

THE QUEBEC REFERENDUM AND ITS AFTERMATH

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REFLECTIONS ON THE 1995 QUÉBEC REFERENDUM: PROBLEMS AND POSSIBILITIES

Allan Tupper

As I write in February 1996, I am slowly coming to realize the significance of the 1995 referendum in Québec. I therefore write humbly and with a growing awareness of the profoundly important events that will occur in Canada in the next two or three years. I again anticipate the intense pressures that social scientists and scholars will face as they consider their roles in the next round of debates about Canada's political future. Should we sit in our offices and think, read, and write? Or should we engage the debate and advocate solutions that may derive credibility from our training and expertise? Do we really broaden the debate and educate citizens by participating in media analysis and by advising governments? More generally, how should universities engage in the debate? At what point does involvement compromise their objectivity?

In this short essay, I advance neither a novel nor a compelling explanation of the results of the 1995 Québec referendum. Nor do I advance a clear prescription for Canada's malaise. The best I can do is borrow heavily from the collected wisdom of those who have carefully probed the Canadian political condition over the last decade.

In early 1996, we remain at a point in the debate where serious consideration of the referendum and its consequences is just beginning. This gives writers some freedom to see the world as they want to see it and to interpret the referendum results without having to confront the firmer, more rigorous analyses that will emerge with time. To this end, it is remarkable how little systematic discussion has occurred about the deeper social, political and economic determinants of the 1995 Québec referendum result. In a way that should worry Canadians, the Government of Canada, some provincial governments and interest groups are advancing political, constitutional and economic

policies to resolve a crisis whose main dimensions have not yet been clearly defined or explicitly articulated. Discussions of such topics as the "partitioning" of Québec in the face of a Yes vote and federal efforts to challenge the legitimacy of future Québec referendums have entered national debate without full explanation or justification. As a result, confusion increases. It is remarkably difficult to put such ideas in a broader context, to place them alongside clear definitions of the problems posed by Québec nationalism or to see where they fit in a planned process of national political renewal.

My objectives are simple and twofold. First, I try to give an overview of the "state of play" in the country in the immediate aftermath of the referendum. Second, I outline and comment briefly on some of the solutions that are commonly thought to be at Canadians' disposal.

THE CRISIS

As many observers have pointed out, the 1995 Québec referendum, with its razor thin No vote, is the third serious setback for Canadian unity in two years. The other two are the electoral success of the Bloc Québécois in the 1993 general election and the electoral victory of the Parti Québécois in the 1994 Québec provincial election.

The success of the Bloc Québécois continues to confuse and often anger many Canadians outside of Québec. Debate continues about the precise set of forces that led to the BQ's startling success in 1993. But most analysts in Québec see the Bloc as a legitimate expression of Québec nationalism that had lost its resonance in federal politics.¹ The BQ cannot be

easily dismissed as an irritating "protest" vote or as a carefully calculated effort to strengthen Québec's "bargaining power" in national affairs. The Bloc's success and presence profoundly challenges the federal Liberal party's fading claim to have unique insights into the Québécois mindset. Its strategic location forces the federal government to confront Québec nationalism in Ottawa and in Québec City.

The second serious setback for Canada is the 1994 provincial election victory of the Parti Québécois, although it did not win a majority of the popular vote. While federalists took short term comfort in the better than expected showing of the Québec Liberal Party, a separatist government was elected and now holds government power during a crucial period. Many factors shape the results of a provincial general election. But there can be little doubt that the Québec electorate who voted for the Parti Québécois did so with an awareness of its commitment to an independent Québec. It is hard to imagine it could be otherwise given Québec's political history over the last twenty-five years. The potential for creative use of government power to foster the sovereignists' cause has increased with the potent Lucien Bouchard installed as Premier of Québec. It remains to be seen how the PQ's commitment to dealing with Québec's troubled public finances will influence its drive toward sovereignty-association.

The significance of this trilogy of setbacks for Canada — a razor thin referendum win for the No forces, the remarkable success of the Bloc Québécois in the 1993 federal election, and the electoral victory of the Parti Québécois — cannot be underestimated. They are sobering even to those Canadians who remain optimistic about Canada's future. Indeed, the most optimistic possible interpretation of these events is that many francophone Quebecers have deep concerns about Canada as it is presently organized. The pessimistic conclusion is that an independent Québec is inevitable and that events will move with astonishing speed. Many interpretations fall between these two extremes and, as noted earlier, federalists have not yet advanced a clear assessment.

As Québec changes, so too does the mood of Canada outside of Québec. As the possibility of an independent Québec slowly deepens in the Canadian consciousness, so too does the need and inclination to consider the possibility of "Canada without Québec." As Alan Cairns has often noted, public debate about "Canada without Québec" was once taboo lest dis-

cussion of the topic lead to the unwanted outcome.² Such concerns are still expressed. But they are joined in 1996 by a quickly discovered self-interest and the realization that the country was not remotely prepared to cope with the Yes vote that nearly occurred in 1995. Among many English-Canadian intellectuals, it is now fashionable to speak of the need for two "plans," one to retain Québec as part of Canada and the other to establish the terms and procedures under which separation might occur.

In a related but different vein, no current of political thought in Canada is sympathetic to Québec nationalism. Analysts often link this "hardening" of attitudes to the rise of the Reform Party. But that is superficial. The Reform Party reflects, as well as forms, public attitudes. As Andrew Stark has argued, social democrats and other influential political movements in English-Canada have become less sympathetic to Québec nationalism in recent years for a variety of reasons.³

These points having been made, it is also fair to say that public opinion outside of Québec is diverse, complex and to a degree malleable. Several months after the trauma of the 1995 Québec referendum, it is hard to ascertain the state of public opinion in the country. We do not really know if Canadians' attitudes about their country, about the place of Québec in their visions and about the need for political renewal have changed. A key question is whether Canadians outside of Québec grasp that many Quebecers see *intrinsic* virtues in independence. Do Canadians outside of Québec now see nationalism as "real" or merely as a strategic calculation that increases provincial bargaining power? Or is it still seen as a flirtation with a romantic concept whose "real world" consequences are not really understood by Quebecers who support it? Whatever the precise answer to these questions, it is difficult to believe that attitudes have hardened to the extent that national renewal is impossible. In such circumstances, heavy burdens are placed on political leadership whose words and actions must be carefully weighed under difficult circumstances and in the face of volatile public opinion.

The Prime Minister of Canada and his government clearly are shaken by the close vote in the 1995 Québec referendum. The federal government argued throughout the campaign that the No forces would prevail handily, that Canada was not in question and that an independent Québec was not possible. The Québec agenda was said to be about the economy.

Nationalism was portrayed as an anachronism in the age of globalization. Ottawa's grasp of forces within Québec now looks weak and its arguments for Canada suspect in light of the vote. In all of this we see an irony — the federal government is said by analysts to be in disarray and lacking legitimacy while at the same time it remains very popular, at least in public opinion polls.

The federal government is more battle worn from its restraint initiatives than is generally acknowledged. As well as confronting Québec nationalism, it has aggressively undertaken controversial deficit reduction policies and significant changes to federal-provincial financial relations. Such measures have taken a toll on its political resources. The federal government must now operate on three fronts simultaneously. It must manage the national economy and be a lead participant in the operation of a complex federation whose activities must be seen to be "efficient." In light of the 1995 referendum results, it must also proceed with an agenda of political reform. In early 1996 it is not clear whether such an agenda will involve explicit constitutional change. Finally, it must now prepare for another referendum in Québec and for the possibility of a Yes vote. Even casual observers of public affairs will note that each of these activities is complex in its own right and intertwined in complex ways with the other elements. Positive action on one front may make action difficult on one or both of the others. The political resources of the most robust government will be strained in their pursuit.

On the other hand, provincial governments, notably in Alberta, Newfoundland, Ontario, Saskatchewan and New Brunswick, are governed by administrations who combine, in differing degrees, strong leadership, recent electoral mandates or considerable public support, governing vigour and an agenda for action. British Columbia may soon join that club. Canadians will sort their futures out through the prism of strong provincial governments and a wounded federal government that is waging intense political struggles on many fronts.

ALTERNATIVES AND POSSIBILITIES

Canada's options for political renewal are few. They are quite easily discerned. Formal constitutional change is an obvious avenue for reform. This

approach will return Canadians to further debate about the idea of Québec as a "distinct society," about alterations to federal institutions and about possible changes to the division of constitutional powers. But as a host of social scientists, politicians and citizens now attest, "mega"-constitutional reform is a complex, uncertain and perilous route.⁴ Canada now has a "constitutional culture" that demands citizen participation, the full involvement of aboriginal peoples and sophisticated interest groups. The constitution is now a forum for resolving divisive questions of political identity and public policy. Change is slow and deeply unpredictable. Once under way, constitutional discussions cannot be "managed" by elites and the agenda expands. Canadian expectations and passions have been raised and dashed twice in the last decade. The painful lessons of the Meech Lake and Charlottetown Accord failures are clear to many Canadians. Whether the country and its leadership has the commitment to one more try at this route remains to be seen.

In early 1996, the need for "decentralization" in Canadian federalism is widely asserted. The underlying presumptions of reformers are that the country is too "centralized," that better government will flow from strengthening provincial governments, and that "decentralization" is one of the few areas where common cause is possible between élites and where "soft nationalists" in Québec may see some hope. To my mind, such presumptions are dubious. More importantly, the "salvation through decentralization" crusade misreads the strong desire of Canadians outside of Québec to have a national government that matters. Such sentiments will make difficult efforts to transfer formally powers to the provincial governments, an approach that has, anyway, yielded few returns in the past.

An interesting variation on these themes is the current advocacy of administrative agreements between governments whose purpose is both to prove and improve the flexibility and adaptability of federalism. The underpinning ideas are more derivative of new theories of public management than of traditional Canadian approaches to intergovernmental relations. The key idea is that North American capitalism has "reinvented" itself in the face of sweeping change but reform in government has lagged. Flexible new administrative systems must be found that generate efficiencies, that prove governments are alert to the need for change and that better serve citizens (or "clients" as they are now called). Such tenets of "new public management" provide solution-thirsty govern-

ments with ideas that serve various political purposes. Administrative agreements of the sort now envisioned allow governments to give evidence of their quest to eliminate "duplication" in federal-provincial arrangements. Under the rubric of partnerships, they allow for greater provincial or even private sector involvement in the delivery of federal programs. They can be called "decentralizing" initiatives. "New public management" ideas can also be used to portray federalism, in contrast to Parti Québécois rhetoric, as a dynamic form of government well-suited to the challenges of a changing world. Through new administrative arrangements that pool the resources of different levels of government, citizens' needs, not the status and policy concerns of governments, are paramount concerns.

The key question is whether administrative arrangements that allow for intergovernmental "partnerships" in service and program delivery can really overcome deeper conflicts of interest within Canadian federalism.⁵ How much of contemporary Québec nationalism or political discontent outside of Québec is really rooted in concerns about the quality of public management or the "inflexibility" of federalism?

Another major option is "asymmetrical federalism," a complex and controversial term. Like many aspects of Canada's constitutional parlance, "asymmetrical federalism" is a term that now suffers an identity crisis. In its pure form, it refers to a flexible constitutional system wherein Québec would wield greater powers than the other provinces. The option has the great virtue of allowing Quebecers to have a provincial government that is genuinely "*pas comme les autres*." At the same time, Canadians outside of Québec could enjoy a federal government strong enough to meet their aspirations in a flexible federalism. As Reg Whitaker has effectively argued, asymmetrical federalism was not advanced during the Charlottetown negotiations because political élites did not then see an independent Québec as a genuine possibility.⁶ But after the 1995 Québec referendum and the 1993 federal election, Canadian politics have changed greatly. Asymmetrical federalism will and should appear again as an important option for political renewal. If asymmetrical federalism is seriously advanced as a solution, it will confront strong opposition from those who have elevated the slogan of equality of the provinces to constitutional sanctity and from those fearful of "special status" for Québec. How these dynamics will play out is unclear. A deeper concern is that asymmetry, far from being

a long term solution, is simply the final constitutional reordering of Canada prior to independence for Québec.

Alongside these arguments is the still popular solution, especially in Canada outside of Québec, of a "constituent assembly." As expressed with varying degrees of sophistication and vigour, the idea is that citizens, organized into a proper democratic forum, can find political solutions more readily than governments by themselves or than governments operating within the existing constitutional culture. For example, it is sometimes argued that "asymmetrical federalism" would be more likely to be advanced and adopted by an assembly than by political leaders. After the 1995 Québec referendum, constituent assemblies are sometimes also seen as vehicles for preparing and possibly negotiating terms of separation. For advocates of constituent assemblies, the problem is as much the process and procedures of change as its content.

Many details plague this idea — would delegates be elected and by what procedures? How long would the process take? How would other citizens be involved? What would constitute a recommendation and how would governments who must ultimately consent to change be involved? The deeper question is whether and why a constituent assembly would itself be free from deep conflicts about the nature of Canada.

Efforts at Canadian political renewal prior to the next Québec referendum will undoubtedly embrace elements of these options. As well, the Government of Canada, some provincial governments, interest groups and citizens will simply argue to Quebecers that Canada merits their support and that they can flourish as Quebecers within Canada. Counterpoised against such actions will be the option, relentlessly championed by the formidable Lucien Bouchard, of a sovereign Québec with some links with Canada. The next referendum may simply be a choice between the "status quo" with some fine-tuning and the sovereigntists' grand design.

My greatest personal concern is the emergence outside of Québec of the view that Québec independence may occur, that it can be achieved relatively easily and that both Canada and Québec would soon thrive. I am perhaps creating a strawman, but I think not. To my mind, there is yet no clear recognition in the Canadian consciousness of the complexity, pain and challenges of national disintegration. The view of

"let them go, separation will be *both* easy and mutually beneficial" is deeply worrisome. Canadians who assert such claims seriously underestimate the economic, sociological and psychological costs of breakup. In the event of a Yes vote and a drive to independence for Québec, a shattered country would have to establish new linkages with Québec while *simultaneously* reconstituting itself from scratch. Few realize that there is no such thing as "Canada without Québec." Through unspecified processes, a new country would have to be built in difficult circumstances.

GLOBALIZATION, QUÉBEC NATIONALISM, AND CANADA'S FUTURE

The Canadian political landscape is dominated by images of global economic change. These forces apparently reduce and redefine the capacity and importance of democratic governments. They demand the restructuring and downsizing of governments in an era of reduced expectations. As Charles Taylor has noted, such ideas as globalization impress on citizens their limited capacity to control their destinies and to share functioning political communities.⁷

Despite the enormous efforts of social scientists to understand Québec nationalism, surprisingly little attention or creative thought has been applied to the links between Canadian domestic events and international changes. Québec nationalism and possible Canadian disintegration are seldom situated on the broader stage of change. Benjamin R. Barber has provocatively captured the little understood links in the modern world between the homogenizing impact of economic and technological change and the simultaneous resurgence of often violent nationalism.⁸ In his vivid words, Jihad confronts McWorld. This sort of analysis is seldom applied to Québec nationalism, which is seen as a special case.

The 1995 referendum debates suggest that the No forces assumed that references to "global" economic change would strengthen their hand. Without reading too much between the lines, several controversial, implicit propositions can be seen in their arguments. First, federalism, not independence, is Quebecers' best protection against global change. Second, the principal concerns of modern democratic citizens are narrowly economic. They cannot easily be engaged in

emotional, social or psychological terms. Third, nationalism, far from being a complex, subtle and dynamic force, is an anachronism in the modern world. Fourth and finally, the creative use of state power has no real role in the rewinning of the Québécois' allegiance to Canada. To the contrary, evidence must be advanced that governments' role is changing and that market forces will play a much greater role in the future.

In the immediate aftermath of the 1995 Québec referendum, little public debate has occurred about these propositions. Other than acknowledging Mr. Bouchard's oratorical power, the chastened No camp has said little about the logic and weaknesses of its campaign. But as has been hinted at, the surprising vigour of the Yes vote upsets many conventional wisdoms about democracy in the 1990s. The Yes vote is arguably a genuine expression of a people's desire to control their futures and to challenge the forces of change rather than be swept along by them. The Yes campaign also offered the Québécois a sense of excitement, a commitment to common cause and an opportunity to avoid the dreary pan-Canadian agenda of fiscal restraint, cut-backs and calls for reduced citizen expectations. For many Canadians outside of Québec, the passions raised by the 1995 referendum in Québec were the source of concern, anger and probably also silent envy as they watched a powerful political engagement.

CONCLUSIONS

In this brief essay, I advance three concerns. First, I worry that the Government of Canada is moving too quickly in its response to the chastening outcome of the 1995 referendum in Québec. Plans for political renewal and for rewinning the allegiance of Quebecers are moving ahead quickly. Yet federal pronouncements seem unrelated to a clear view of the future or to a precise analysis of the strength of the Yes vote in the context of modern Québec nationalism. Second, despite the ambitions of reformers, the next referendum may be a straightforward contest between the Parti Québécois' vision of "sovereignty-association" and Canada more or less as presently constituted. It is unlikely that "mega"-constitutional reform is possible given events of the past decade. Finally, I speculate about the Yes vote as an effort by a political community to control its destiny in an era of sweeping change and to avoid North America's dreary "cut-back" politics. □

Allan Tupper

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Endnotes

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THE LEGACY OF THE REFERENDUM: WHO ARE WE NOW?

Alan C. Cairns

After a near brush with death — the indigestion following the cheesecake turned out to be a heart attack — it is wiser to reflect slowly on how it happened and what should be done, than to rush into ad hoc lifestyle changes to placate a guilty conscience. For a country recently reminded that its survival is not guaranteed, it is equally true that a period of reflection is a desirable prelude to changes of constitutional lifestyle. Hence this paper is no more than a ground-clearing attempt to consider what the referendum told us about ourselves — about our senses of community and identity. It is written, inevitably, from a Canadian vantage point, which does not, I hope, preclude objectivity.

A referendum on the future of a historic country has meanings and consequences that go far beyond the elementary concern with who won and who lost. Those meanings, however, are contested, and the consequences are rarely self-evident. This is especially the case when the outcome is a virtual tie: 50.6%-49.4% for the No. (Although clearly a similar margin with the winner and loser reversed would have had very different consequences.)

The meaning and interpretation of such a complex phenomenon will not be left to the academics. Political actors know that after the votes are counted, their next task is to affix to the referendum the meaning and interpretation most helpful to their partisan objectives. Thus, the interpretation of constitutional referenda, like that of elections and such constitutional episodes as the 1982 *Constitution Act*, Meech Lake and the Charlottetown Accords, is contested territory. All the more reason, however, for academics to enter the fray, and to seek disinterestedness whilst admitting their fallibility, as fellow citizens with their own preferences.

My question is, what does the referendum tell us about who we are now as one or more peoples?

1) The referendum stimulated the francophone Québécois's sense of being a people — a people in search of and who deserved a country of their own. This was endlessly repeated by Parizeau and Bouchard. The corollary was the impossibility of being a people while staying within Canada. Parizeau put it most emphatically by suggesting that defeat could reduce Québécois to the humiliating state of their distinctiveness being signified by speaking English with an accent.¹ He also stated, as did Bouchard, that this might be the last chance for sovereignty.²

The 60% francophone Yes vote, up from the slightly under 50% francophone Yes in 1980, was a symbolically powerful breakthrough, indicating the strong emotional appeal of nationalism orchestrated by a charismatic leader. The marginal No victory occasioned little exultation on the federal side as the reality of the francophone vote sank in — one of the founding peoples had opted for sovereignty by a 3 to 2 majority. A reprieve was not an occasion to drink champagne.

2) The referendum, however, also revealed and then exacerbated ethnic and national cleavages in Québec. It stimulated various particularistic identities to the detriment of a capacious overarching Québécois identity that impartially encompassed all the Québec citizenry. The appeal of the Yes was to the francophone majority. After all, it was the enhancement of their culture, language, and pride that sovereignty was to serve. It was not sought to improve the position of the Inuit or of Montreal allophones, for example. They were to be placated, perhaps conciliated — but their well-being was not the purpose of the referendum exercise. That reality

was clearly understood by the anglophones, allophones and Aboriginal nations.

This was confirmed by three Aboriginal ballots — Cree, Inuit, Montagnais — held immediately prior to the official referendum. The Cree voted 96% No; the Inuit voted 95% No; and the French-speaking Montagnais voted an astonishing 99% No.³ The holding of these votes was an act of symbolic assertiveness by the Aboriginal peoples involved. It declared their unwillingness to be considered as part of a homogeneous electorate that would accept whatever majoritarian result emerged. They were underlining their existence as distinct peoples. These prior Aboriginal ballots were less vehicles for making a choice, than for affirming an identity and for making a statement.

