright's advocacy of economic continentalism was replaced by a policy of freer trade with Great Britain and the United States. The first Liberal tariff, in 1897, incorporated imperial preference and was in many ways a McCarthyite one. Laurier's settlement of the Manitoba school question was essentially what the province had offered the Conservative government in 1896 (secularization of the public-school system and provision for religious instruction at the close of each school-day), and the Manitoba proposal bore the mark of McCarthy's influence.

McCarthy could reflect upon his political life with some contentment. He might have been prime minister, but he felt that he had achieved greater honour through his independent stand. By combating the notion of a bilingual and bicultural Canada, he believed, he had prevented the growth of a "bastard nationality" that would have hindered the development of a true Canadianism. Canada would be a British nation, that much was assured. Laurier, whose "bold and statesmanlike course" on the school question had been publicly praised by McCarthy, could provide the leadership necessary to resist the encroachments of the Catholic hierarchy, even risking "the anathemas of the bigoted classes among his own people." The west was also in capable hands. McCarthy's friend Clifford Sifton, as federal minister of the interior, would foster the immigration that would ensure the future of a separate British nation in North America.

Legal business took up more and more of McCarthy's time after 1896, and he only infrequently took part in parliamentary debates. But he was moving even closer to the Liberal party. Although his relationship with John Charlton, one of the Grits among the "noble thirteen" in 1889, had been tested during the obstructionist battle

in the house against coercion in 1896, the friendship grew stronger. His social connection with Governor General Lord Aberdeen [**Hamilton-Gordon\***] was capped in 1897 when McCarthy hosted the vice-regal couple at the Toronto Hunt Club, where, as president “in his pink coat on a lovely mare,” he impressed even Lady Aberdeen [**Marjoribanks\***], who found him a “charming and able man.” Although their politics were different, McCarthy had been a frequent dinner guest at Government House. Lady Aberdeen may even have played a role in bringing McCarthy and Laurier together. She became particularly fond of McCarthy after he agreed to defend her husband in parliament against Tupper’s charges of unconstitutional interference following the Conservative defeat in 1896.

In 1898 protracted negotiations were concluded and McCarthy consented to enter Laurier’s cabinet, most likely as minister of justice. On 8 May, as he prepared to return to Ottawa to make the final arrangements, a carriage accident fatally injured him and he died on 11 May without regaining consciousness. His funeral, according to the *Globe*, was “one of the most imposing ever seen in Toronto.” The list of pallbearers indicated his wide personal appeal: Sir Frank Smith, an Irish Catholic senator; Goldwin **Smith\***, continentalist and anti-imperialist; George Robert **Parkin\***, imperial federalist; and B. B. Osler, Christopher **Robinson\***, John Hoskin, and Adam Rutherford Creelman, all of his legal firm.

McCarthy’s funeral service was held in his home on Beverley Street, not inappropriately across from where George Brown’s had taken place. He had been accused of reviving Brown’s Protestant policy of 1857, and there was some truth to the assertion. He felt that Quebec was lost to the Conservative party and that it must strengthen its base in Ontario by gaining the adherence of loyal Reformers and other English-speaking elements. “No other man voiced the public sentiment of Toronto in equal measure,” said the *Globe*. It also pointed to personal qualities. Canadians would remember McCarthy as a “brave man, an incorruptible public servant and as a rare and interesting comrade in the kindlier sphere of social life.”

Over the years history has not always been kind to the reputation of D’Alton McCarthy. In fact, critical analysis of his career began during his lifetime. Contemporary observers almost without exception held him chiefly responsible for the Jesuits’ estates agitation, the North-West language issue, and the Manitoba school question. Characterized by some as a racial and religious bigot, he heard his

motives questioned and his position assailed by political opponents and former political allies. Newspapers of the day, whether friendly to his policies or opposed, agreed that a proper evaluation of his career awaited the future; McCarthy himself felt that he must leave his name to a time that might better understand. “If I ever receive fame,” he told an audience in Owen Sound in 1896, “it will be posthumous.”

McCarthy has indeed not been without his apologists, although they have tended to seek understanding rather than to legitimize his ideas and actions. A balanced view emerged in the 1930s in the specialized work of Fred Landon, who warned that “to think of him merely as an agitator . . . is to overlook completely those elements of mental and moral greatness which were conspicuous in his career.”

In the 1960s other opinions were expressed. The good feelings surrounding the centennial of confederation and the optimism generated by the *Report* of the royal commission on bilingualism and biculturalism gave promise that the cultural duality of the Canadian nation-state might finally receive its full expression. In such an atmosphere, scholars such as Lovell Crosby Clark and Ramsay Cook repeated the negative views of McCarthy. “The controversy over schools in Manitoba in 1889 arose not from any necessities inherent in the local situation,” Clark wrote, “but from the actions of a demagogue and bigot who succeeded in arousing the prejudices of the Anglo-Saxon Protestants of Manitoba.” Cook concluded that McCarthy’s brand of nationalism was motivated by a wish for power and a desire to mould the nation in a preconceived image, and that it was doomed to fail because it divided rather than united. Events of the 1970s were to revive among some English Canadians fears of French Canadian nationalism not unlike those of McCarthy in the 1880s and 1890s and produced in Donald Grant **Creighton\*** a bitter refrain of danger to a progressive and united Canada.

Currently McCarthy’s legacy rests in the capable hands of P. B. Waite and James Rodger Miller. Waite, while rejecting McCarthy’s premises, finds him a tragic character moved by genuine convictions, “one of the nobler figures of English Canada.” “It was impossible not to respect, even perhaps to admire, McCarthy. It was equally impossible to agree with him. His cause . . . led only to disruption.” No one has done more than Miller to place McCarthy within the context of his times. In his study of the “equal rights” agitation, Miller found that the attacks against Roman Catholic education and the French language had emerged from a sense of unease in

Ontario, where the Jesuits' Estates Act had provoked those loyal to a certain image of a British Canadian nation and increasingly disturbed by ultramontane Catholicism, French Canadian nationalism, and the unfavourable consequences of industrialization and urbanization. Far from being the "work of a lunatic fringe," the "equal rights" movement was an indigenous but unfortunate "outgrowth of the mainstream of Canadian intellectual and political life."

In his companion study of anti-Catholic thought in Victorian Canada, Miller noted that for many English Canadians the British historical tradition of defending Protestantism had become synonymous with the struggle for "national survival." From the 1870s on they became more preoccupied with the Catholic Church in Quebec and "its role in preserving and, it was feared, extending the French-Canadian presence within Confederation. For some critics this preoccupation . . . was triggered by a growing belief that it was a lack of unity or uniformity that accounted for the failure to achieve quickly the dreams of the Fathers of Confederation."

Miller's mature evaluation of the enigmatic McCarthy takes us full circle by returning to Landon's musings. McCarthy was not an isolated bigot or a self-seeking politician but rather an English Canadian nationalist with a particular view of Canada's future. Moreover, Miller suggests, he had more to offer than his well-known nationalist and federalist ideas: he had a lively interest in social and economic questions, among them tariff reform and the court of railway commissioners. He was a Canadian Tory reformer, ahead of his time in his advocacy of progressive legislation and his sensitivity to social issues emerging from the strains of urbanization and industrialization. For Miller, McCarthy mirrors the fears and aspirations of his time better than any other English Canadian politician.

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