The referendum was one of the many recent occasions on which Aboriginal peoples have asserted their claim to a distinct place in the Canadian constitutional order. The examples are by now many and growing: the separate Inuit vote in the 1980 Québec referendum, the four Aboriginal constitutional conferences 1983-87, Elijah Harper's role in the defeat of Meech Lake, the participation of Aboriginal leaders in the negotiations leading to the Charlottetown Accord, the impressive gains made by Aboriginal peoples in that Accord — amounting virtually to a separate Aboriginal constitution in the midst of the overall Charlottetown package — and the separate tabulation of on-reserve status Indian votes in 1992. Indeed, Aboriginal leaders tried to communicate the message that the Aboriginal components of the Charlottetown Accord were to be accepted or rejected by the Aboriginal peoples themselves.

Accordingly, the separate and prior Aboriginal information votes in Québec were simply the most recent manifestation of Aboriginal nationalism. Nevertheless, they carried a message that was far more potent than even the violence of Oka. They challenged the territorial integrity of Québec should a Yes victory be followed by a Parti Québécois attempt to take the total Québec territory out of Canada. The referendum defiance of the Cree was accompanied by a widely distributed massive compilation of legal opinion supporting their case.⁴ Aboriginal rhetoric was blunt and uncompromising.

3) The anglophone and allophone No vote was in the 90% plus range. That their No support could snatch victory from a Yes francophone majority attracted extensive political commentary and analysis

prior to the referendum — occasionally supplemented by veiled threats or bitterness by more intemperate sovereignists, such as Pierre Bourgault.⁵ The conflict between majority francophone sovereignist nationalism and the multicultural, multinational reality of contemporary Québec culminated in Parizeau's bitter and polemical outburst on referendum night, when he attributed the defeat to "money and the ethnic vote," defined the 'we' group that could win next time as the francophone 'we', and spoke of 'revenge.'⁶ Significantly, although francophone No voters outnumbered non-francophone No voters, the sovereignist blame for the loss was overwhelmingly visited on the latter.⁷

Accordingly, the Québec referendum severely aggravated the cleavages between the nationalist majority in the francophone electorate and the anglophone, allophone and Aboriginal peoples. Some months prior to the referendum, Bouchard had speculated that the political cohesion of Québec would be severely tested by a small Yes victory, which could put "the political solidarity of Quebecers in question."⁸ The PQ victory in 1976 and the knowledge that a referendum would follow led to a significant average net annual interprovincial migration loss of anglophones from Québec of 21,300 from 1976 to 1981, compared to an average of 12,600 from 1965 to 1976.⁹ The marginal No victory and the threat of another referendum will lead to another exodus of non-francophones from Québec.

The referendum leaves Québec with a much more deeply divided and fragmented society than it previously had been. Particularistic Aboriginal, anglophone and allophone identities were strengthened. Incidents occurred and statements were made that will linger in memories and that will resurface on future occasions if an exclusive rather than an inclusive nationalism is again in the ascendant. Any future referendum is likely to have a similar impact on ethnic tensions, given the virtually inescapable conflict between the goals of the sovereignists and the views of the anglophone, allophone and Aboriginal population of Québec. This means, incidentally, that the occasion of a future Yes vote may be accompanied by social instability, and at least some Québec Aboriginal nations may resist incorporation in an independent Québec. Inevitably, if they do, they will seek the support of the Canadian governments and peoples outside of Québec — particularly, of course, the federal government — in their defiance of the Québec vote.

4) The referendum had two major effects on 'who we are' in the Rest-of-Canada (hereafter ROC). On the one hand, it stimulated ROC to think of its future as one or more peoples should Québec leave. At the same time, it elicited a reminder that certain constitutional norms were essential components of the Canadian constitutional order — that the equality of the provinces had to be respected in future constitutional changes, that citizen rights could not vary from province to province, and that, in the elegant language of several of our political leaders, 'you're either in or you're out.' In sum, the message, reinforced by the absence of any offers to Québec of constitutional change apart from Chretien's panic intervention in the final week, was that no halfway house exists. Special status, asymmetrical federalism, two nations theories — all were ruled out. The pervasiveness and rigidity of this approach confirmed what we already knew, that Canadians outside Québec are now adherents of a constitutional ideology. The constitutional flexibility suggested by the British parliamentary aspect of our constitutional heritage now carries less weight than the doctrinal rigidity of the federalism (equal provinces) and *Charter* (equal citizen rights) components of the post 1982 constitution. This approach says to Québec: this is what and who we are and intend to remain. So, one of the powerful referendum messages from outside Québec was a restatement of the ROC positions that contributed to the defeat of the Meech Lake and Charlottetown Accords. Simultaneously, however, there was also, although more at the level of feeling than of expression, the recognition that Canada might not survive — that the Canadian vision of provincial and citizen equality described above might be rejected by Québec, and that it might have to retreat to the shrunken base of ROC.

The PQ 1994 election victory, the period leading up to the referendum, and the referendum itself stimulated the group self-consciousness of Canadians outside Québec. The simple fact of being in the audience while the Québec electorate grappled with the Yes or No question of the continued membership of Québec in Canada necessarily induced Canadians elsewhere to consider their separate future should Québec leave. This consideration operates primarily at the level of the psyche and identity, and for most Canadians outside Québec it has lacked an intellectual framework. It is perhaps better described as the recognition of an unwanted possibility than the seizure of a liberating opportunity. Indeed, it was humiliating, and from a citizen perspective, somewhat insulting to be told to wait on the sidelines

while others decided one's fate. This was compounded by the flow of Yes statements about what Canada (or ROC, or English Canada) would do should Québec move to sovereignty. These statements from the Yes camp not only ignored the political and federal complexity of ROC, but assumed the non-existence of any ROC version of the nationalist passions that turned Bouchard into little short of a charismatic messiah. By contrast, a bookkeeper mentality would determine the ROC response. Further, one of the most striking aspects of the Yes rhetoric was the almost complete lack of concern displayed by Yes sovereignists about the damage — emotional and practical and other — that they were visiting on the other partner.

This lack of concern for the impact of their actions on Canadians elsewhere was part of the more general phenomenon stimulated by the referendum: that, at one level, Canadians inside and outside Québec began to treat each other as foreigners. Parizeau reiterated that if the post-referendum bargaining after a Yes was not moving expeditiously enough he would withhold sending the cheques to Ottawa for Québec's share of the interest on the debt.¹⁰ Premier Harcourt of British Columbia asserted that if Québec left we would be the "worst of enemies."¹¹ More generally, from an intellectual perspective, the referendum was an exercise in futurology. It asked Canadians inside and outside Québec to think about how they would relate to each other should Québec leave Canada. (The purpose of the studies commissioned by Restructuring Minister, Richard Le Hir, was to give academic credibility to a PQ vision of the future that minimized disruptive discontinuities.) While much of the futuristic referendum discourse featured bluff, threats, and attempts to reassure the nervous, it nevertheless asked Canadians to consider a future in which they were no longer part of each other. Such a future begins to appear as plausible, as something that might really happen, even for those who would wish it otherwise.

The referendum, therefore, stimulated a withdrawal from a pan-Canadian community both inside and outside Québec. Inside Québec, the positive psychological withdrawal was concentrated among the Yes supporters, even although many of them hoped for continuing political links with Canada. Among many of the No forces in Québec, the possible breakup of Canada represented a potential forced change of civic identity that they vehemently opposed.

The situation in ROC was, in reality, ambiguous. On the one hand, especially in the last week, the rallying of Canadians from across the country in Montreal and local rallies in other gatherings in Toronto, Halifax and elsewhere was a symptom of a pan-Canadian nationalism seeking to express itself when it looked as if the politicians had failed to stop a surging Yes support. This very activity, however, was born of the recognition that Canada might not survive the referendum and that a new identity, whose slogan would have to be 'My Canada excludes Québec', was waiting in the wings for its birth announcement. In other words, it was the panicky recognition that pan-Canadianism was virtually 'on the ropes' — that ROC might be transformed from an acronym to a reality — that stimulated an emotional last ditch defence for Canada's survival. In the uncertainty that followed the referendum, the hitherto ignored question of the survival of and constitutional arrangements for ROC moved out of the taboo category and insistently demanded attention.

CONCLUSION

The recent Québec referendum was an attempt to shape Québécois conceptions of themselves — to induce a majority to see themselves as a people who deserved and needed a state of their own. With that majority as a political resource, a triumphant PQ government could then bargain equal-to-equal with a surviving Canada for new terms, outside federalism, of mutual coexistence. If the bargaining failed to produce an acceptable nation-to-nation agreement, a unilateral declaration of independence was contemplated. In either case, agreement or its absence, the goal was a new people with a government of their own to foster a continuing sense of peoplehood.

The referendum message was not so clear cut. The referendum provides us with the following information about our identities and sense of community:

1) A decisive francophone majority has responded positively to the sovereignists' goals, and to the assertion that they are a people, or a nation, in search of a country.

2) The separate and particularistic identities of the internal anglophone and allophone minorities in Québec have been reinforced by their overwhelming concentration on the No side.

3) The referendum specifically strengthened a counter-nationalism of Québec Aboriginal nations — especially the Cree, the Inuit and the Montagnais — and underlined their limited psychological identification with the Québec community.

The above three trends fed on each other, resulting in a profoundly fragmented Québec community after the referendum.

4) Canadians outside Québec, especially in the final week, displayed a passionate pan-Canadianism as a response to their unhappy recognition that they also had to prepare for the possibility of a Canada without Québec.

5) Canada without Québec, a taboo subject fifteen years ago, now enters the arena of serious discussion. The linked subject of the rules for secession necessarily surfaces for discussion at the same time.¹²

6) The combination of 1) and 5) means that both sides of the two-nations divide can now see a future in which each is on its own. This has the potential to transform future constitutional discussions. It may provide the impetus for a major and massive constitutional overhaul — a reconfederation — as the only option left to avert breakup. Or, it may reinforce the momentum that is driving us apart.

7) Who we are — regardless of where we live — is no longer a stable reference point. This is not an equilibrium position. □

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Endnotes

1. Richard Mackie, "Yes campaign plays to fears" *Globe and Mail* (2 October 1995).
2. Robert McKenzie, "Vote is our last chance: Parizeau" *Toronto Star* (2 October 1995); CP, "Grab the Chance, Bouchard urges" *Globe and Mail* (30 October 1995).
3. See Aaron Derfel, "'The message is clear: we won't go': Coon Come has warning after vast majority of Crees reject Québec independence" *Montreal Gazette*

(26 October 1995) for the Cree; Tim Harper, "Indian leaders vow to fight separation: 95% of Inuit reject Yes victory" *Toronto Star* (27 October 1995) (for the Inuit); Aaron Derfel, "Montagnais reject Québec independence: French-speaking aboriginals vote 99% against in own referendum" *Montreal Gazette* (28 October 1995) (for the Montagnais).

The Grand Council of the Crees placed a full page ad in the *Globe and Mail* (26 October 1995), following their strong No vote, asking Canadians to "uphold the Canadian Constitution, our treaty and fundamental human rights and the rule of law ... [and] to support our right to remain, with our traditional territory and its hydro-electric and other natural resources, in Canada."

4. Grand Council of the Crees, *Sovereign Injustice: Forcible Inclusion of the James Bay Cree and Cree Territory into a Sovereign Québec* (Nemaska, Québec, 1995).
5. In January, 1995, Bourgault stated that if a "vast majority of franco-Québeckers vote Yes and are prevented from [achieving Québec independence] because of the English vote against, then it's a dangerous situation." Cited in Graham Fraser, "Making raw appeal to francophones pained supporters" *Globe and Mail* (1 November 1995).
6. "We won't wait another 15 years" a transcript translation of Premier Parizeau's remarks on referendum night, Oct. 30th. See *Globe and Mail* (1 November 1995).
7. See Charles Taylor, "Les ethnies dans une société 'normale,' (2): Le PQ responsable de son malheur" *La Presse* (22 November 1995), for an insightful analysis of the Jacobin assumptions that lie behind the difficulty the francophone sovereignist elite has in understanding why the communities outside Québécois "de souche," do not identify with the sovereignist enterprise. See also Jeremy Webber, "The response to Parizeau's 'Ethnic Vote'" *Canada Watch* (November/December, 1995, Vol. 4 No. 2), for a nuanced discussion of the tensions within Québec nationalism.
8. "PQ loss won't end debate: Bouchard" *Montreal Gazette* (15 June 1994). Parizeau admitted that he feared violence might break out following a Yes vote. "We're not going to deny human nature. It's already marvellous that [the referendum] is being done in such a democratic climate. But society isn't exclusively made up of angels. So we have to be careful." Sandro Contenta, "Parizeau admits he feared defeat" *Toronto Star* (2 November 1995).
9. Jacques Henripin, "Population Trends and Policies in Québec" in Alain G. Gagnon, ed., *Québec: State and Society*, 2nd ed., (Scarborough, Ont., 1993) at 312.
10. Rhéal Séguin and Richard Mackie, "Québec won't delay exit, Premier says" *Globe and Mail* (21 October 1995). Bouchard laid out the strategy even more graphically, stating: "It's obvious one of the first steps of English Canada would be to run after Mr. Parizeau to ask him, to beg him, to sit down and discuss what would be the share [of the debt] of Québec." This would be leverage Québec would employ to negotiate an economic part-

nership. "Québec," Bouchard said, "will be clever enough to bind things ... Everything will be linked." Tu Thanh Ha, "Canada will 'beg' for talks: Bouchard" *Globe and Mail* (28 September 1995).

11. Miro Cernetig, "Harcourt hardens on Québec" *Globe and Mail* (17 May 1994). He reiterated his tough position more than a year later, stating that "[t]he people of British Columbia would be very angry.... That anger would be very real, very manifest." Warren Caragata, "He said, they said" *Maclean's* (4 September 1995).
12. This extremely important development has become a new conventional wisdom almost overnight. See the following: Jeff Rose, "Beginning to think about the next referendum," Occasional Paper, Faculty of Law, University of Toronto, November 21, 1995, mimeo; Richard Gwyn, "The old Canada is gone forever" *Toronto Star* (31 October 1995); Conrad Black, "Abandon the national effort to accommodate Québec" *Globe and Mail* (7 November 1995); Jeffrey Simpson, "With no clear thinking, Canada was ill prepared for its dismemberment" *Globe and Mail* (8 November 1995); Thomas R. Berger, "What about Québec's next referendum?" *Globe and Mail* (9 November 1995); William Johnson, "Ottawa should start preparing for the next referendum" *Montreal Gazette* (11 November 1995); Michael Bliss, "Canada needs to define the limits of appeasement" *Toronto Star* (17 November 1995); Jeffrey Simpson, "Not thinking the unthinkable left Canada ill prepared for Québec" *Globe and Mail* (23 November 1995); Richard Mackie, "Federalists urged to set conditions for sovereignty" *Globe and Mail* (24 November 1995); Jeff Rose, "Canada needs to set its terms for separation" *Toronto Star* (29 November 1995); Jeffrey Simpson, "The Liberals wobble with non-answers to Reform's clear questions" *Globe and Mail* (14 December 1995); Keith Spicer, "A clean start or a clean break: English Canada Should prepare two options: a renewed federalism or a Canada without Québec" *Montreal Gazette* (24 January 1996); Jeffrey Simpson, "A strategy of tough love would prepare Canada in a secession bid" *Globe and Mail* (25 January 1996) — a discussion of a proposal by Gordon Robertson, "the mandarin's mandarin in his time," for the federal Parliament to pass a Contingency Act with details of how Ottawa would respond to an "attempted secession."

AFTER 30 OCTOBER 1995

Jane Jenson

These last weeks have been ones of anguish and anxiety, of indecision and hard thought, of much pain and little hope.

As an anglophone Québécoise I had assumed that I would simply swallow my doubts and vote *Non*. Yet, as the date drew closer and the gap between the two camps narrowed, it became increasingly — and painfully — obvious that I would not be permitted to make any simple decision.

I was one of the large group of *indécis*, switching from side to side, hour by hour. In a single day — Friday the 27th — I was convinced by an Anglophone leftist to vote *Oui* and a francophone ecologist to vote *Non*, all before noon. Then, that afternoon along with so many other law-abiding Québec citizens, I experienced an absolute horror at the wanton interference of the "crusade for Canada" and the lack of respect for the basic democratic principles of electoral law.

Behind all of this uncertainty, of course, was the requirement that I make a choice between two identities. Many others in Québec faced equally terrible choices. Of course there were splits in families and among co-workers. But even more dramatic were the many *individuals* who were divided, themselves ripped in two. These were the thousands of citizens incapable of deciding until the last minute, convinced the instant after marking their ballot that they should have done the opposite, who voted *Oui* and cheered for a "petit *Non*" (or vice versa); those rational actors who made "symbolic gestures" which they could not defend with rational arguments but took nevertheless.

Then to the horror of so many, on the evening of the 30th, the group of people with very mixed feelings about the referendum ballooned. All those Quebecers — francophone, allophone and anglophone

— who believed in a modern, pluralist, and territorial nationalism suddenly came face to face with the old demons.

Because this news has not reached very far beyond the borders of Québec, it is important to revisit the day after the referendum and the reactions of a substantial number of Quebecers who had supported the Yes. That day, instead of being one of jubilation or even careful celebration, was initially one of disbelief and anger. And then there was an explosion of action. For many in Québec the 31st of October 1995 was a day in which the metaphor of disease and healing was immediate, as they worked to excise the cancer from the body politic. Jacques Parizeau had to be forced out. The result was that for many Quebecers the post-referendum clock really only started ticking at 17h30 on the 31st, with the resignation of the Prime Minister, who was forced to go because of the anger of his long-time supporters.

In this story of the referendum there is, in other words, a double identity crisis. There is the conflict of those who see themselves as both Quebecers and Canadian. And, there is the crisis of those who do not recognize themselves in any narrow definition of Québécois nationalism and who anticipate, instead, a future of progressive politics and territorial nationalism. These groups are not separate entities; they cross-cut and intertwine. Any failure to recognize this mixedness is a failure to understand modern Québec.

Therefore, despite being experienced by individuals as an identity crisis, this was never a personal problem; *it was and remains profoundly political*.

The first task for the post-referendum weeks and months involves, then, creating a viable political vehicle that does not force this impossible choice next time. Next time a better choice must be on the table.

How might it be done? A first step is to set out some first principles and then to look for a practical project which can allow them to be realized. I will begin by describing the first principles. Then I suggest what I consider to be a viable political project which might allow them to be better manifested.

One first principle is that Canada is a country which shares a territory with Aboriginal peoples whose claims are prior, national, and urgent. Within this country, there are different national identities and these have given rise to several nationalisms. The basic claims of these movements must be met if any meaningful sharing of territory is to occur. Moreover, neither Aboriginal peoples nor Quebecers will ever accept less than recognition of their status as *peoples*. Thus, on October 30th the credentialed federalist Claude Ryan could approvingly quote Lucien Bouchard's call for recognition of Québec as a people. Ryan is not alone in the federalist camp in supporting this claim.

For a number of years, Canadians both inside and outside Québec have come to understand and accept the claims of Aboriginal peoples for recognition. Their nationalist movements have made major gains since they were galvanized into action by the need to reject the assimilationist White Paper produced by the Trudeau Liberal government in 1969. They have compelled a major shift in the understandings of themselves and their political projects held by non-Aboriginal communities. Of course, Aboriginal peoples' precise claims for self-government have yet to be met. Nonetheless, the Charlottetown Accord did recognize the inherent right to self-government, and it is unlikely that future agreements will go back on that.

Leaders of Aboriginal groups have done their political work well, and in a few short decades non-Aboriginal Canadians have fundamentally altered the way they conceptualize the political project and claims as well as the identities of Aboriginal peoples. Their success was helped by the *absence* of any legitimate, non-racist alternative discourse. While old-fashioned racism obviously still shapes responses to political claims of Aboriginal peoples, this discourse has little legitimacy. Therefore, Aboriginal groups and their leaders have had space to teach non-Aboriginal communities and politicians to think of them as peoples.

This space has never been available to nationalists in Québec. Since the Quiet Revolution they have

been confronted with an alternative discourse and constitutional project. This is one which names them 'Francophones' rather than Quebecers. It considers them residents of a province rather than of their own state. It would make the Québec state no different from any provincial government. To confuse matters further, since the 1960s — with the brief exception of the Clark years — this project has been designed and promoted by persons coming from Québec and claiming to speak in the name of Québec. *It is this project which, at least since October 30th, is no longer viable.*

The second of my fundamental premises is that Canada is a country in which principles of social solidarity, of equity and, therefore, of social and economic citizenship rights still have widespread popular support, even when the forces of the right and marketization are in the ascendancy.

This too is a matter of identity for Canadian nationalists. The free trade debates exposed for all to see the extent to which Canadian national identity has, at least since World War II, depended on distinguishing "here" from "there" (the USA, that is) *via* our social programmes and other measures of social solidarity. Limited as the actual programmes may have been, ineffective in overcoming social inequalities as they may be, Canada's commitment to a just and equitable society had been a central part of Canadian national identity for the past half-century. The 1988 "free trade election" could encapsulate "Canadian identity as medicare," defined as an approach to health care which did not exist in the USA. Moreover, given that these programmes are post-1945 constructions, the federal government, as the single government which might speak across provincial diversity, always occupied a privileged place.

These two principles give rise logically, I believe, to the constitutional position which has thus far gone without sufficient recognition.

Even if it began as a joke, I have always believed in the position that Canada will only flourish with "*un Québec souverain dans un Canada uni*." The other label sometimes used to describe the position is asymmetrical federalism. This position, which I believe is one which can meet the demands of all three nationalist movements — Aboriginal, Québec, Canadian — has thus far been banished from political discourse, because constitutional politics has been confined to another and more costly track.

Long years of "the politics of the constitution" have familiarized us with the incapacity of Canadian political discourse to accept the notion that Québec might be a province different from the others. For the last 30 years, neither the federal government nor the provinces in their intergovernmental manifestations were willing to grant anything to Québec which all provinces might not enjoy. "Ten equal provinces" was the response promoted by the Trudeau (and now Chrétien) Liberals to the demands emanating from Québec of the Quiet Revolution and after. Thus, in the days immediately after the 1995 referendum the provincial Premiers quickly stood up to assert "no special status."

In these same few decades, the *Official Languages Act* and then the *Charter of Rights and Freedoms* de-socialized and individualized culture. Citizens became bearers of linguistic rights and differences. All this is familiar — and it gave us not only the exclusion of 1982 and the failure of 1990 but also the complete incapacity of so much of the rest-of-Canada to "get it" in 1995.

The result is that in October 1995 I simply could not recognize myself in the campaign the federalists conducted. The problem is not that the campaign was badly run or organized. The problem is not even that the "crusade for Canada" offered nothing more than conditional love: "we love Québec — as long as you vote *Non*". The problem is not that Clyde Wells confused recognition of language as a cultural pillar with racial and other differences. All of these are highly problematic, of course. They are more than that, however. They are absolutely disastrous, precisely because they signal that the rest-of-Canada just does not get it.

They do not "get" that the vision of Canada offered by a liberal version of individual bilingualism and of fondness for individual Quebecers is too limited. As important and as rewarding as it is that individuals be able to speak both official languages, could the "crusaders" express anything more than the real personal linkages among individuals which exist in Canada? Did they "love" Québec as a *society*? Could they comprehend that the issue was one of a vision of society? Did they accept that "distinction" had forged a *different* set of responses and social institutions which were not the same as their own (much as there had been cross-fertilization over time)? Were they willing to acknowledge Hugh MacLennan's concept of two solitudes, as a relationship not of distance but of *encounter* between two

separate entities occupying the same space? Did they have any concept at all of the social?

The last weeks have forced me to recognize (yet again) that the answer to all these questions is No. The last years of Canadian politics have done two things. The politics of Trudeau Liberalism has been devoted to undermining any notion of the societal dimensions of cultural difference. They would reduce us all to being what Clyde Wells would have us, nothing more than individual speakers of "different languages." The logical consequence is then, as he asks us, why recognize one difference over any other?

Of course, there has been some movement in recent weeks towards recognizing Québec as a "distinct society." Yet the problem is that the emphasis is all on the "distinct," with no recognition of the "society." There is now finally some acceptance for what is essentially a symbolic move, basically reiterating the position of the Charlottetown Accord. This is the idea that, Québec is culturally, linguistically and legally (as in the civil law) a distinct society. Given the minimalist reading usually attached to this formula, the effective meaning is that Quebecers can speak French, watch television in French, and make marriage contracts. This is far, far less than the notion of the political space necessary to realize our own political projects — our own way of doing industrial policy or designing family policy — that most Quebecers mean when we say we are a distinct society.

Once again we might compare the relative ease with which Canadians accept the concept of Aboriginal justice, or development decisions designed and controlled by Aboriginal communities, because their history (bleak as it is and racist as we have been) makes them peoples. The tragedy is that there has been so much resistance in the last decades of Canadian politics to recognizing that Québec is similarly a society which might define its own projects, its own way of being, based on its own history. To return to the impossible couplet, the direction of Canadian politics has been to deny recognition to anything that might smack of a *Québec souverain*, of special status, in the name of "ten equal provinces."

But the tragedy is even greater. The politics of the last years has also made it impossible to sustain a belief in *un Canada uni*. This second half of the famous joke is too often ignored in the debates which focus on constitutional matters. Integral to these

discussions are many more issues than the division of powers.

There is a political project of decentralization which is well on its way to completion. As one enthusiast describes it:

The 1995 budget was both message and messenger in this context: a devolution to markets (privatization, contracting out, deregulation) and a devolution to provinces (federal downsizing and the decentralization of the federal envelope).¹

The 1995 Martin budget finally consecrated the abandonment of any vision of realistic and defensible pan-Canadian social and economic standards. This was an economic project masquerading as a "constitutional solution," an economic project which had been developing over the years of Mulroney Conservatism and was continued by the Liberal government after 1993. It has effectively exploded the second term of my preferred political project — *un Canada uni n'existe plus*.

This is the part of the couplet which so many activists in Québec simply don't "get," however. They do not understand that "national standards" are called "national" because without them *Canada* does not exist. Even those who are not absolute *indépendantistes* can't see that Canada must have some form of active central government in order to be, in the case of the other nine provinces, more than a collection of small political entities vulnerable to the entreaties of the south and the vagaries of the world economy. Québec may escape being submerged by such forces precisely because it is already a self-defined society with its own powerful economic, social and cultural institutions, but PEI and Nova Scotia, Saskatchewan and Alberta will not survive.

Since the 1995 Martin budget, and in the absence of real constitutional change, the country can be no more than ten separate entities, each open to the divide and conquer strategies of neo-conservatism. At the very same time, however, in February 1995, the public consultations conducted by the Québec government on the referendum project were turning out a popular demand for a *projet de société*. Hearing after hearing uncovered the profound desire of ordinary Quebecers to inscribe a blueprint for their social future in the constitutional documents being considered. Moreover, the balance of forces in the

referendum campaign generated a statement of such a *projet*, one which shares little with the politics of Mike Harris' Ontario or Ralph Klein's Alberta. Does this mean that the best chance to sustain "Canadian" values is in a separate Québec?

Perhaps. Or, maybe it means that the only position that can sustain a future Canada is a project which simultaneously recognizes the right of Québec (as that of Aboriginal peoples) to self-government and mobilizes against a right-wing neo-conservative agenda which would devolve economic and political power to the market as much as to the provinces.

A vision of asymmetrical federalism — *un Québec souverain dans un Canada uni* — is a viable response to the project of *partenariat* sought by the Bloc Québécois and Action Démocratique (as well as certain wings of the PQ). Both create two strong entities. Both recognize the historical contribution of Québec and the other provinces (including Saskatchewan led by the CCF/NDP) to the construction of Canada. Both are compromises developed outside the existing, increasingly incapacitated, institutions. Both are equally moderate and middle-of-the-road, failing to satisfy the desire of *indépendantistes* for their own country and of the provincial Premiers for "formal equality." Both respond to the desire of many Quebecers to be simultaneously and equally Québécois and Canadian. Both allow Canadians to define themselves as citizens of a successful, bilingual, polyethnic and multinational entity. Both call for negotiations, in good faith and with imagination, of a new future for the new times. And both would make it possible, in 1996 as in 1992, to prevent the Right from embedding its economic and social agenda in the Constitution, in the name of solving the "national question."

There is common ground here. A conversation *might* be held. However, it demands a major *reorientation*, a move away from three decades of constitutional discourse and the tired formulae which will not work. It means abandoning entrenched positions and imagining a different future. If we are not up to doing this, Canada will not exist in a very few years, although a strong Québec probably will. □

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Endnotes

1. Thomas Courchene, "The Implications of the No Vote" *The Globe and Mail* (31 October, 1995).

SOVEREIGNTY POSTPONED: ON THE CANADIAN WAY OF LOSING A REFERENDUM, AND THEN ANOTHER

Claude Denis

WHO WON?

"The sovereignists won the referendum." The mistaken headline of an over-anxious newspaper editor, along the lines of the Truman/Dewey 1948 presidential election? Or an accurate sociopolitical evaluation of the referendum outcome?

Look past the electoral fact that the No side got 54,288 more votes than did the Yes side (a 1.16% difference)¹ and that, consequently, the Québec government did not secure the mandate to make Québec sovereign. The unexpected tie and the manner in which the campaign produced it guarantee another referendum in the near future, in which a clear majority of Quebecers will vote Yes. In terms of the Québec/Canada sociopolitical dynamic, rather than in terms of a one-day bean-counting exercise, this is what matters. In this perspective, it should be clear that the sovereignists did win the referendum. To say this is not to discount the will of the Québec people, democratically expressed last October 30th; it is, instead, to situate that expression as a moment in the on-going practice of democracy in Québec, and to *interpret* it as the day when the idea of Canada as a desirable political home for Québec died.

Indeed, if we are to *understand* the referendum and its aftermath, it is most helpful to start from the counterintuitive notion that the Yes won. One example will serve to illustrate the notion's heuristic value. After an important electoral *rendez-vous*, the winning side is re-energized and looks to its next task with excited anticipation; at the same time, it typically enjoys a honeymoon with the electorate. The losers, meanwhile, wallow in recriminations, bafflement and finger-pointing. Fitting this pattern to the post-referendum landscape almost is laughably easy. After the initial embarrassment of Premier

Parizeau's bitter speech, the sovereignists moved quickly, and almost giddily, to give themselves a new leader — with Lucien Bouchard, they can already taste the final victory next year. Post-referendum opinion polls show that, even before the crowning of Bouchard, a sovereignist honeymoon was under way, with 54% of respondents to a Canadian Facts poll saying they would now vote Yes against only 27% who would vote No; the *Maclean's/CBC News* year-end poll had a Yes/No distribution of 49%/32%.² Federalist leaders, for their part, were visibly shaken even as they boasted about their victory and warned the sovereignists that a further referendum would make a mockery of democracy — as if their non-existent margin of victory was not proof enough that the vote was massively inconclusive. Prime Minister Chrétien and Reform leader Preston Manning quickly blamed each other for the almost-defeat; it emerged later that the Ottawa Liberals were blaming Québec Liberal leader Daniel Johnson who, in turn, attacked the likes of Foreign Affairs Minister André Ouellet, whose vision of federalism has been repudiated by the whole of Québec.³ As if all this finger-pointing were not a sufficient sign of panic, extravagant statements provided the final proof that federalists had lost their cool: from Manning who called for the Prime Minister's impeachment to Chrétien's threat to block any further referendum.

The point of the federalist in-fighting, of course, is not merely to come up with an accurate post-mortem for October 30th; it is, rather, to organize for the next time, given that they think the game to be far from over, and that the various players cannot afford mistakes. What these politicians cannot bring themselves to see, however, is that they are not playing baseball (in which "it ain't over 'till it's over"): they are playing chess, in which most games are over well before the players reach the endgame. And this is indeed where Canada is at.

WHAT HAPPENED?

In what sense did the Yes win? Three absolutely important things happened during the last week of the referendum campaign, all of them contributing to making Québec sovereignty not a matter of "if," or even "when," but "how soon." Thus, it is much more than one of those moral victories the Parti Québécois was so used to until 1976. Federalist promises of change that cannot be kept; deepening estrangement between Québec and the rest of the country; unprecedented resolve to leave Canada on the part of fully half the Québec electorate, all lead to an unavoidable conclusion. The tie on October 30th, in these circumstances, is a virtual guarantee that Lucien Bouchard will lead his people into the United Nations before the end of the century. Federalist forces not only lost the 1995 referendum, they already have lost the next one. Let us now look at how this happened, focusing on the campaign's last week.

First, the Ottawa federalists finally responded to Daniel Johnson's pleas and started to promise change, as opposed to their pitiful championing of the "evolving status quo."⁴ Given the No vote on October 30th, these promises set the stage for what Quebecers have a right to expect from Canada in the coming months, on the understanding that the minimum that a Québec politician could even contemplate is constitutional change greater than what was in the Meech Lake package. A post-referendum Sondagem poll found that Quebecers expect a lot from Ottawa if they are to remain in the federation: 63% want Québec to control all tax collection, 85% want a transfer of such powers as communications and labour-force training, 78% want recognition of the distinct society status, and 73% want a constitutional veto.⁵

Some hardliners in Ottawa have second-guessed their caving in to Daniel Johnson by promising change, claiming that sticking to the "evolving status quo" story would have gotten better results (and the new Minister of Intergovernmental Affairs Stéphane Dion is on record as agreeing with this analysis).⁶ This strikes me as wildly implausible on the basis of, among other things, the polls: the Sondagem poll indicated that 75% of No voters expected new constitutional offers to be made to Québec, while 73% of respondents to a SOM poll wanted the Québec government to participate actively in the renewal of federalism. And 22.6% of Sondagem respondents claimed that Prime Minister's Chrétien's televised address promising change had been important, while

13.7% made their decision at the last minute.⁷ We can wonder, as well, how many voters would have been turned off the No side by the promises of change; not enough, one would think, to fill a city bus. Had Prime Minister Chrétien stuck to the status quo strategy, then, it is clear that more people would have voted Yes.

It is good to remember, here, that when the campaign began, the universal expectation was that the sovereignists would be badly beaten. Among the things that intervened to belie that expectation was a federalist campaign that was almost wholly negative, based on fear and self-loathing. A low point was reached when Finance Minister Paul Martin warned that one million jobs would be at risk if the sovereignists won; this was so outlandish and so *misérabiliste* that it may have marked the final turning point, when Quebecers stopped being susceptible to this kind of fear. Another telling moment occurred when Lucienne Robillard, the federal minister responsible for the referendum campaign, appeared on Radio-Canada's *"Le Point"* late in the campaign and was asked why so many Quebecers seemed to dream of sovereignty. She answered, rather wistfully I noted, that she herself sometimes dreamed of a sovereign Québec, but added that she lives in the real world and that Québec is too small, not rich or resourceful enough to survive on its own. Madame Robillard was telling us that, left to themselves, *les Québécois sont nés pour un petit pain*, but that Canada somehow lifts them above their station: you ought to be both foolish and ungrateful to turn your back on such a generous partner. This kind of shameful self-abasement used to work, but no longer as the following days showed.

The apocalyptic numbers thrown by Martin and the emotional markers bandied about by Robillard, Chrétien and Tory leader Jean Charest — especially the dollar and the passport — offered a strangely dispiriting view of why Quebecers might want to stay in Canada: the passport, the dollar, Canada itself, were not valued for their Canadian positivity, as it were, but rather as shields against a dangerous world which Québec would allegedly be ill-equipped to face on its own. Not only is this French-Canadian *misérabilisme* at its most outdated, but the presumed value of such shields is rapidly being undermined by the weakness of the Canadian economy and the unravelling of the Canadian welfare state — Quebecers are very much aware of this. The security provided by the socio-economic status quo, in other words, is no longer an argument likely to make

Quebecers want to stay in Canada. This fact was further underlined by the absence of Canadians-outside-Québec from the debate (until the Montreal rally, of course, on which more below); thus, the economic threats if the Yes won came from within Québec itself (Bombardier perhaps leaving its home) and from international markets (speculation against the dollar and securities, both Québec- and Canada-based), but very little from Canada — as though Canada itself had become irrelevant to the decision Quebecers were about to make.

It is significant that campaign fortunes, as tracked by polls and media reporting of the two sides, took an abrupt change when federalist negativism turned most clearly to threats, and was met coincidentally by Lucien Bouchard's taking over the sovereignist campaign with an increasing appeal to national pride. When businessmen Claude Garcia and Roland Beaudoin respectively called upon federalist forces to "crush" the nationalists and threatened to move Bombardier out of Québec, they were expressing a contempt for the aspirations of even moderate nationalists that very few francophone Quebecers could stomach. Premier Parizeau responded angrily, denouncing in particular Beaudoin's class arrogance as "spitting on the people" — a reply that belonged to that strand of contemporary Québec nationalism which rages at the *misérabiliste* discourse that produces elite threats against the little French Canadians, as well as the corresponding Chrétien-Robillard-Charest wonder at Canada's generosity towards those same little French Canadians.

That Lucien Bouchard took over the sovereignist campaign in the wake of the Garcia-Beaudoin-Parizeau blow-up was a coincidence made in heaven for the sovereignists, as he consolidated the move away from a focus on economics and towards national pride. This was a large shift in the sovereignist campaign, which until the businessmen's attacks had itself been driven by fear and *misérabilisme*: the Yes strategists had felt an overwhelming need to *reassure* voters that sovereignty presented no economic risks whatsoever, that Québec could still enjoy Canadian protection against a dangerous world. They had gone so far as to put the loonie on a campaign poster, accompanied by their general slogan "*Oui, et ça devient possible*": it was not only Jean Charest & Co. who brandished Canadian currencies as shield. But Beaudoin and Garcia (and, a little later, Paul Martin), in their extravagance, seemed to cure the sovereignists from their fearful malady. From then on, the contrast between the options was starkest: on

one side, *misérabilisme*, on the other, a pride increasingly embodied by Lucien Bouchard. In this perspective, Jean Chrétien's last minute promise of change amounted to an excruciatingly reluctant recognition that francophone Quebecers could no longer be dealt with as the stereotypical French Canadian *porteurs d'eau*. Just enough of a recognition, perhaps, to squeeze through Monday with the smallest possible No majority.

The second massively important thing that happened during the campaign's last week is not exactly an event — more like an apogee of the misunderstanding, the estrangement, between French Québec and English Canada. It was, however, crystallized by one of the most important media events of the campaign: the large "No" rally in Montreal, with people coming to Québec from all over Canada. What was the effect of that rally? As indicated by the *Maclean's/CBC News* year-end poll, and in a manner consistent with the spin put on it by politicians such as Brian Tobin, the rally has been perceived outside Québec as helping the "No" side, perhaps even saving Canada at the last second. The same poll notes, however, that Quebecers were much less likely than outsiders to believe that. There are reasons to think, in fact, that the rally helped the Yes side — almost putting the sovereignists over the top.⁸ Thus, *The Globe and Mail* reported that the No side's own daily polling during the last week indicated increased support after Prime Minister's Chrétien's televised address, followed by a drop after the rally.⁹

Anecdotal evidence drawn from my own conversations with French-speaking Montrealers confirms this notion that the rally helped the sovereignists (several people told me that the rally moved them closer to voting Yes; no one told me that they moved closer to No), and suggests an explanation of how this would have happened. It seems that many francophones were actually put off by the outpouring of loving statements from the crowd descended upon Montreal; in conversation, some spoke of an "invasion," of "unwanted love." Further, the love expressed by those visitors can be understood not so much as love for Québec, but as love for Canada — expressed in a panic at the thought that it may be living its last days, and harbouring an unexpressed threat against those who would dare tamper with it.¹⁰ In this sense, an adaptation of the over-used family metaphor may be in order. The relationship between Québec and Canada is that of two people who want and expect different things from each other: Québec wants to be friends with Canada, with a considerable

degree of affection and solidarity in the face of the rest of the world; Canada wants the relationship to be that of a loving couple, and refuses to take no for an answer — and mere friendship is not an option. Quebecers feel crowded by that unwanted love, the condescending, paternalistic, controlling love of one who cannot see the partner as an equal.¹¹

Post-referendum reactions by politicians and "ordinary Canadians" confirmed that the estrangement has reached enormous proportions, and included not only disagreement but incomprehension. On referendum night, both Jean Chrétien and Alberta Premier Ralph Klein (unknowingly?) echoed Charles de Gaulle's famous "*Je vous ai compris*," claiming that "We have heard you, Quebecers."¹² Almost in the same breath, however, Klein argued that now was not the time to re-open the constitution and that, in any case, Québec would get no special treatment. A few days later, in Edmonton, I participated in a CBC-Radio open-line show, in which seven out of ten callers were against recognizing Québec as a distinct society. These callers, like their Premier, were unable to see why Canada could not just go on as if Quebecers had given a vote of confidence to the status quo.¹³ Out of this context emerged Jean Chrétien's non-constitutional/constitutional proposals (more on this below), an obviously doomed attempt at dancing around the irreconcilable differences between most Quebecers and most Canadians.

More than the disagreement, perhaps, is the incomprehension that is destroying Canada as we know it — for good and for bad. Most of all, it is an incomprehension that is rooted in identities. Because of their own *Canadian* identity, most Canadians can neither comprehend nor accept the notion that Quebecers are Quebecer first and Canadian second — or, put differently, that Quebecers are not merely Canadians residing in Québec. In theory, of course, this is not at all hard to comprehend: Canadians do not consider themselves North Americans merely residing in Canada, and the same basic logic applies to Quebecers' feelings about Québec/Canada. To recognize this, however, would be to recognize Québec's status as a separate nation within Canada, and it would require a transformation of their own Canadian identity, their conception of belonging to this country. And it is no more reasonable to expect Canadians to do this than it is to expect Quebecers to become Canadians first and foremost. The diverging understandings of the Montreal rally dramatize this estrangement born of nationalisms in conflict.

The third capital thing of the last days of the campaign is also not exactly an event: it is the fact that, after it became clear to everyone that the Yes could very well win, a lot of "soft" or "strategic" Yes voters could have backed down. But this did not happen: the Yes vote did not collapse over the last weekend — so few soft nationalists backed down that 49.4% of the electorate took the leap and voted Yes. This resolve is hugely important for what comes next, and in particular for assessing the reception that federal "offers" are likely to get from the Québec electorate. In the second half of the referendum campaign, a large number of Quebecers became radicalized, at a time when it counted (as opposed to the surge in pro-sovereignty sentiments in 1990, when Robert Bourassa was Premier). Each one of these Yes voters had to know, as October 30th approached, that they were quite possibly *personally* taking Québec on a one-way trip toward sovereignty.¹⁴ Now that these people have taken the leap, how likely are they to reconcile themselves to half-hearted, manipulative, and unimpressive quasi-constitutional offers from Ottawa?¹⁵ Not very, I should think — and the consolidation of pro-sovereignty sentiments visible in post-referendum polls suggests that not only are Yes voters sticking to their guns, but a number of No voters may be ready to make the leap next time.

WHAT NEXT?

If Canada was able to plan its future without Québec, it would not have to (because by this very ability, it would see the wisdom of accommodating Québec); but because it cannot, it will have to, but only after the next referendum. There is no historical necessity to Québec becoming sovereign. But the only reason why a second sovereignty referendum was held in 1995, fifteen years after the first one, is that opportunities were missed in between to re-form Canada in a manner acceptable to Quebecers. Along the way, a number of Quebecers lost faith in Canada, in the face of what are widely perceived as broken federalist promises and Canadian rejection of Québec's distinctiveness. The third sovereignty referendum will happen — and there will be a majority of Yes — only because more federalist opportunities will be missed, more promises will go unfulfilled, causing more Quebecers to lose faith in Canada.¹⁶

What is Canada to do now? Sadly, for Canada's own sake, passivity and resignation in the face of Québec's assertiveness are the best things one can hope for in the present circumstances. The only other course of action that Canadians are likely to take would be destructive, for themselves as well as for Québec. But if one is seriously interested in minimizing the inevitable hardships that, for both sides, will accompany Québec's accession to sovereignty, the following facts should be considered.

Given that the status quo is unacceptable to Quebecers,¹⁷ and that a minute shift of voters to the Yes side next time will tip the balance; and given that no acceptable "offers" will be forthcoming from the rest of Canada (because this would require Canadians to reinvent themselves); Canadians should be preparing right now for a post-Québec Canada. But this also would require Canadians to re-invent themselves, in advance of the next referendum. Not only that, but it would also involve coming to the realization that Canada's self-interest will be best served by minimizing the disruption to the country's economy and social fabric. Canadians would, in other words, have to overcome the powerful temptation to punish Québec for breaking the country — because punishing Québec would be enormously costly to Canada (as well as Québec, of course). Indeed, if Canadians were able to grapple with this *now*, they would likely find the will to accommodate Québec within Canada by recognizing its nationhood and embracing the limited degree of constitutional asymmetry that would satisfy Quebecers. These courses of re-invention are the two versions of what a constructive path would be for Canada — clearly, at this point, a path not taken. Canada, then, is a country partly paralyzed — unable to positively shape its own future but capable of pushing Québec over the brink, it is reduced to *either* wait for Québec to draw its own conclusions from the paralysis *or* actually drive it out.¹⁸

Being paralyzed is not equivalent to being in a coma: unable to move, Canadians are quite capable of being frustrated, angry, resigned. We have seen various combinations of these reactions since the Meech Lake Accord ran into trouble in 1988, but *denial* has been the dominant feeling between the election of Jean Chrétien's Liberals in the fall of 1993 and referendum week.¹⁹ It is unlikely that, on October 30, Canadians would have been able to jump straight from denial to resigned acceptance, had the percentages been reversed. A very narrow Yes majority would have only compounded the

overwhelming anger, born of unpreparedness, that would have made Canadians insist on punishing Québec ... and themselves in the process. Yes next time will not come as a surprise. It will force Canadians to react — either constructively or destructively. Canadians cannot be expected to be constructive about their relationship with Québec unless they are quite forced to — this is one effect among others of never entirely overcoming the colonialist legacy of the conquest of New France. But Canadians now have two years or so to accept the imminence of Québec's sovereignty and the necessity to then negotiate in a spirit of self-interested moderation. Yes next time may have a better chance of being received outside Québec with a sense of resignation, and an acceptance of a new partnership. How ironic: the more Quebecers get what they want — a new partnership between equals, a soft break-up, a friendship — the more Canada is likely to survive as a political-economic and cultural entity; conversely, the more Canadians insist on the "you're in or you're out" punitive logic, the more they will destroy their own community.

What are, in fact, the prospects that *self-interested moderation* will inform the positioning of Canada in the months before and after the next referendum? Not very good, I am afraid, because of the propensities of the government led by Jean Chrétien and of the leading role it is bound to play in the developing political dynamics. Three things need to be looked at to substantiate this admittedly *highly speculative* evaluation: the federal government's quasi-constitutional package unveiled on November 27, 1995; the January cabinet shuffle by Prime Minister Chrétien; and Ottawa's emerging next-campaign strategy.

First, the November package is so inadequate as to confirm the expectations of the majority of Quebecers who deeply distrust the Prime Minister. Without going into details, it is worth noting a few of its dominant traits. Once again, Québec's claims are assimilated to a form of provincialism, the solution being to offer the same thing to all provinces or regions (powers and veto); this would deal with "the needs of Canada as a whole," as Justice Minister Alan Rock had announced in early November.²⁰ In the process, the specificity of Québec's claims would remain unrecognized, waiting for the next occasion to resurface in the form of a crisis. Secondly, recognizing the unwillingness of Canadians to amend the Constitution, the federal government is proceeding para-constitutionally, with a minimal

amount of consultation; this results in a democratic deficit that many had thought a thing of the past after the Charlottetown process. As with the Meech Lake process, then, the federal government is trying to finesse its way around public opinion by burying the Québec issue as much as it can and by limiting democratic debate. Experience (and principle, as if that mattered) shows that this is no way to produce a lasting accommodation between Québec and the rest of Canada.²¹

The cabinet shuffle in late January 1996 that saw the appointment of Stéphane Dion as Minister of Intergovernmental Affairs is not going to do the trick either. To begin with, it will be found rather quickly that Dion's views are unacceptable to both a majority of Canadians and a majority of Quebecers. Thus, no sooner was he appointed than he was making rather strong claims for the "distinct society" concept *and* arguing that a sovereign Québec could very well be partitioned so that aboriginal lands and "municipalities" may stay with Canada²² — all this with a veneer of high-intellectual seriousness that appears to be his chief recommendation to the Prime Minister. As well, chances are that Dion does not have anything like the political acumen needed to handle this file — the single most vexing one in all of Canadian twentieth century history — at the most difficult time possible. It is an indication of the desperation of federalist forces, and of Jean Chrétien himself, that the Prime Minister would give this responsibility, at this time, to an intellectual with no political experience whatsoever, no political "coat-tails," and indeed next to no potential constituency in francophone Québec (his federalism being much more of an Ottawa kind than of a Québec City kind). It could be, in fact, that the Prime Minister intends to drive that file himself, with especial input from Dion, both as trusted adviser and next-generation pitch-man: not an altogether promising prospect for a federalist camp that has justifiably lost a degree of confidence in the sharpness of their leader.

The repositioning of Lucienne Robillard at Citizenship and of Sheila Copps at Heritage, plus the arrival of Pierre Pettigrew at International Trade, are no more promising for the federalist camp, and this is where we arrive to the third element of this evaluation: the emerging Ottawa strategy.²³ Copps and Robillard will work at boosting a kind of Canadian patriotism that is as popular in English Canada as it is foreign to contemporary Québec. As this oh-so-belated campaign to win hearts and minds is bound to fail pathetically (aimed as it is at turning

Quebecers into Canadian-first Trudeauites), the real thrust of the Chrétien strategy will show itself to be another attempt at crushing sovereignists with a whole battery of threats: Pettigrew will play the "economic deterrent" card, Justice Minister Alan Rock will challenge the legality of whatever follows a sovereignist victory, Dion will continue talking about the partition of Québec, Robillard will talk about denying dual citizenship — with the Prime Minister topping the whole attack with soothing words to the effect that, these are unpleasant things to think about but Quebecers have to apply their minds to them because they are unavoidable consequences of voting Yes. This campaign of threats has, in fact, already heated up to a surprising degree, with Chrétien publicly endorsing Dion's partition claims: "If Canada is divisible, Québec is divisible too."²⁴ Why the federal cabinet has decided to raise the temperature so much, so early in the pre-next referendum campaign, is hard to understand — unless this is mainly geared at shoring up the Prime Minister's damaged credibility in English Canada, which would be a remarkably short-sighted tactic.²⁵ Meanwhile, it is far from clear that Chrétien will be able to remain the calm and dignified statesman, in the face of the likelihood of a sovereignist victory.

What will be the result of all this? Disaster for Canada, and for Québec of course. The combination of misguided patriotism and hard line politics will consolidate the intransigence of public opinion outside Québec at the same time that it will outrage a good majority of francophone Quebecers: more Quebecers will be likely to vote Yes as more Canadians will move to immoderation. Thus, today more than ever, Canada needs to be saved from its Prime Minister and his brand of federalism. Unfortunately for all concerned, including hard-line sovereignists whose Québec will pay dearly for the realization of their hard-separation dream, it won't happen. □

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Endnotes

1. For referendum result data, both aggregate and by region, see Denis Monière and Roch Côté, eds., *Québec 1996. Toute l'année politique, économique, sociale et culturelle* (Montreal: Fides / Le Devoir, 1995) with a 32 page insert on the referendum.

2. Hugh Winsor, "Sovereignty surge seen in Quebec" *The Globe and Mail* (22 December 1995) A3; and "Taking the Pulse" *Maclean's* (25 December 1995) 32-3. A poll published on 27 January 1996 in *The Globe and Mail* gives a Yes / No distribution of 52.4 % / 47.6% among decided voters; the distribution of all voters, including "discrete" respondents, is not mentioned, which makes comparison with other polls difficult. It is probably the case, however, that the Yes margin has narrowed. The meaning of these short-term variations is an open question, of course, beyond the basic fact that it is the Yes rather than the No that has been benefitting from a post-referendum glow.
3. André Picard, "Johnson comes out swinging at Ouellet" *Globe and Mail* (6 January 1996) A3.
4. See Claude Denis and David Schneiderman, "Towards the Referendum: Campaign Contradictions" (1995) 6 Const. Forum 126.
5. On the Sondagem poll, see Pierre O'Neill, "Sondage Le Devoir-Sondagem sur l'avenir du Québec" *Le Devoir* (11 November 1995) A1. This poll was conducted by political scientists Guy Lachapelle and Pierre Noreau.
6. See Jeffrey Simpson, "Dion now point man in battle for unity" *The Globe and Mail* (27 January 1996) A1, A4.
7. O'Neill, "Sondage Le Devoir-Sondagem"; and Pierre Noreau, "Le miroir aux électeurs" *Le Devoir* (14 November 1995) A7. On the SOM poll, see "Sondage Québec-Canada" *Agence Presse Canadienne* (3 November 1995) # 012787.
8. The Sondagem poll published in *Le Devoir* confirms that many Quebecers thought the rally to have been important. From this, reporter Pierre O'Neill hastily concludes that the rally had the intended effect — helping the No side (see note 4 above). But this inference is not necessarily warranted, as we will see presently.
9. See Hugh Winsor, "Poll disputes No rally's success" *Globe and Mail* (11 November 1995) A1.
10. This last element is consistent with the overwhelming evidence in the last several years of "hardening attitudes" in English Canada towards Quebec. On further "hardening" after the referendum, see Winsor, "Sovereignty surge seen in Quebec," *supra* note 2.
11. Note that in this version of the metaphor, although ROC's stance is associated with a typically male bullying attitude, there are no necessary gender associations to either side here. Indeed, there is nothing to keep us from thinking that the two individuals involved could be of the same sex, either male or female.
12. Anne McIlroy, "NO: 50.6% No, 49.4% Yes; Slim win gives Canada hope" *The Edmonton Journal* (31 October 1995) A1.
13. Graham Thompson, "Vote for change must be heeded, insists Klein" *The Edmonton Journal* (31 October 1995) A4.
14. Not that anybody thought that their single individual vote would make the difference, but voting — and voting Yes especially — was an enormous responsibility now that, for the first time, the sovereignists were about as likely to win as were the federalists.
15. Half-hearted, because everyone knows that the Chrétien government is now being pushed onto a course that it has wanted to avoid; manipulative, because to go towards what Quebec wants, Ottawa must go against the self-concept and aspirations of the rest of the country — and vice versa and without appearing to do either of these things; unimpressive, because the November 27th package contains less than what Quebecers rejected in the Charlottetown Accord; quasi-constitutional, because the changes contemplated have a constitutional vocation without having the force of constitutional law (which takes us back to the package's manipulative and unimpressive character).
16. At this point, it seems that the best hope of federalists everywhere in Canada — I have heard the story in Quebec, Ontario, Alberta and British Columbia — is that Premier Bouchard will lose his appeal in the process of trying to reduce the Quebec government's deficit, and that therefore he will be unable to win the next referendum. While possible, this scenario ignores the fact that the other provinces' premiers who have adopted drastic deficit-cutting programmes have all remained remarkably popular. Quebecers, like other Canadians, have become convinced that such an exercise is necessary, and are just as likely to reward the premier who bites the bullet. Indeed, Lucien Bouchard, with his uncanny ability to be both ruthless and compassionate, is just the man to bite it successfully.
17. A large portion of the constituency that voted No this time had voted Yes at Charlottetown: they wanted change. When they are added to the 49.4% who voted Yes to sovereignty, very few people are left in Quebec who favour the status quo.
18. This became evident as soon as Ottawa's strategy called on Canadians outside Quebec to remain quiet, uninvolved, in the year leading to the referendum, on the (correct) assumption that whatever provincial leaders such as Ralph Klein and Clyde Wells were likely to say would hurt the federalist cause: if, that is, Quebecers knew what Canadians were thinking, they would definitely want out!
19. This familiar psycho-medical analogy is borrowed from Elisabeth Kubler-Ross, *Death: The Final Stage of Growth*, Englewood Cliffs (N.J.), Prentice-Hall, 1975. William Thorsell has also used the analogy in this connection in "Let us come to the aid of our most inconvenient Prime Minister" *The Globe and Mail* (27 January 1996) D6.
20. See Jean Dion, "Ottawa s'attaque aux problèmes de tout le Canada" *Le Devoir* (9 November 1995) A1.
21. On the November 27 package, see also note 15 above.
22. On the "distinct society" statement, see Susan Delacourt, "New cabinet shows unity-tactic shift" *The Globe and Mail* (27 January 1996) A1. I heard the

statement on the partition of Quebec on a CBC Radio News bulletin on the evening of January 27; the substance of this report had first been stated by Dion at a *Cité Libre* dinner last year (see Jeffrey Simpson, "Dion now point man in battle for unity" *supra* note 6).

23. On the emergence of this strategy, see Susan Delacourt, "Liberals ponder the unthinkable" *The Globe and Mail* (29 January 1996) A1, A3.
24. Ross Howard, "Québec divisible, Chrétien says" *Globe and Mail* (30 January 1996) A1.
25. The unavoidable flaw in the partitionist "same logic" argument has to do with what a nation is, and how it occupies a territory. Peoples, or nations, have a right to self-determination on the territory they control and in almost all extant cases across the world, such national territory contains minorities (that is, groups that for any number of reasons do not consider themselves or are not considered part of the nation). With the notable exception of indigenous peoples, minorities in Québec do not

constitute a nation — they are part of the Canadian people (this is how they see themselves and, therefore, to the extent that they are not members of the Québec nation, their exclusion is in good part self-made); as such, they constitute a national minority in Québec's national territory. They, then, have no right to self-determination; but they do have minority rights within Québec. All this should be fairly obvious, were it not for the climate of hate that is quickly developing in Canada against Québec nationalism and its main representatives — and that expresses itself, for instance, in this lust to dismember Québec's national territory.

Explorations in Difference: Law, Culture and Politics

Edited by Jonathan Hart and Richard Bauman

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How do current debates over identity and difference come into play within the workings of our cultural, legal, and political institutions? *Explorations in Difference* addresses this question, gathering together a range of perspectives on the meanings and implications of difference in the context of postmodern theory.

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WESTERN CANADIAN NATIONALISM IN TRANSITION

Roger Gibbins

The narrow "No" win in the 1995 Québec sovereignty referendum has left western Canadians and their provincial governments in a difficult position. Indeed, from a regional perspective there could not have been a worse outcome. Far from bringing closure to the ongoing national unity debate, the outcome has exacerbated the crisis and, in so doing, reinforced the pre-eminent position of Québec on the country's political agenda. Moreover, it has increased the political leverage of Québec players across the constitutional spectrum, from soft nationalists and conditional federalists to hard-core sovereignists. At the same time, the outcome of the referendum has pushed the West even more to the margins of the national unity debate. The region's political impotence was dramatically illustrated by the prime minister's post-referendum decision to provide a quasi-constitutional veto and distinct society recognition to Québec, an initiative that flew in the face of long-standing and vociferously expressed opinion in the West. Even in the most charitable light, Mr. Chrétien's initiative displayed a callous indifference to the region's values, aspirations and political leadership.

In many respects, of course, all this suggests that little has changed: Québec continues to dominate the country's political agenda, Québec politicians continue to set the terms and parameters of the unity debate, and Ottawa's preoccupation with the Québec aspects of the debate effectively precludes western-Canadian input. (In the minds of the Prime Minister's advisors, the "West" must refer to the west end of Montreal.) However, it can be argued that the political dynamics of the situation have changed in some important ways. First, the strength of Canadian nationalism in the West, and for that matter across the country, is being challenged on more than one front, and within this context western alienation may be transformed from a chronic and easily dismissed

complaint to a matter of more acute concern. Second, western Canadians now confront a more truncated range of constitutional options, all of which are likely to erode rather than strengthen regional attachment to the national community. Third, the partisan dynamics of the national unity debate in western Canada have changed. The West's most prominent political voice, the Reform Party of Canada, has begun to stake out a more radical and confrontational position on the national unity issue. In addition, there is reason to expect that both Reform and the West will be increasingly vilified in the years to come as the federal Liberals train their electoral sights on the central-Canadian heartland.

In combination, these three changes point to a significant deterioration in the regional political climate. That deterioration takes on greater importance when it is placed against the fragile, even precarious condition of Confederation, and against the complex interplay of nationalism and globalization as we move into the twenty-first century.

NATIONALISM IN THE WEST

As I have argued elsewhere,¹ western Canadians have generally been characterized by a strong sense of Canadian nationalism, one that generations of alienation and political discontent have failed to erode. However, that nationalism, and the attachment to Canada embedded within it, may become increasingly difficult to sustain in light of the outcome of the 1995 referendum. As noted above, Québec and its place within the Canadian federal state will continue to dominate the national agenda. More than ever, the potential to win seats in Québec will be held up as *the* litmus test for national parties. (Within this pervasive logic, the Progressive Conservatives, with one of their two seats coming from Québec, are

portrayed as a more national party than Reform, none of whose 52 seats are from that province.) If we put aside Reform for the moment, and if, like voters across the country, we put aside the NDP, then it seems clear that Québec leaders will continue to dominate the major parties and provide Canada's prime ministers. National programs will continue to be tipped to the benefit of Québec, particularly now that the federal bureaucracy will be acting under a Parliamentary directive to take Québec's distinct character into account whenever programmatic or budgetary decisions are made.²

All of this will strain national sentiment in the West as the conviction grows that Canada is being redesigned to fight the next referendum campaign in Québec. However, what makes the situation even more troublesome is that the strength of Canadian nationalism is being challenged on other fronts at the same time. The withdrawal of the federal government from the funding and therefore, inevitably, the orchestration of national social programs, in part as a response to the national unity crisis but also as a response to budgetary pressures, will make it less and less relevant for the lives of most Canadians, including those in the West. The North American Free Trade Agreement and the more general economic dynamics of globalization are making Ottawa increasingly irrelevant as a source of protection for the national and regional economies. If, as Donald Smiley has convincingly argued,³ Canada is a "political community" stitched together by political programs and institutions, then there is cause for concern as those programs weaken and as institutions become less national in light of the need to accommodate Québec's concerns. The problem, then, is that the federal government's unity strategy reinforces a more general weakening of the institutional and programmatic fabric of the national community.

In this context, it is worth mentioning parenthetically that the need to sustain electoral support in Québec, and the vigilance of the Bloc in the House of Commons, will make it difficult for the federal government to move aggressively with respect to the national debt and deficit. Therefore the gulf between western provincial governments, who have been quite successful in bringing deficits under control, and the central Canadian governments — Ottawa, Québec, and Ontario — will continue to widen. Admittedly, the recent actions on the budgetary front by the Mike Harris government in Ontario may soften this regional distinction, but concern with respect to

Ottawa's deficit reduction strategy remains. The concern does not arise because an aggressive attack on the deficit is the "right" policy, but because the budgetary priorities of western provincial governments and the federal government may be out of synch, thereby heightening regional discontent.

The more general point to be stressed is that the renewed national unity debate and the incremental withdrawal of the federal government from programs touching the lives of individual Canadians both work to weaken Canadian nationalism. While this impact is by no means restricted to the West, it is amplified in the region because there Ottawa's national unity strategy is most at odds with regional values and aspirations. Therefore the question arises as to whether a "constitutional fix" might be found that could repair the increasingly frayed connections between the West and the national community.

CONSTITUTIONAL OPTIONS

Western Canadians have long believed that the institutional design of the political system works to their disadvantage. In the past, they have sought to rectify this situation, to gain some effective regional leverage on the national political process, by advocating the reform of central government institutions. This strategy was best exemplified by the quest for Senate reform, although western Canadians have also toyed with a variety of other reforms designed to weaken the grip of party discipline and, indirectly, to provide greater influence for western Canadian MPs.⁴ Thus the Reform party, provincial governments, the Canada West Foundation, academic commentators, and the Committee for a Triple-E Senate coalesced behind Senate reform as a counterweight to the electoral strength of Ontario and Québec. Contrary to the contemporary preoccupation with decentralization, Senate reform was seen as a way of *strengthening* the legitimacy and therefore the role of the federal government, an aspect that accounts for the occasional wariness displayed by western premiers. Support for Senate reform captured the regional conviction that what was needed was greater regional leverage on national policies rather than greater provincial powers, a conviction stemming from the recognition that many of the West's concerns with such matters as inter-provincial and international trade would necessarily fall under the jurisdictional umbrella of the federal government. In this respect, as in many others, western Canadian constitutional aspirations diverged sharply from those of Québec.

Now, however, western Canadians appear to have reached the point where they have abandoned not only the specific goal of Senate reform but also the more general reform of central institutions. The most recent set of institutional proposals from the Reform party, for example, calls simply for an elected Senate; references to an equal Senate have disappeared.⁵ Provincial governments have stopped beating the drum for Senate reform. More important, the Prime Minister's decision to "lend" Parliament's constitutional veto to Québec effectively kills any prospect for Senate reform. Quebecers of all constitutional stripes have consistently opposed an equal, elected, or even effective Senate, and there is no question that Québec will use its veto should western Canadians attempt to put Senate reform back on the table. Given that Québec's veto is now in place, western Canadians cannot hope to bargain for Senate reform in exchange for a Québec veto, or for recognition of Québec as a distinct society; the Prime Minister's initiative has taken away any cards they might have had to play. It should also be noted that the incumbent Liberal government has shown no inclination to relax party discipline in the House; backbench Liberals who have opposed government legislation have been swiftly punished, even when their dissent did not threaten passage. It is clear, then, that the prospects for any significant reform to parliamentary institutions are bleak at best as such reform holds no appeal for the federal government, the Québec Liberal party, or sovereignists (hard or soft) in Québec.

If it is now impossible to reform central institutions to increase the political leverage of the West, what options remain? There seem to be two, although neither one should be greeted with much enthusiasm by western Canadians, or indeed by any Canadians outside Québec. The first is to adopt neo-liberal principles, and seek to shrink the size of the federal government and the federal state more broadly defined. As Ottawa shrinks, it will be less capable of transferring financial and programmatic resources to Québec, and for that matter Atlantic Canada, and thus some of the edge of western Canadian discontent may be blunted. Unfortunately, this approach, if consistently applied, would also entail the shrinkage of provincial governments. For anyone who still believes that government has an important role to play in knitting together the community and providing a social security net, this option is problematic.

The second option is to endorse extensive decentralization. Here again, the logic is simple: the more

that programs and financial resources are moved from Ottawa to the provinces, the less national programs will be used for the interregional transfer of wealth. The fewer resources the federal government has at its disposal, the less of a threat it will be to provincial and regional interests. However, quite apart from whether decentralization makes sense as a framework for social policy within a transcontinental federal state, it is by no means self-evident that it would succeed as a national unity strategy. Why should Quebecers become more attached to Canada in the face of massive decentralization? If taken very far at all, decentralization strengthens rather than blunts the appeal of Québec sovereignists; Canada has less to offer, and becomes less relevant to the lives of Quebecers. Yet the point to stress in the present discussion is that decentralization is likely to have the same effect in the West, weakening rather than strengthening citizen ties to the federal government. Decentralization might arguably lead to better or worse public policy, but it will not lead to a stronger national community. To the contrary, it will widen that gulf that many western Canadians already perceive between themselves and the federal government. As a national unity strategy, anything approaching massive decentralization has little to offer in either Québec or the West.

Unfortunately, western Canadians may be backed into this corner as other constitutional options are shut down. Although decentralization runs against the traditional grain of national sentiment in the West, it may be the only constitutional game in town now that the reform of central institutions has been abandoned. Western Canadians, like soft nationalists in Québec, may have little choice but to dismember Canada in the attempt to save it.

THE PARTISAN DYNAMICS OF THE NATIONAL UNITY DEBATE

The constitutional dilemma outlined above is further complicated by a significant change in Reform's strategic game plan. From the 1993 election to the 1995 Québec referendum debate, Reform took a relatively soft and low-key position on national unity issues. The party talked about expanding its presence in Québec, and created a set of non-constitutional proposals for fiscal and institutional reform that would have some appeal both inside and outside Québec. In this regard, Reform began to look more and more like a conventional national party, arguing that it too could win seats in Québec. While

it can be argued that the hope for appeal to the Québec electorate was wildly optimistic, the party did little to mobilize latent hostility in English Canada to Québec and the aspirations of Québécois nationalists. Now, however, Reform has taken a much tougher position with respect to Québec. It has been pushing the federal government to clarify the terms under which Québec might be allowed to separate, and the conditions under which another sovereignty referendum might be held. In short, there is no more "Mr. Nice Guy;" Reform has decided to mobilize growing English-Canadian anger at the threat posed to the country by the nationalist movement in Québec.

This position, of course, was always a possibility for Reform. From the party's birth in western Canada in the mid-1980s, it has been clear that the Reform "vision" had little appeal in Québec, and could be more readily realized were Québec to leave. Indeed, it might be argued that the Québec referendum, and the anger created in the rest of the country by both the close outcome and the threat of another referendum, have created the "wave" so badly needed by Reform if it is to have any chance of winning national office.⁶ However, the fact that the Reform party has now chosen to mobilize public discontent with Québec is of profound importance, for it is a strategy that goes against the consociational core of Canadian party life. From at least the onset of the Quiet Revolution in the early 1960s, national parties have been very reluctant to cater to public discontent with such policies as official bilingualism, even when it was in their short-term strategic interests to do so. Parties, or at least their leaders, have recognized the explosive potential in trying to mobilize the national anglophone majority against Québec or the francophone minority. But now, the close call in the referendum vote and the seemingly unrelenting growth of the nationalist movement have broken this taboo. As a consequence, long-standing western Canadian discontent with the constitutional aspirations of Québec⁷ will have a partisan champion. There is little doubt that the next federal election campaign will be fought on very acrimonious terrain as Reform goes head to head with conventional national unity strategies. Given the sour public opinion climate in the West and the growing resistance to further constitutional accommodation, this strategy may well enhance Reform's regional appeal. What remains to be seen is whether it will have the same effect in Ontario.

Reform's new strategy coincides with an intensifying partisan attack by the federal Liberals. Reform and its leader have been routinely subjected to vitriolic abuse in the House of Commons where they have been described as being in bed with the Bloc, and even as being "the real separatists," committed to the destruction rather than the salvation of Canada. This line of attack, it should be stressed, coincides with but was not caused by the change in Reform strategy noted above. While that change has given additional credence to the Liberals' attack, that attack was underway well before Reform decided to bite the national unity bullet. During the 1995 referendum campaign, for example, Preston Manning was treated like a rude in-law for trying to butt into what was considered to be a family debate among Quebecers, one in which western Canadian input was neither sought nor welcome. Then, when Manning did step back from the debate, he was criticized for not pitching in, as Mr. Chrétien and Mr. Charest had done, to help save Canada. In short, Reform was damned when it did and damned when it didn't. Under those circumstances, and facing a daily onslaught of criticism from the federal Liberals for not being true Canadians, Reform had little alternative but to go on the offensive itself.

The critical question, however, is whether the Liberals' assault on Reform should also be seen as an attack on the West, or should it be seen more appropriately as a conventional, even high-minded attempt to woo western voters into the Liberal and, by implication, national unity camps? Here it is likely that the former interpretation will prevail, and not only because a majority of the region's representatives in the House are Reform MPs. The vilification of Reform *and* the West will address the Liberals' partisan agenda heading into the next federal election. The critical battleground in that election will be Ontario, where Reform placed second in more than half the ridings in the 1993 election and where it poses the most immediate threat to 98 incumbent Liberal MPs. If Reform's growth in the province is to be checked, the best bet will be to portray Reform as a narrowly-based western Canadian party, and therefore one of little potential interest to Ontario voters. This can be done by tying Reform to western Canadian discontent, and by suggesting that Reform's "national vision" does not extend beyond the Manitoba / Ontario border. The West, then, may well be written off in the larger interest of Ontario seats. This strategy will in turn intensify regional discontent in the West, further straining the already frayed bonds of national unity.

LOOKING AHEAD

The argument to this point has been that the traditional attachments western Canadians have felt toward the national community are being eroded, and are likely to be further eroded in the years to come, as the federal government withdraws from national programs, continues to search for informal constitutional accommodations for Québécois nationalism, and vilifies Reform and, through it, western Canadians. If this argument holds, then we should expect to see the progressive estrangement of the region from the federal government and the national political process. The big question, however, is whether this estrangement will be of any consequence. Will the West simply sink back into a state of regional angst, similar to what we have seen in the past, but of little consequence for the broader unfolding of Canadian political life? After all, alienated westerners are no strangers to the national scene.

Certainly there is no indication that the federal government or the Liberal party will attach any particular importance to western discontent; it may even be seen as a useful resource in angling for votes in Ontario and among "soft nationalists" in Québec. If anything, we can expect harsher attacks on Manning and Reform, and by association the West, as the Liberal party positions itself once again as the only truly national party. This strategy will be mimicked by Jean Charest and the Conservatives as they try to position themselves as the only opposition party with a toehold, no matter how insecure, in Québec. And, there is little indication that provincial governments in the West are about to mount the barricades of western alienation and lead public opinion in creating a new definition of the West in Canada. If anything, provincial governments, and particularly those in Alberta and British Columbia, are likely to respond to the ongoing national unity crisis by pushing for greater decentralization. It may be, then, that the weakening of national sentiment in the West will not be of any great consequence; western Canadians will fret and fume, but the country will simply go on about the more important business of accommodating Québécois nationalists and arming the Québec Liberal party for the next referendum.

Any such conclusion depends in part on how one reads the larger currents of globalization that are transforming the political status quo in western democratic states. If globalization signals the decline

of nationalism, then the decline of nationalism in the Canadian West fits into the more general pattern; western Canadians will become less attached to Canada just as other national attachments weaken across the globe. Regional angst and the incremental dismemberment of the country through decentralization may simply put Canada at the forefront of the post-modern era. However, there is also an argument to be made that nationalism, or at least some form of nationalism, is a necessary and even inevitable counterweight to globalization. As individuals contemplate the choppy seas of a global economy, and confront the bewildering social and cultural diversity that globalization entails, there may be an increased need for a firm sense of national identity. Those best able to negotiate the uncertain waters of globalization may well be those who have a secure base, who can, when necessary, retreat into a national community which they can control and within which their peculiar characteristics and aspirations have some meaningful political recognition.

If this is the case, if western Canadians need a secure sense of national identity in the face of challenges posed by globalization, then they confront a true dilemma. Unfortunately, a Canada that shapes national institutions and cultural conventions to the convenience of Québec, and that ridicules regional protest when that occurs, will not provide a secure national home for western Canadians. If nationalism, or at least a secure sense of national identity, is a requirement for success in the global environment of the twenty-first century, then western Canadians may be forced to find that security elsewhere. And it is here that western alienation may be transformed into a new sense of western nationalism, one that puts the region or parts thereof ahead of the country as a whole.

There is nothing in the West's history to date to suggest that this would be the preferred option for most western Canadians. In fact, everything points in just the opposite direction; western Canadians would prefer a strong Canada that reflected regional values and aspirations. A dismembered Canada has never been of any significant attraction, and separatist movements in the past have never found a substantial audience. But, if there is a clear lesson from recent events, it is that a strong Canada reflective of western values and aspirations is not in the cards. The most probable future is a radically decentralized country whose institutions and constitution have been shaped to meet the short-term strategic interests of soft-nationalists in Québec, the Québec Liberal party, and

the electoral aspirations of the federal Liberal party. Faced with *this* alternative, western Canadians may reluctantly decide that the only realistic option is to begin to build a new national community, for without such a community they will be without a national anchor on the seas of globalization.

None of this is to suggest that we are looking at swift or precipitous change in western Canada; no one is rushing to the barricades or unfurling the flag of a new western Canadian state. Indeed, there has been very little thought given to even the roughest outlines of such a state. Moreover, there is no question that western Canadians have deep roots in the existing national community, one that they have done so much to build. Those roots will not be pulled out without a great deal of hesitation and anguish. However, when we take into account the forces across a number of fronts that are weakening Canadian nationalism, when we consider that post-referendum constitutional and institutional change will almost certainly be against the grain of western Canadian values and aspirations, and when we consider the potential impact of globalization on national sentiment, there is ample reason to be concerned. The fact that such concern is unlikely to penetrate the federal government should be of little

comfort to those who still believe in a Canada that stretches from sea to sea. □

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Endnotes

1. Roger Gibbins and Sonia Arrison, *Western Visions: Perspectives on the West in Canada* (Peterborough: Broadview Press, 1995).
2. The Act calls for the House "to encourage all components of the legislative and executive branches of government to take note of this recognition and be guided in their conduct accordingly."
3. Donald V. Smiley, *The Canadian Political Nationality* (Toronto: Methuen, 1967).
4. For a detailed discussion, see *Western Visions*, *supra* note 1, Chapter 4.
5. Reform Party of Canada, "Reform's New Confederation Proposals," November 1995.
6. See Thomas Flanagan, *Waiting for the Wave: The Reform Party and Preston Manning* (Toronto: Stoddart, 1995).
7. See *Western Visions*, *supra* note 1, Chapter 5.

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THINKING ABOUT THE UNTHINKABLE: PLANNING FOR A POSSIBLE SECESSION

Reg Whitaker

The Québec Referendum of 1995 was a traumatic event in the life of the Canadian political community in a way that the earlier referendum of 1980 was not. There is a sense that after October 30 nothing will ever be the same again.

Little has changed on the surface of political debate, but in the depths there has been a tectonic shift. Now we *know*: Canada *could* break up. We came within a whisker of having to confront the most fundamental, and the most threatening, question that can face any community. The 1980 referendum indicated that Québec had a *right* to national self-determination, even as Quebecers chose decisively not to exercise that choice (that is, the rest-of-Canada awaited the choice of Québec voters, but left the initiative in their hands). The 1995 referendum indicated that Québec had the *will* and the *capacity* to break away, even as the sovereignists failed narrowly to go over the top. It is indisputable that something in the order of 60% of francophone Quebecers voted against Canada. What exactly they thought they were voting *for* is another question, to which there are probably innumerable answers, but the negative verdict is clear. What is just as clear is the resounding rejection of the sovereignty option by the non-francophone population of Québec: the anglophones and the Aboriginal peoples with virtual unanimity, the allophones with near unanimity. This too is a negative, not a positive, verdict. The result of October 30 is by any measure a very ugly one — an indecisive, divisive standoff of negativities.

The only uglier outcome would have been an equivalently paper-thin Yes victory with no federal guidelines whatsoever about where to go next, and the initiative resting firmly with the PQ on the one side armed with a single-minded action plan, and on the other, the equally single-minded Aboriginal peoples — especially the James Bay Cree — ready to

defy the PQ and appeal to Canada and international opinion to initiate their own secessions from the secession, thus initiating a chain of unpredictable events at the far end of which might be discerned the spectre of the former Yugoslavia. Even short of this, there would have been the prospect of an unprecedented degree of political and thus economic uncertainty and potential chaos. That this *could* have happened, and might very well happen in the near future, ought to be the signal for a searching self-examination by the rest-of-Canada of how it should begin to think about the unthinkable. The imminent prospect of hanging, it is said, concentrates the mind most wonderfully.

From the outset of the referendum campaign, it was obvious that, unlike 1980, the federalist side was labouring under severe disabilities. After Meech and Charlottetown, there could be no positive constitutional inducements, no 'renewed federalism', on offer. Indeed, when late in the campaign the Québec Liberals panicked and pushed Mr. Chrétien into throwing vague constitutional promises onto the table, it may have added to the momentum of the Yes vote. Lucien Bouchard shrewdly capitalized on the panic by pointing out that if even the *prospect* of a Yes vote could wring concessions from Ottawa, how much better a 'new partnership' could Québec achieve if it went ahead and actually voted Yes. Again, unlike 1980, the 1990s climate of fiscal restraint and anti-government conservatism, not to speak of heightened regional rivalries, forbade the use of positive economic inducements to persuade Quebecers of the value of continued federalism. The same climate of downsizing has also reduced the positive attraction of a national government seemingly intent on dismantling itself and eliminating those institutions and services that made 'Canada' meaningful to its citizens. Neither the prime minister nor the federal Liberal party has the kind of commanding presence

in Québec that Pierre Trudeau and his party held fifteen years ago. Indeed, for the first time, the majority of House of Commons seats from Québec are held by sovereignists. Given the lack of positive arguments for voting No, the Yes side held something of a trump card when it argued again and again that by voting No, Québec would be simply shooting itself in the foot in terms of negotiating with Ottawa.

Under these difficult circumstances, the only potentially effective weapon in the federalist armoury was negative: *fear* of the uncertainty entailed in a Yes vote. Until well into the campaign, it was the opinion of pollsters and political observers that in the absence of any apparent popular mobilization or passion for sovereignty, the conservatism of the electorate would translate into a fairly strong No vote. Once the Yes side surged ahead, there was no alternative but to move to outright threats of the dire consequences of a Yes vote.¹ This was hardly a pretty or ennobling prospect, but under the circumstances it was the only option left. Thus the spectacle of federal finance minister Paul Martin brandishing the wild figure of “one million” jobs lost in Québec.² But unlike in 1980, it appeared that intimidation no longer worked. Despite the threats, three out of five francophones voted Yes. Herein lies a powerful lesson for the rest-of-Canada (ROC) contemplating another referendum a few years down the road.

One million lost jobs was an exaggerated, self-destructing threat. But just because warnings are issued in the form of threats or are intended to intimidate does not mean they lack substance. No matter what the response from ROC, any conceivable transition to independence will be painful, both for Quebecers and Canadians. Objective reflection upon the likely reaction of international capital is, or ought to be, a sobering exercise. The microeconomic rationality of corporate investment suggests that in a context of sudden political uncertainty, risk averse behaviour is prudent. In very many cases, this will mean cutting potential losses and pulling out, or simply making decisions not to commit resources in the near future. In the globalized economy of the late 1990s, it is not as if investors lack alternatives. Nor do they lack the means to move very large amounts of money with devastating speed. The picture is, if anything, even bleaker from the perspective of the macroeconomic rationality of international capital — the general interests as opposed to the specific interests of individual corporate actors — embodied particularly in the actions of the New York bond

rating agencies. Of course, in the long run, capital will return to an independent Québec and a post-separation Canada (the opportunities will be too great to pass up). But it will return on the best terms it can get. This means maximizing the leverage that can be exacted by the infliction of short-term pain, on Québec and Canada alike. No matter how amicable or hostile the divorce, no matter how rationally or crazily the assets and liabilities are sliced up, the transition will likely be vicious.

Contrary to this picture, the PQ has for years assiduously worked the theme that the transition to sovereignty will be entirely risk free. In the *péquist* vision, a Yes vote will be like Star Trek’s transporter beam: Québec will be instantaneously whisked from federalism to sovereignty *intact*. Everything — society, economy, culture, the Montreal *Canadiens* — will be magically recreated just as they were, except that this time they will be topped by a *fleur-de-lis*. Everything, as the sovereignists stress with Freudian insistence, will be ‘*normal*’. If enough Quebecers choose to believe this soothing lullaby, and ignore the economic costs, there is little that ROC can do to dissuade them. We know from the 1995 campaign that threats did not work, may indeed even have rebounded against the federalists. Yet there is an intellectual sleight-of-hand involved in the PQ’s no-risk proposition, and there may be another way of pointing this out, without the offence to Québécois pride inevitably committed by Martin-style threats.

This sleight-of-hand is made passable by the *péquist* predilection for hyphenating sovereignty, or by adding a crucial plus sign, and by never leaving it as sovereignty full stop. The original preparatory movement leading to the foundation of the PQ was called the *Mouvement souveraineté-association* and the 1980 referendum asked Quebecers for a mandate to negotiate sovereignty-association. In 1995 Jacques Parizeau committed one of his many *faux-pas* by actually talking about sovereignty unadorned, but the combined forces of Mr. Bouchard and Mario Dumont soon shunted him onto a siding and went on to sell sovereignty *with* a new ‘partnership’.

Sovereignty equipped with hyphens or add-ons is obviously more reassuring and thus more saleable, but there is a crucial fallacy embedded in both the 1980 and 1995 questions. The government of Québec can ask its citizens if they wish to become sovereign, that is, to indicate a *will* to achieve sovereignty. The will to become sovereign is a unilateral expression and can be stated without reference to ROC. But

when that will is premised upon a particular response from ROC, indeed is *tied to* a particular political/economic arrangement with ROC (whether 1980 'association' or 1995 'partnership'), when electoral consent to sovereignty is only made possible by this imagined hyphen or link to ROC, we (both Quebecers and Canadians outside Québec) have a problem. The sovereignists have absolutely no business promising any specific kind of association or partnership or any other kind of relationship following independence, because they cannot deliver any such outcome. Any post-independence arrangement would be the result of negotiation. Negotiations take place between two or more parties, and as such, cannot be predicted or anticipated on the basis of the desires of one party without reference to the objectives, and, equally important, the bargaining strength of the other party or parties. Yet that is precisely the confidence trick twice played by the PQ on Québec voters. True, the deception was not quite as egregious in 1995, in that 'partnership' was more open-ended than the preposterous blueprint of 'association' offered in 1980, and the theoretical possibility was left on the table that such a partnership might not be achieved, leading to a unilateral declaration of independence. But in practice, Yes campaigners made it abundantly clear that Quebecers had every reason to expect Canadian consent and participation, on the PQ's terms. Lucien Bouchard's leading role in the campaign was announced, after all, by naming him the chief 'negotiator'; it was at this point that he began speaking of the Yes vote as a 'magic wand' that would fulfill the PQ's dream of a unilaterally defined 'partnership'.³

The errors embedded in this wishful thinking are almost too numerous to count. I would like to look briefly at a few. Negotiations, even in this peculiarly unilateral form, assume that the other party presents a united face, or at least is represented by an *interlocuteur valable*. In reality, there was no such unity in ROC. Despite Professor Robert Young's relatively optimistic scenarios,⁴ there would not even have been unanimity about whether a Yes vote (or how high a Yes vote) should trigger negotiations on secession, let alone how such negotiations should be conducted. Once that hurdle is passed, which can only be done by setting it aside for purposes of discussion, not resolving it, the even thornier question arises of *who* would negotiate and under what *authority*, and how any negotiated arrangements would be *ratified*. Many different interests would be contending on the Canadian side, in some cases with startlingly different

perceptions of *what* 'we' want. To complicate matters to the point of potential gridlock, any agreements with Québec could not possibly be separated from contending visions of how Canada-after-Québec should be constituted and how power should be distributed between national and provincial levels and between provinces. Now throw in the wild card of the Aboriginal peoples of Québec and their claims and link this to the inevitable spinoff of expectations and demands by Aboriginal peoples in ROC. Finally, add the dimension of international capital, and international speculators, who presumably will not be sitting still in respectful silence while Québec and Canada work out their problems. Quite a stew, but hardly a prescription for a quick and easy negotiation with an outcome so predictable and assured that it can be promised to Quebecers as an enticement to vote for sovereignty.

The difficulty for federalists lies in the speculative nature of any discussion of how ROC will react. Robert Young paints a generally optimistic picture, and tends to minimize the problems; Patrick Monahan,⁵ on the other hand, paints a deeply pessimistic picture, and tends to maximize the conceivable difficulties. Other scenarios range themselves between. The PQ has taken advantage of this uncertainty to largely define the outcome in the eyes of Quebecers on terms highly favourable to their project. English Canadians are passionless economic actors, they argue, they will act according to their bottom line. Present them with a business proposition that offers mutual advantage and they will quickly whip out their pens and sign on the dotted line. Uninterrupted trade and investment; the free movement of capital, goods, services and people across a new international boundary; common citizenship; the use of the Canadian dollar by an independent Québec; immediate Québec entry into NAFTA on identical terms to those given Canada; an amicable division of the debt and federal government assets; a swift and painless resolution of Québec Aboriginal status; the genial separation of the Canadian armed forces into two armed forces, etc.: *pas de problème*, everything is taken care of, everything is *normal*.

There are a number of questionable assumptions built into this line of reasoning. Are English Canadians as bereft of emotions, as lacking in the notorious fervour of nationalism, as this would imply? Are they so obviously oblivious to the effects of wounded self-esteem? Might they not lash out in anger, might they not be vindictive rather than accommodating? In their fury, might they not even

do things that would be economically irrational, that would hurt everyone, Quebecers and Canadians alike? Or, short of these possibilities, might they not react according to the maxim that revenge is a dish best eaten cold, and bargain coolly and hard for a result that would protect Canadian interests while forcing the new Québec state into an invidious position (for instance, by playing the Aboriginal card and insisting upon a partition of Québec territory)?

These are *possible* outcomes, but none have been given much, if any, credence among Quebecers, where the rosy scenarios of the sovereignists reign virtually unchallenged. I think there is a reason for this. Assumptions about English Canadians as passionless economic calculators go only so far. They do not explain why economic calculations would lead ROC to accord a breakaway Québec the degree of equality of status and bargaining leverage implied in the 'partnership' that it does not have while still a province in Canada representing less than a quarter of the population; or why Canada would be so deferential to Québec's claims, whether to territorial inviolability or to common citizenship or to Québec's interpretation of its share of the debt. There must be another, hidden, assumption at work.

Part of the answer to this puzzle may be glimpsed in the various surveys of Québec opinion over the past few years that reveal notorious confusion about what 'sovereignty' actually means. There are a substantial number of Quebecers who persist in believing that following 'sovereignty' they will continue to send representatives to the federal parliament and continue to receive federal government benefits. Of course, years of selling sovereignty with hyphens or add-ons have encouraged this muddle. But this represents a more serious misunderstanding than mere lack of clarity in defining political institutions. Political communities, whether unitary or federal, centralized or decentralized, require for their vitality and viability that citizens balance the recognition and protection of their rights with an acceptance of the mutual obligations implied in common citizenship. I accept that fellow citizens may hold claims on me, but at the same time I have reasonable expectations about their obligations to me. Mutual rights and obligations are a product of common membership in the community. If one party unilaterally breaks that bond, both the rights and obligations formerly entailed in that arrangement are dissolved. I do not hold equivalent obligations to people who stand outside my community (there are obligations that arise from common humanity, or membership in the

international community, but these are different, and less intense, than the obligations of common citizenship in the same national political community). Hence relations between Quebecers and Canadians from outside Québec will be radically transformed if Québec breaks the ties of political community.

As a Canadian, I recognize the validity of certain claims by Quebecers against me (say, the redistribution of my tax dollars as an Ontarian to Quebecers through equalization payments) because these are based upon a set of shared and reciprocal rights and obligations that come with common citizenship in the Canadian federation. I would, however, recognize no such claims against me on behalf of a Québec that had unilaterally broken the bonds of common citizenship. Following this break, Quebecers would be foreigners with whom relations would be regulated by treaties and other agreements, and by the usual customs and usages of relations between states on the international stage. In setting the terms of these relations, I would expect my government to bargain hard on behalf of my interests and the interests of my fellow citizens. I would hope that such negotiations would be conducted rationally and prudentially, and not so as to force agreements that were so invidious to the other party as to create the future conditions for unproductive backlash. I would also have to accept that some of my fellow citizens might not be exempt from motives of wounded pride and desire for retaliation, and that they too might have an influence on bargaining strategy. What I would not admit is that Quebecers could still claim the benefits of any residual sense of obligation on our part arising from former common citizenship. Yet this is, I think, precisely the hidden assumption that explains the sovereignists' scenarios of how such negotiations would turn out to their advantage. Even those sovereignists who really do want a break from Canada seem to have difficulty conceptualizing this break as clean and decisive. The transition to sovereignty will be risk-free because Canadians and Quebecers will continue to treat one another differently than they treat Germans or Mexicans. This is a questionable assumption on the part of sovereignists, but it has never been authoritatively questioned. Hence, the PQ's *vie en rose* is largely uncontested in Québec opinion.

The 'what, me worry?' strategy of the Chrétien Liberals (a strategy that collapsed like an evacuated balloon in the last desperate week of the referendum campaign) is not capable, or worthy, of resuscitation. Part of the problem is the generations-old discourse

of national unity that forbids as illegitimate any discussion of how ROC would or should respond to a vote for secession from Québec. This discourse had been accepted by all significant political actors in English Canada. The Prime Minister and his party obediently followed the dictates of the national unity gospel (after all, the Liberals had done more than anyone to shape and preach that gospel). Yet cracks had already begun to appear in the facade. It began with the appearance of Reform, as the second largest party outside Québec, with no commitment to national unity as defined by the older established parties. Reform insisted that a simple majority, even a 50%-plus-one vote would suffice to trigger negotiations for Québec's departure, while the Liberals waffled and refused any clear commitment.⁶ Then under pressure from alarming polls out of Québec, some of the premiers started talking about how they would react in the event of a Yes vote and what kind of negotiating positions might be expected. The problem with these statements, however, lay in their lateness and in their fragmented and incoherent message. The PQ simply heard what it wanted to hear and dismissed what it did not want to hear. Apparently, a large section of francophone opinion was carried along by this selective interpretation.

Selective hearing was also apparent in the sour and rather mean-spirited reaction of the sovereignists to the appearance in Montreal of tens of thousands of Canadians from outside Québec to bring the message to Quebecers that ROC wanted them to remain. To be sure, the sentimentality-without-content of the "My Canada Includes Québec" genre is easy to ridicule. There was nevertheless a remarkable quality to this movement, a spontaneity that is not diminished by the fact that airlines offered lowered fares. English Canadians had already shown during Meech and Charlottetown that they were fed up with the monopolization of constitutional questions by the political elites. Now many saw their country slipping away, and refused to let it happen without finding a way to make their voices heard. This was a genuine grass-roots expression of sentiment; the fact that this expression was warm rather than hostile toward Québec was a message of note to Quebecers about to cast their ballots. The sovereignist response — to diminish the impact by ruthlessly downsizing the numbers involved; to carp about "where were they during Meech" (thus ignoring all those outside Québec who had supported Meech); to charge that the rallies were in violation of Québec's law on referendum spending; to denounce 'outsiders' for interfering in an internal Québec matter — was not

only small-minded and petulant, but paradoxically revealing of a sovereignist double standard. They expect continued obligations by other Canadians toward them (as implied in the 'new partnership'), while at the same time insisting that ROC has no rights in relation to the making of a decision that will profoundly affect the whole of Canada. The decision Quebecers made on October 30, and the decision they will make in the almost inevitable event of a third referendum, is not just a decision affecting them alone. The economic consequences alone — let alone the psychic costs — of a Yes vote would have been very significant for all Canadians. The sovereignists cannot hold expectations of accommodative responses from ROC while denying Canadians outside Québec any legitimate role in the decision-making process.

This leads me to a policy prescription, preferably for immediate implementation. ROC should set up its own deliberative and consultative mechanism to produce clear and authoritative guidelines for its response to a future Yes vote and the acceptable terms of separation. The Reform Party has already shown the way with its terms, but this should not be left to the realm of partisan politics. Mr. Chrétien has already shown an admirable willingness to break with his own past pronouncements and move toward federal recognition of Québec's distinct society, a virtual constitutional veto for Québec, and the removal of at least manpower training to the provinces. But the way in which this is being done (holding strictly to moves within the power of the Liberal majority in Ottawa, and without consultation even with the premiers) has had negative political consequences, especially in the West, as well as a tepid response from the targeted group in Québec, the 'soft' nationalists. Moreover, residual national unity dogma continues to cripple Ottawa's responses: the bizarre suggestion from Mr. Chrétien that he could use the federal power of disallowance to block another referendum represents about as foolish and politically inept an approach as could be imagined. Paradoxically, however, the Prime Minister could take the initiative away from Reform by handing over responsibility to a democratic mechanism that would be more legitimate than any party or combination of parties.

The idea of a *constituent assembly* was raised in the run up to Charlottetown, and dismissed by the political elites. These same elites subsequently failed miserably to sell *their* package to Canadians. Perhaps the concept should be considered again. Or, if this presents insuperable practical difficulties, or is too

distasteful to sitting politicians, there is the alternative of a *commission* drawn up to be broadly representative of all regions and leading elements of civil society that would hold extensive public consultations, commission a wide range of studies from different perspectives, and then deliberate (preferably in public) to produce terms of separation acceptable to ROC. There are precedents for this form: the Bélanger-Campeau Commission and the regional and sectoral commissions called by the PQ in preparation for the sovereignty referendum. These were Québec mechanisms that sought the views of Quebecers only. Whatever precise device might be used in this case, it should be made clear that it is an attempt to find the authentic, democratic voice of Canada outside Québec. Perhaps provision should be made for popular ratification of the results, preferably prior to another sovereignty referendum in Québec.

A process like this would have a number of advantages. Quebecers would have before them an authoritative statement of just what they could expect if they do vote Yes. If the result were not to the PQ's taste, they could of course try to brush off this statement and claim that their own version of what English Canada thinks is more realistic. But they would have diminished credibility. Just as important, ROC would have given serious consideration to how they ought to respond and would be ready in the event to behave in a more coherent and concerted fashion than would have been likely in 1995 if the result had gone the other way. If there is a future Yes vote, a prior process such as I have described would presumably contribute to a more rational, orderly and far less dangerous transition. It would also lessen the degree of uncertainty and thus alleviate some (but certainly not all) of the potentially disastrous economic ramifications. Thirdly, such an assembly or commission would, *ipso facto*, not merely be formulating the terms of response to Québec, but would be laying valuable groundwork for how Canada-without-Québec would set about constituting itself. Perhaps the most serious charge that can be laid against the national unity gospel is the way that it consistently disabled English Canada from thinking about itself.⁷ As the last in a long line of prime ministers from Québec, all of whom have preached the national unity gospel both inside and outside their own province, perhaps it is time for Mr. Chrétien to recognize the need for Canadians outside Québec to define their own aspirations, in the face of the consistently stated preference of Quebecers to do the same thing, whether inside or outside Confederation.

There are objections to this course of action. National unity dogmatists deny legitimacy to any such exercise undertaken by Canadians without Quebecers. It is increasingly hard to sustain this objection in the face of the behaviour of Quebecers who have now held two Québec-only referenda (and even Charlottetown was a *separate* referendum in Québec), and who send a majority bloc of secessionist MPs to the federal parliament. A slightly more plausible argument is that such a process would be a self-fulfilling prophecy, that to discuss how secession could come about is to hasten that very eventuality, to make the unthinkable thinkable, thus doable. In response to this, one might note that the "hear no evil, see no evil" approach has not exactly slowed the progress of sovereignty. Indeed, one might argue the reverse: not discussing the response of ROC has left the field open to the partisan promises of the PQ and thus contributed to the risk-free mythology so prevalent in francophone Québec. Some of the leading voices who have in the past refused to countenance any discussion of a possible separation are now reconsidering the wisdom of their previous position.⁸

Perhaps the most telling objection is that if such a process were launched, it would quickly become apparent that ROC could not think in one mind and approach a common position. This is certainly a possibility. Another danger that must be faced arises out of the democratic deficit that plagued the Meech and Charlottetown processes and the deep populist distrust towards elites that characterizes English-Canadian opinion. Even a process that stands outside normal parliamentary channels can be infected by this distrust; however many honest attempts are made to widen the consultative process, there is no guarantee that the results will receive popular consent. The answer to these objections is simply that it would be better to get this dirty laundry on display before rather than after a Yes vote. In the latter case, the dangers would be intensified by disorder and uncertainty. If ROC is unable to formulate a common position in advance, it is unlikely that it will do so after the event. It is preferable that this be known.

We need not, however, take the pessimistic prognosis as given; the process has never been tried and the result cannot be confidently predicted. If it is tried, and fails, we will know the worst: that Canada-without-Québec is unlikely to hang together and that we can start thinking about alternatives. If it is tried, and works, it is a win-win situation: if it deters Québec, on rational grounds, from choosing sover-

eignty, the federation will not only have survived, it will have been strengthened; if Québec still chooses to leave, the process will be more orderly, predictable, and less likely to slip over into the chaos and violence that is all too familiar from other cases of secession.

Dotting the 'i's and crossing the 't's of how the country can be broken up is not a happy scenario. It is, however, better than desperately trying to cope with the rush of events after the dam has burst. It may even prevent the dam from bursting. □

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Endnotes

1. Prior to the campaign, I argued the scenario for a serene federal 'Plan A', followed by a panic-induced 'Plan B': Reg Whitaker, 'The National Unity Portfolio' in Susan D. Phillips, ed., *How Ottawa Spends: 1995-96* (Ottawa: Carleton University Press, 1995).
2. Alan Freeman, "Million Jobs in Peril, Martin Warns" *Globe and Mail* (18 October 1995) A1.
3. Tu Thanh Ha, "Yes No Picnic, Chrétien Warns" *Globe and Mail* (19 October 1995) A1.
4. Robert Young, *The Secession of Quebec and the Future of Canada* (Montreal: McGill-Queen's University Press, 1995).
5. Patrick Monahan, *Cooler Heads Shall Prevail: Assessing the Costs and Consequences of Quebec Separation* (Toronto: C.D. Howe Institute, 1995).
6. Tu Thanh Ha, "PM May Not Co-operate If It's Yes" *Globe and Mail* (19 September 1995).
7. This is a point I argued at greater length in an article that appeared in the aftermath of Meech Lake: 'With or without Quebec' in J.L. Granatstein and Kenneth McNaught, eds., *"English Canada" Speaks Out* (Toronto: Doubleday, 1991) 17-29. It is also the theme of Philip Resnick's book, *Thinking English Canada* (Toronto: Stoddard 1994).
8. The best thought-out proposal so far for a process along the lines I am suggesting has come from Jeff Rose, the former deputy minister of intergovernmental affairs in the Ontario NDP government (see 'Beginning to think about the next referendum' Occasional Paper, Faculty of Law, University of Toronto, Nov. 21 1995, and a shorter published version in *Canada Watch* 4:2 (Nov/Dec. 1995) 17-19). Rose's former boss, Bob Rae, had adamantly refused to consider the question while premier, but in a recent article he argues: "We must be as well-prepared as Mr. Bouchard for the next referendum. That means a

much firmer position on what our common bargaining position would be in the event of a Yes vote. We cannot continue with the pretense that a Yes can't happen; it very nearly did. Quebeckers must go into the voting booth with a clear sense of what the consequences of their vote will be." (Bob Rae, 'The unfinished business of the Quebec Referendum' *Globe and Mail* (12 December 1995) A17). See also Jeffrey Simpson, 'Federalists need a Plan B to show to secessionists in the future' *Globe and Mail* (5 December 1995) A20.

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CANADA AS A SOCIAL EXPERIMENT

Paul Bernard

This poll [Maclean's/CBC 1995 year end] has forced me to conclude that there is no way we will be able to maintain those attributes of Canada that we hold most dear short of accepting that some form of sovereignty-association is inevitable. ... Only something as radical in design or as fundamental in scope, I believe, will prevent us from sleepwalking into a future even less acceptable than the rather pathetic one Canadians are anticipating today.

Allan Gregg

Canadian society prides itself on being distinct from the United States, even though some of our claims in this respect have to be cut down to size when our differences are examined on a broader comparative scale (see, for instance, Clement and Myles, 1994). Still, Canada has been a social experiment of sorts in North America, with its relatively extensive State intervention and social security net, as well as with its own constitutional arrangements, that is, with its own style of trying to accommodate the constituent parts of the federation. This social experiment came within 30,000 votes of being interrupted, or at least profoundly altered, on October 30, 1995, the day of Québec's referendum on sovereignty/partnership. I will briefly review here: 1) what has happened, 2) what has not (yet) happened in the wake of that crisis, and 3) what could happen in the future. In this last part, I will successively examine the dark side of things, a tough geo-political avenue that could very well lead to violence, and the brighter side of things, a renewed, admittedly somewhat utopian, social experiment that could further the development and well being of Canada and Québec.

WHAT HAS HAPPENED

There is hardly any question about the numbers and their democratic meaning. Ninety-four per cent of people voted, including the supposedly politically disinterested younger generation. Fraud was negligible, thanks to a large extent to Québec's tough electoral law (one of the first accomplishments of René Lévesque's government in 1976) and a highly respected Director General of elections. A few hotheads suggested that only francophones should be allowed to vote, but they were rapidly called to order by responsible political leaders. The very largely prevalent opinion was that a democratic verdict could only be reached if all citizens could express their opinion and vote freely; as a result, nobody even pretends to have felt threatened in the exercise of these rights. Finally, surveys accurately reflected opinion, and no manipulation has even been hinted at.

Forty-nine point four per cent of the nearly five million voters answered Yes. Where do these votes come from, and what do they mean for the future? The answer is that the trend is deep, and will probably lead to a clear win for the sovereignists in the next referendum, a few short years down the road.

It must first be pointed out that the ratio of support was quite formidable among francophones (more than 6 to 4); they were just about the only ones to vote Yes, but they moved very far away from their half-and-half split in the referendum of 1980.

Second, electoral demography plays itself out in the direction of an increased support for sovereignty: *ceteris paribus*, a clear majority in favor of this option is just 3 or 4 years away, according to political scientist Richard Nadeau, and demographers Norbert Robitaille and Christine Noël (*La Presse*, 25

November 1995). They have established that with respect to this question, cohort effects largely dominate age effects: as cohorts come of age, they are socialized into the ideas of the period, and they keep these ideas as they age; since older cohorts are opposed to sovereignty, and younger ones are more favorable, the passing of time means decreasing numbers of opponents and increasing numbers of supporters.

Finally, one may ask whether the result reflects to a significant extent the personal popularity of Lucien Bouchard, a man whose charisma is bound to erode as he becomes prime minister of Québec and has to make tough decisions. According to political scientist Pierre Serre (*Le Devoir*, 3 January 1996), survey data do not point in that direction: the increase in support for the Yes side started about 50 days before voting day, and the upward trend was very regular; Bouchard's nomination as chief negotiator, 23 days before the vote, produced only a limited and very temporary push upwards. In other words, one must instead turn to factors that consistently moved opinion in this direction, that is, to the unfolding of the campaign itself (including, of course, Bouchard's contribution to it).

Given the patriation episode in 1982, and the failure of Meech and Charlottetown, federalists could not promise anything credible in the way of reform; as a consequence, they focused exclusively on the risks involved in separation. This proved counter-productive: threats and scorn acted as political boomerangs, they increased the mobilization around sovereignty. Almost no space at all was left for those who would have liked to articulate a generous revision of federalism.

WHAT HAS NOT HAPPENED

One would expect as close a call as this referendum to generate tremendous agitation in the Anglo-Canadian body politic. There could have been serious demands for the resignation of Prime Minister Chrétien, a man who has played a major role in shaping Canada's present constitutional arrangements, and who prided himself on being able to control the situation in Québec. Alternatively, the Prime Minister himself could have tried to use this threatening situation, in a Churchillian show of leadership, to convince English-speaking Canadians that times were ripe for a significant compromise (as suggested, for

instance, by University of Regina sociologist John Conway in *Debts to Pay*, a book that is unfortunately much more popular in its French translation of 1995 than its original 1992 edition). But no such compromise has been put forward.

A vote in the House of Commons has recognized the sociological fact that Québec is a distinct society, and even this platitude has had no echo in provincial legislatures. Any implication of this resolution for the interpretation of the Constitution in the future was carefully avoided. It was a case of saying it without saying it.

Another vote produced an oxymoron, the legally sanctioned lending of the federal constitutional veto power. Up to this point, there seemed to have been in Canada, as in most countries, a two-tiered system of laws: fundamental laws were mainstays, that is, changing them required a relatively broad consensus; other laws were more readily adjusted to the conjuncture and to the will of the government, provided they were compatible with fundamental laws. Veto lending sits on the fence and defies clarity. Only two consequences are sure to come out of it: first, it will further contribute to keeping Canada's constitutional industry going; and second, this new set of provincial/regional veto powers will make the job of amending our Constitution even harder than before, something we definitely do not need at the present juncture. It is a case of doing it and overdoing it.

While these two votes hardly produced a ripple in Québec's public opinion, a third development has succeeded in raising suspicion and even opposition. Against the general backdrop of a drastically reduced contribution of the federal government to programs it has initiated and it wants to keep regulating, the recently proposed reform of (un)employment programs fails to meet the unanimous demands of employers, unions, NGOs, and politicians that full responsibility for manpower training be turned over to the Québec government. While discussions are just starting between the two governments, it seems that Ottawa wants to keep open the possibility of distributing funds directly (and with visibility) to local training agencies (school boards, municipalities, enterprises) and even to individuals, above the head of the Québec government and its *Société québécoise de développement de la main-d'oeuvre*. It is a case of decentralizing while recentralizing.

These developments echo (and indeed reinforce, it should be pointed out) the nasty mood of Anglo-

Canadian public opinion towards Québec. An Angus Reid/Southam News survey (*The Gazette*, 28 December 1995) last December found that the willingness to make concessions dropped very significantly from the levels attained two months earlier. Quite a few people even call for the partition of Québec's territory in case of a sovereignist victory.

WHAT COULD HAPPEN: THE DARK SIDE

With variants, this argument goes as follows: decentralization, that is, a massive devolution of powers to all provinces, means the end of Canadian identity; on the other hand, special powers for Québec are unacceptable to other provinces. As a consequence, the *status quo* has to be made more desirable to Québec than available alternatives. In order to achieve this goal, the federal government should announce its intention to hold a referendum on separation throughout Canada, with separate tallies for provinces, as well as for the different regions of Québec, especially Montréal, the North of Québec, and the National Capital Region; the latter regions would only join a possibly sovereignty-leaning Rest of Québec if local majorities so decided. The cut-to-size Québec would also have to provide a land bridge between the two parts of Canadian territory, and it could then be granted recognition and access to trade circuits.

This argument is fundamentally flawed on both formal and substantive grounds. It is *formally flawed* because it deals with the notion of provincial rights strictly on the basis of political expediency: they are alternatively sacred or negligible according to the phase of the discussion (and of the political process) one is involved in.

When, on the one hand, Québec is to be denied any special status or power with respect to political questions it deems necessary to its continued existence as a distinct society (and this goes well beyond preserving language), the rights of all provinces to be equal become sacred. This late-coming principle to our constitution seems to be taken for granted without the least bit of discussion, except for vague references to the American tradition (especially the equal representation of the states in the Senate there).

Indeed, recent discussions of provincial rights seem to confuse two very different things: the power

that the populations of the various provinces carry in making decisions for all Canadians (which is currently proportional to their size), and the power that the population of each province decides to exercise through its provincial, as opposed to the federal, government. If Québec had a special status that allowed it to opt out of certain federal programs (with fiscal compensation), this would not grant it unwarranted power over the lives of Canadians in other provinces, provided of course that its federal representatives abstain from participating in decisions about these programs (this is precisely what Gordon Laxer proposed in *Le Devoir*, 4 January 1992; and it is the gist of Robert Bourassa's superstructure idea).

But when, on the other hand, a new referendum is envisaged in Québec, provincial rights no longer mean anything: the territory can arbitrarily be cut into subregions where votes would be counted separately, and which would go their separate ways according to the tally. This "geography of convenience" reflects power relationships, not a deep sense of how best to accommodate diversity in a given territory. It reminds one of children's games: "What is mine is mine to keep, and what is yours is yours only if I say you can keep it."

To realize the extent to which this proposal is based on force, rather than reason, one only has to perform the following thought experiment: what about having the vote tallied separately in Francophone communities in the Northeast of Ontario and in the North of New Brunswick (not even counting smaller surviving groups in other provinces)? If they wanted to join an independent Québec, would they be allowed to split from their respective provinces? Or would the territory of Ontario, New Brunswick, and other provinces be considered inalienable? If the response to these questions is not symmetric to the proposed dismemberment of Québec, then the proposal can only stand on the grounds of either force or "political realism" (assuming the second does not reduce to the first).

On this ground of political realism, let me raise two questions. First, how realistic is it to carve Montréal away from the rest of Québec. As economically depressed as it has become over the years, Montréal remains the metropolis of Québec, the only one we have got really. The rest of Québec would be very different indeed from what it is now, a rural and small city territory, probably not viable economically, as one can see from the number of jobs in Québec which are either located in Montreal or dependent on

the existence of the metropolis. The "generous" offer to recognize an independent Québec deprived of Montréal should be taken for what it is: the continuation of the "chicken game" that has taken the place of productive constitutional discussions in Canada over the last three decades.

Second, one should raise the issue of how Montréal would be defined for the purposes of the next referendum: is it the island itself (where the No side would probably carry), or the whole metropolitan region (where it would probably not). Would a geography of convenience be used again? How could any partition scheme gain any legitimacy in international opinion? While the latter obviously reflects to a large extent sheer recognition of established power relationships, it also tends to invoke arguments that have to do with the political and cultural integrity of territories in history, a dimension that is totally ignored in the argument.

This brings to mind the second amputation of the Québec territory contemplated, that of the North. This is a much more difficult issue, because the history and cultural traditions of Aboriginal peoples enter the picture, and they do not provide an unequivocal answer. I would of course rule out a separate tally of only Aboriginal votes, because territory, not ancestry, is of the essence (imagine that the principle of ancestry be applied throughout Québec: this is not the way to a peaceful and progressive resolution of ethnic conflicts, here or anywhere). But we can probably assume that a majority of all inhabitants of the territory would not want to go along with Québec's independence. Good news for Canada? Not necessarily. The occasion may bring to the attention of these populations other avenues than simply remaining part of Canada: after all, if they acquire the right, backed by Canada, of dissociating their territory from that of independent Québec, why would they stop there, rather than claim the same right with respect to Canada? And one can easily imagine groups of Aboriginal people in other parts of Canada thinking (and acting) along similar lines.

They may indeed have a case, sustained to a large extent by international opinion, but it may turn into a case against both Québec and what will be left of Canada. Any political leader in Canada should be wary of that approach! Not that Aboriginal people should not be given some form of control over the territories where they live and an opportunity to develop in ways that they see fit. But redressing the injustices we committed towards them is going to

prove an extremely difficult task, since they will literally have to reinvent their own society with our cooperation, torn as they are between a tradition that is no longer sustainable and modernity, in which they have not found an hospitable place. The least we can do is not use them as a political football, nor make the situation intractable for both Québec and Canada.

The last point brings me very close to the *substantive grounds* with respect to which I also think such tough propositions are flawed. The basic question around which my argument revolves is very simple: what is it that we want to achieve with constitutional arrangements, whatever they end up being? Contrary to a number of naïve observers, who claim that we should leave the constitutional debate behind, and move to more pressing social, economic, and cultural problems, I do believe that a constitution is something important: it is not only a symbol behind which people can rally (though that may play a role in political mobilization); it is also, and above all, the organizational chart of our polity, and, to a significant extent, of our society, given the central role the State plays and will continue to play in our collective existence. Constitutions say where and how people (ultimately, at least) think various collective functions are better performed (in various levels of government, in parliaments, in the courts, in administrative tribunals, in multipartite bodies, or in civil society). Constitutions both reflect and influence how power is exercised and public decisions are made. They have profound implications in all of our lives — they simply cannot be made into abstractions.

Now, what would tough proposals demonstrate, and to where would they lead us? Suppose it was demonstrated, at the end of the process, that all provinces indeed have equal power, that Québec never can be distinct in any meaningful political sense, that it cannot become independent under reasonable conditions. So what? Where does that exercise in self-assertion leave Canada? Are we going to be a more united nation, pulling in the same direction? Will we stand better chances of pursuing our existence as a society distinct from our immensely powerful and influential Southern neighbour? Will we be in a better position to solve our fiscal crisis, to preserve and improve our social programs, to create jobs and to redefine employment, to sustain our culture, to contribute to world peace and development?

WHAT COULD HAPPEN: THE BRIGHT SIDE

Of course, I know that constitutions do not, by their own virtue, solve these problems, which must be addressed through specific policies. And yet, they are not indifferent to such prospects. At the very least, constitutions can get in the way; at their best, they can provide us with adequate forums to confront issues in inventive and productive ways. This is precisely what our current constitution does not do, in very many respects.

First, it has itself become an object of discord, rather than of consensus, especially since it was patriated against Québec's specific and nearly unanimous opposition. Second, its amendment formula was made extremely rigid (as the Meech saga demonstrated), partly for fear that Québec might have too easy a task in getting accommodation from the rest of the country. And as I mentioned earlier, the situation has worsened with the recent law distributing veto powers to provinces as if they were candies.

Third, the constitution does not in reality determine the distribution of responsibilities between levels of government: the federal government has been using its spending power to enter provincial jurisdictions, and, as I mentioned, it keeps threatening to use whatever is left of it to deal directly with local government and groups, over the heads of provincial governments — Québec's in particular. Fourth, the Supreme Court, as the constitutional tribunal of the country, does not have an appropriate level of independence with respect to the federal government; many constitutional experts in Québec argue that it has helped further the latter's claim that everything is ultimately related to everything, so that no barriers should stand in the way of "national" priorities.

But this is just complaining about the current state of affairs, when a solution to our problems must be found. Playing the chicken game provides no benefits to anybody, and it actually threatens to destroy any further free cooperation among us. Let us ask ourselves, instead, what it is that we want as a society (or, rather, as a set of interspersed societies) and how we are to achieve it? Turning to the future we might build seems more promising than fixing our sight exclusively on how we are going to share and rule over what we have already got (as well as our national debt). It is admittedly a utopian perspective, but it cannot possibly be worse than the exasperation

we are currently going through, or the sombre and probably violent future on the dark side.

What is key to this orientation towards the future is the question of how we want to reconcile the two most fundamental modern social values, freedom and equality. Every democratic nation has worked towards and still pursues some accommodation in this respect; and this accommodation involves cultural as well as political and economic dimensions. The relationship between these values of freedom and equality is genuinely dialectical, that is, the two constitute a totality in contradiction; as a consequence, any accommodation is but one historical and provisional way of dealing with the issue. Some of these accommodations are quite satisfactory, others less so, according to one's own particular point of view. But the most important facts are: 1) that the dynamics of democratic nations allow for debate and change concerning the issue; and 2) that the various actors are bound by the legal rules that have been elaborated as a result of this debate.

It is quite obvious that our societies are now at a cross-roads in this respect. The older model of running an economy and a state have come to a crisis in most, if not all, advanced capitalist societies. The precarious equilibrium between freedom and equality has been broken. Inequality spreads rapidly and threatens the ability to freely and meaningfully participate in cultural, political and economic life (Muller, 1995). States are increasingly impotent when faced with the internationalization of capital and economic activity. Freedom borders on anomie, as our environment and our social fabric are put under heavy stress by technological and economic progress. For instance the recent development of a Genuine Progress Indicator (GPI) by American economists Cobb, Halstead, and Rowe (1995) reveals that while a higher Gross Domestic Product (GDP) has meant a genuine increase in quality of life during the fifties and the sixties, the trend has reversed from the seventies onward: the GDP keeps going up, but the quality of our social and physical environment, as indexed by the GPI, has declined by almost one half.

Canada and its constituent societies obviously are undergoing the same crisis. On top of that, culture is also gradually becoming international (not an altogether bad thing, mind you), with a strong component from the US, a fact that further threatens the Canadian identity or identities. These two crises constitute the challenge we have to face if we are to pursue a distinct, and rewarding existence as collectives. We

should discard our fetishistic attachment to the arbitrary rule according to which only what can turn a profit is worth undertaking; we should invent new modes of collective mobilization, and enlarge the space for relationships of mutual support. To this end, we should invent and amend constitutions and charters so as to produce new and interesting resolutions of the problem of freedom and equality, of the question of our identity. Even the president of one of Canada's largest and most profitable banks, Matthew Barrett, agrees that we should face the challenge of rising inequality, and that this requires profoundly changing the way we govern ourselves.

We should go beyond specifying which powers should be exercised by whom, and according to which procedures. We should even go beyond the most usual and fundamental clauses of charters of rights, which focus on negative rights, that is, essentially the rights of individuals to exercise their freedom without interference. We should go to positive rights, that is, to the minimal norms of equality that are required for people to fully participate in society: minimal standards of living (income, housing, etc.), access to education, minimal norms with respect to work, for instance with respect to pay, working conditions, free time (in spite of, in fact, especially when jobs are scarce), norms with respect to the environment, and so on. These positive rights involve more than letting people be, as important as this may be in itself. They require the mobilization of groups and communities, that is, they have to involve matching responsibilities. Such obligations might of course enter in conflict with freedom, and a resolution has to be found, and challenged, and found again in each society as it evolves.

This may seem very far fetched. But it is not, for at least two reasons. First, such norms and responsibilities have timidly been introduced into some charters of rights (for instance, Québec's in some respects), into bits and pieces of legislation about social assistance, minimal norms of health and safety at work, etc., and even in such unlikely places as international trade agreements. Of course, these clauses often remain rhetorical, especially when no powerful governing body and set of social forces are engaged in defending them, and especially when the ideological tide has imposed profitability as the ultimate arbiter of everything. But they can be fought about and mobilized around, especially if, and this is my second point, they appear as the key to solving our socio-economic problems.

An increasing proportion of our adult population has become redundant in the labour market as it is now shaped, and this is only likely to worsen with time (Hobsbawm, 1994). With the internationalization and mechanization of production, the jobs are just not there, and they will not be. What is to be done with the excluded? The choices are not many (Rosanvallon, 1995). Either they are controlled through repression, an avenue that seems wide open in the United States; or we buy peace with handouts, a costly and unsustainable solution (Myles, 1995), which is already wrecking havoc in the finances of our governments and threatening the very sovereignty of Canada (Chossudovski, 1995); or, again, we reinsert the excluded into productive activity (Alain Noël insisted on the necessity for the State to fight, rather than help bring about, the dualization of work and of society; see his brief to the Committee on Human Resources Development of the House of Commons, excerpted in *Le Devoir*, 6 April 1994).

This requires a dual approach: there is no point in motivating and training people (labour supply) for jobs (labour demand) that are nonexistent; as a consequence, we must take into account both sides. We must *package into jobs* work that is necessary but not much performed (cleaning and improving the environment, organizing non-commercial leisure activities, etc.), and work that is indeed performed, but often under inadequate conditions (raising children, helping them get an education, taking care of sick and elderly people, offering support to lonely people, repairing homes, etc.). In some respects, this is the contemporary equivalent to the mass production industrial jobs that sustained our economy in the three (so-called "glorious") decades that followed World War II: the demand is massive, the manpower required already has the skills or can be trained relatively easily. The key difference is that a substantial part of that work is not profitable, which does not mean that it is uneconomic, unmanageable in a rational way.

The State obviously has to play a key role here, in conjunction and in concert with capital, labor and NGOs. It can support job sharing. It can push some more of that work above the threshold of profitability through fiscal measures. It can delegate some more of it to the voluntary sector. And it can better organize the part of it that it undertakes itself. This obviously requires some consolidation of its legitimacy: it must become less of an imposition, and more of a democratic organizer of the pursuit of the collective good. People do accept to share time and income,

and they might go further in this direction if they become persuaded that benefits will come back to them in the form of improved quality of life, and that everybody will share the burden equitably. For instance, the recent Angus Reid/Southam News survey cited above revealed that a large majority of Canadians give priority to job creation and the preservation of health, education and social programs over deficit reduction and the lowering of taxes; not unexpectedly, compassion is particularly high among the poor and the middle classes, lower among those who have larger incomes.

I should also point out that this work enlargement scheme is likely to strengthen our competitive position in the world economy of profitable work. The improvement in the quality of life will make for a more productive population, healthier and better educated; the congeniality of the society, its dispositions towards concerted action, will attract enterprises. Moreover, an increasing share of the profitable work depends on intellectual, managerial and cultural creativity, rather than on the availability of resources and physical capital (Economic Council of Canada, 1990); running this vast social experiment would certainly produce gains in this respect.

TRANSFORMING THE CONSTITUTIONAL DEBATE

One may ask, at this point, what the relationship is between this ambitious perspective on our future and current constitutional debate? That the question can be asked indicates how much we have let this debate move away from imaginative thinking. In reality, fundamental laws should help us in many ways along the path to such an original social experiment. They should state the broad objectives we want to pursue in terms of human rights, including positive ones. They should also provide the organizational chart of our polity, a chart that should be adequate to the pursuit of these objectives.

It should prescribe which level of government should exercise power over different domains of action. The general principle should be (see Cousineau, 1993) that we delegate to common institutions (of a partnership, of a superstructure, or of a genuinely confederal Canadian State) the powers required for the definition of the common objectives, as well as for equalization payments among regions. Ways in which these objectives would be pursued

would be defined and applied as closely as possible to the field, that is, in what are currently called provinces.

The constitution should also define structures for consultation and concerted action among social partners: government, capital, labor, and possibly NGOs. Moreover, since the major threat to such a social experiment would be that capital acts on a world scale, while States and labour act mainly at the national level, we should consider inscribing in our fundamental laws our will to actively participate in and promote international cooperation, both in international organizations and in regional alliances that are contemplating the elaboration of a social charter, such as the European Community.

Why would political actors want to have anything to do with such a plan? In Québec, sovereignists have already come up with the idea of a partnership. Much as they want independence, they realize there are major difficulties ahead if the rest of Canada is hostile. It goes beyond avoiding reprisals; it means pursuing, under different political arrangements, a cooperation which has produced some very worthwhile achievements economically, but also politically and culturally, and which has contributed to buttressing our capacity to remain distinct from our American neighbors. In the absence of a partnership, each province or region might go its own way socially and even politically. Socially, we might witness the dissolution of our compassionate stance, as regions would try to undercut one another fiscally in a bid to attract enterprises. Politically, provinces might drift towards the United States. None of this is particularly interesting from the point of view of an independent Québec.

Canada itself might prove almost ungovernable if we do not come up with a renewal of our social experiment. Most of the institutions that defined our identity are profoundly threatened in the current fiscal and ideological context, be they social (health and social programs), cultural (CBC/Radio Canada, the National Film Board, etc.) or even military (our participation in peace missions). We need to remobilize people around them, and this requires more than a little tinkering here and there, as I have shown above. Moreover, the political scene itself is a minefield. Never in the last decades have we had such a division of parties in Parliament along converging regional and ideological lines. And careful extrapolations by Parliamentary correspondent Chantal Hébert (*La Presse*, 13 January 1996) indicate

an even more divided Commons after the next federal election: the Bloc québécois would keep probably about 50 seats, the Conservatives and the NDP would remain marginal, Liberals and Reform would vie for the leadership of a minority government.

In any form of partnership for the future, we definitely need something new — this time it is not going to be something blue, as Canada is living on borrowed time. □

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LIBERALISM, NATIONALISM, PLURALISM: POLITICAL REPRESENTATION AND NATION-BUILDING IN CANADA BEFORE AND AFTER THE QUÉBEC REFERENDUM

Linda Cardinal
Claude Couture

INTRODUCTION

For thirty years Canadian politics were heavily influenced by the dynamics of national and social movements, thus forcing a greater recognition of Canada's diversity (understood in the sense of a social and cultural pluralism). It is disturbing to witness the rise of groups whose ultimate objective is to give the country a "unity" that they feel has been lost. Some examples are the Reform Party on the federal scene, the Association for the Preservation of English in Canada in Ontario, the Confederation of Regions Party in New Brunswick (although the latter's popularity seems to be waning), and, more recently, the Canada First group. Examples of this neo-conservative/neo-liberal trend also can be found in traditional political groups at both the federal and provincial levels of government, and even include some New Democrat provincial governments, notably in British Columbia and Saskatchewan. Far from weakening this trend, the results of the October 1995 referendum in Québec may in fact reinforce it.

One theme of this movement is the ostensible need to homogenize and to belong to a practically unidimensional Canadian nation that is often defined in terms of an abstract conception of the individual without any reference to society as a whole. This leads to the following paradox: insofar as abstract, egalitarian and individualistic discourse conceals a conservative Anglo-Canadian nationalism, it reinforces not the homogenization of society, but rather the trend toward fragmentation. In other words, Canadian liberal discourse based on a simplistic and reductionist conception of the individual creates, *de facto*, a great deal of tension between groups, and even between different nationalisms. This type of liberalism actually serves to engender, through a negative process, a whole string of nationalisms of all kinds and dimensions, be they regional separatist

tendencies like those in western Canada or the Maritimes, major national issues like those of Québec or the First Nations, or the greater tensions present within social movements, the women's movement in particular. A simplistic liberalism is therefore perfectly compatible with collectivism and nationalism, insofar as the first sustains the other two *a contrario*. That is what we will endeavour to show in this paper.

Our approach is based on the essential notion that reductionist liberalism is a key component of Anglo-American nationalism. We define Anglo-American nationalism as the deep-seated conviction that Anglo-American culture was the first, if not the only one, to reach the higher plane of a civilization based on individual rights, other cultures being defined as backwards because of their "feudal" or "communitarian" nature. If individual freedom (in the sense of an ability to make choices in a given social context) is viewed as a universal reality, then this statement of Anglo-American liberalism is eminently nationalistic, in the negative sense that it diminishes the universal scope of the principle of freedom. This is the fundamental ambiguity of Anglo-American nationalistic liberalism that some authors and politicians, including Pierre Elliott Trudeau, have reproduced without question. More recent reductionist liberalism also emphatically denies that a truly universal application of the principles of freedom involves the recognition of differences in social contexts.

We will first attempt to illustrate the many dimensions of this context of reaction to diversity, particularly the fundamental ambiguity of the *Canadian Charter of Rights and Freedoms*, which contains this conflicting yet complementary relationship between an abstract conception of individualism and the concrete demands of groups. In the second part of this paper, we examine in more detail the mechan-

isms of the relationship between reductionist liberalism and narrow nationalism. In the third part, we examine the possibility of a broader conception of liberalism, one that would allow a harmonious integration of the demands of groups of individuals, from both a community and a national perspective, without sacrificing the principle of the universality of rights.

CONTEXT

The context that gave rise to this reactionary movement in Canada against pluralism had a number of different origins: economic, political and sociological. Of special interest are its ideological roots, in particular the way in which nationalistic individualism has opposed any attempt to recognize diversity (i.e., the rights of minorities, women and aboriginal peoples), especially since the adoption of the *Canadian Charter of Rights and Freedoms* in 1982. The ambiguity of the *Charter*, which stems from the fact that it not only reaffirms fundamental individual rights but also recognizes the rights of various groups in one and the same document, gave rise to a debate on Canadian identity that led to a major polarization of these two dimensions, as though they were irreconcilable. The legitimacy granted to various groups by the *Charter* was denounced by both the left and the right.

For example, the thrust of one of the best-known criticisms of the *Charter* was that the demands groups would make in the wake of their new legitimacy would lead to an increasing fragmentation of Canadian society (Cairns, 1993; Taylor, 1992, 1994). Social movements could use the state and the law in a way that would lead to government by the judiciary and, consequently, to the judicialization of politics, as well as the Americanization of Canadian society. Thus, social movements were perceived as precluding the possibility of national development of a national consciousness, preventing any social cohesion in the country.

As a further example, consider the criticism levied by Québec neo-nationalists who stressed the individualistic basis of the *Charter* in an attempt to show how it constituted a tool that would create a homogeneous Canadian identity and, consequently, make it impossible to recognize Québec as a distinct society (Laforest, 1993). Thus, according to the Québec neo-nationalists, the essentially individualistic basis of the *Charter* is incompatible with the idea that society is made up of various groups. English Canada

takes this criticism for granted, to the detriment of its collective dimensions. Even though Québec neo-nationalist criticism acknowledges such a collective reality, albeit timidly (Laforest, 1993; Bourque, 1990), it continues to foster an ideological discourse that favours eliminating differences, with a view to justifying its own nationalism. From English Canada's standpoint, any affirmation of collective rights on Québec's part leads to the suspicion of a return to archaic forms of communitarianism that would oppose individual rights. There appears to us to be a fundamental link between the failure of the Meech and Charlottetown agreements and this paradox: in the name of collective rights, nationalist Québec is bolstering simplistic individualism. In addition, the absence of any dialogue between nationalist Quebecers and social movements to limit the impact of reductionist individualistic ideology will reinforce this paradox.

The debate concerning the effect of the *Charter* on Canadian society cannot be reduced solely to the Reform Party proposal to abolish the *Constitution Act, 1982* in the name of individual equality. This principle in fact conceals a conception of Canada that is at once nationalistic and conservative. By polarizing the debate between individual rights and collective rights, as was done in both anglophone and francophone *milieux*, the entire intellectual and political class of Canada and Québec failed to grasp the potential for growth and development of the groups covered by the *Charter*. The possibility of an extension of this potential to other groups or other issues, such as the relationship between Québec and English Canada, went unrecognized. Instead the intelligentsia chose to fall back on a reductionist liberal view of the relationships between individuals and groups, or on a communitarian view based on a notion of the public good that is paradoxically incapable of comprehending plurality in anything but a negative sense, as an absence of unity or cohesion. Thus the intellectual and political classes of Canada and Québec helped to create the conditions for a significant drive by groups seeking to use the *Charter* to promote their development. The inability of either to conceive of the individual or the group by means of any model other than the nationalistic liberal model already present, albeit less obviously within Canadian political culture, set the stage for the emergence of this new neo-liberal/neo-conservative trend and the present political impasse in Canada.

Moreover, it is important to point out that studies dealing with the effect of the *Charter* on Canadian

society reveal the existence of a more complex reality than that implied by the adherents of either individualistic or collectivistic monolithism. It has not yet been satisfactorily demonstrated that the *Charter* has in fact contributed to a fragmentation of Canadian society, or to its judicialization or depoliticization. Recent works show that groups have always had recourse to the law and that there is no qualitative difference between the pre-*Charter* and the post-*Charter* situations (Seidle, 1993). Neither has it yet been demonstrated that the *Charter* has led to a depoliticization of conflicts in Canada (Russell, 1994). Judgments in the *Morgentaler* and *Ford* cases or in regard to the constitutionality of legislation affecting tobacco advertising have in no way hampered the debate. On the contrary, they probably contribute more to its politicization than to the judicialization of politics. These few examples of the *Charter's* real impact on Canadian society serve to highlight the ideological boundaries created by the current debates concerning the fragmentation of society on the one hand, and its homogenization on the other.

LIBERALISM AND NATIONALISM

We believe that a significant relationship exists between homogenizing liberalism and narrow nationalism in Canada. Because of this strange phenomenon, those who have most passionately opposed French-Canadian/Québec nationalism since Confederation have very often contributed to its advancement. There is no reason to believe that this situation will have changed by the end of the century. On the contrary, the results of the Québec referendum and, in particular, the numerous hesitations and contradictions within the federal Liberal Party, not to mention the emergence of an increasingly intransigent English-Canadian nationalism, will probably generate greater support for the sovereignty movement. Underlying the federal Liberals' contradictions and their inability to conceive of the Canadian nation in the plural is this simplistic reduction of the relationship between the individual and the group, between individual rights and collective rights. We believe it is important to take an analysis of the relationship between reductionist liberalism and narrow nationalism a step further, by focusing on its operative principle, that important tenet of Anglo-American culture: only the Anglo-American political tradition can guarantee that individual rights will be protected and the principle of freedom respected. If Canada is uncomfortable with pluralism, the reason may be that it is unable to find a way to reconcile the individual and the group within

a vision that balances individual rights and collective rights. The Anglo-American tradition indeed implies a definition of individual rights and collective rights that does not always take differences in social and cultural contexts into account.

It is perhaps within the realm of political science over the past thirty years that we find one of the most eloquent expressions of what we describe as nationalistic liberalism in the Anglo-American tradition. Greatly inspired by Louis Hartz's work (1955), which analyzes the development of North-American societies in terms of the postulate of the superiority of the Anglo-American model, Canadian political scientists have adopted this premise and immediately presume that English Canada constitutes a modern liberal fragment in comparison with Québec, which is seen as a feudal, communitarian fragment. Expanding on Hartz's ideas, Gad Horowitz (1978) has, however, attempted to show the importance of a link between conservatism and socialism in Canada that he claims distinguishes Canada from the United States. But according to H.D. Forbes (1987), Horowitz did not succeed in breaking away completely from the Anglo-American individualistic postulate (Forbes, 1987). In fact, Forbes shows that Canadian socialism/Toryism has been unable to form a conception of the relationship between individual rights and collective rights in the case of French Canada. Forbes has also shown that Québec is not a feudal society, but rather Catholic and democratic at the same time (Couture, 1991; Paquet & Wallot, 1982).

In Québec, however, the uncritical recognition of Anglo-American superiority leads the majority of Québec's political scientists to adhere to the notion that Québec was a feudal, traditional and monolithic society closed to the democratic spirit (Trudeau, 1965). Convinced Québec is lagging behind English Canada, Québec political scientists have applied themselves to imagining a situation where the former is catching up to the latter, an event they place at the time of the Quiet Revolution. Others have endeavoured to show the fundamentally reductionist nature of the "catching-up" discourse, and that the reality of Québec since the British victory on the Plains of Abraham is much more complex. Paradoxically, it is this same Anglo-American nationalistic liberalism that Québec neo-nationalists attempt to reconcile with the sovereignty project when they explicitly recognize the backwardness of Québec society, and the need to break with that past. Thus the intellectual and political class in Québec

prefers to bury itself still deeper in colonialism, although it attempts to do so in the name of an indispensable sovereignty.

The study of social movements, particularly the women's movement, and of multiculturalism discourse also reveals the difficulty of breaking free of the Anglo-American prejudice. Acting in the name of freedom and the fight against oppression, the women's movement is paradoxically unable to conceive of political representation for women in any way other than by assuming the superiority of individual rights in the Anglo-American tradition, thus giving rise to significant tensions between groups. The tensions between women's groups, between black women and white women, Québec women and women from English Canada, with some stressing context and plurality, and the others unity, inclusion and sisterhood in spite of diversity, illustrate the significance of this same basic movement that seeks to affirm the superiority of Anglo-American nationalistic liberalism. Consider the conflict between feminists from English Canada and Québec women in 1989, during discussions on recognizing Québec as a distinct society in the Meech Lake Accord. The former believed that the idea of granting Québec "distinct society" status posed a threat to women's rights, by subordinating them to the collective rights of Quebecers. They could not accept the possibility that Québec women could adhere to the principle of recognition of the distinct nature of Québec without betraying the women's cause (Roberts, 1989; Dumont, 1993).

Multiculturalism policy, the folkloric nature of which is the target of regular criticism, serves as another example. Indeed, instead of pursuing a true convergence of the groups contributing to Canada's plurality, this policy constitutes a veritable breeding ground for petty nationalisms based on ethnicity and race. Furthermore, the repeated denunciations of multiculturalism in Canada also prompted the Reform Party to respond by adding to its platform a promise that, if elected, it would abolish Canada's multiculturalism policy.

While the multicultural reality of Canadian society cannot be denied, social movements are having no success transforming the fundamentally folkloric nature of such a policy into a true lever for dialogue between groups, openness to the Other, and cross-cultural exchange. Québec nationalist criticism of multiculturalism also reaches an impasse in this

regard, because of its inability to see beyond the Anglo-American model.

In short, despite efforts by conservatism, nationalism, socialism, feminism or multiculturalism to transcend simplistic individualistic liberalism, the political and intellectual culture of English Canada and Québec has fully incorporated the Anglo-American prejudice into its self-image. This prejudice constitutes the operative principle of the relationship between reductionist liberalism and narrow nationalism. It structures political representation in Canada and in Québec, while intruding on social movements and preventing the achievement of pluralism. Granted, over the past thirty years this Anglo-American nationalistic liberalism had adapted to a conflictual, yet complementary and relatively harmonious relationship with the voices of plurality. In the present situation, however, where neo-liberal/conservative currents are increasingly predominant, it appears that the pluralism of recent decades was based on the fundamental ambiguity evident in the principle of "individual rights" when such rights were defined without reference to context. Consequently, it is not surprising that the "progressive" *milieux* now seem incapable of resisting neo-conservative pressure.

LIBERALISM, NATIONALISM AND PLURALISM: REINVENTING THE NATION

Following this analysis of the relationship between liberalism and nationalism, it is important to take a serious look at the alternative interpretations and forms of political compromise that will free pluralism from the spurious debate in which it has been mired. For not only does the antagonism between liberalism and nationalism limit the possibility of pluralism, it also threatens its very existence, while at the same time casting doubt on democratic debate and diminishing even the possibility of such debate.

One of the alternative interpretations is that proposed by Charles Taylor (Taylor, 1992 & 1994), who attempted to pave the way for an analysis of diversity that would be compatible with individual rights. In our view, however, it is possible that Taylor reproduces the fundamental ambiguity of the relationship between individualism and nationalism that we detected as a major characteristic of the Anglo-American political culture. It is true that

Taylor recognizes the possibility of a communitarian liberalism in Québec, compared with an individualistic liberalism in English Canada. He is even prepared to recognize the existence of the Québec nation within Canada because of a deep-seated diversity that he believes characterizes the country. However, despite the generosity of his communitarian liberalism where Québec is concerned, he finds it difficult to reconcile his appeal for recognition with his criticism of the tendency of social movements to cause fragmentation in society (Taylor, 1992). He also seems to have little enthusiasm for the fact that groups use the law as a tool to achieve social change and thus oppose the will of the majority, insofar as such a practice runs counter to Canadian traditions of democratic participation (Taylor, 1994). Consequently, Taylor stresses the need for groups to come together on the basis of shared values in response to the fragmentation of society. He seems to suggest an overly abstract analysis of pluralism, one detached from the concrete struggles of social movements and devoid of any reference to their context. Despite the generosity of his vision, Taylor is perhaps too ready to subordinate the question of diversity to the nationalistic liberal/communitarian paradigm. In particular, he subscribes to a very conventional view of history, especially in the case of French-Canada/Québec, which he continues to describe from the *survivance* perspective.

If we accept the notion that pluralism also constitutes the ethos of democracy, as Chantal Mouffe assumes (Mouffe, 1993), why could not social movements contribute to social cohesion at the same time as they provide debate and conflict? According to Albert O. Hirschman (Hirschman, 1995), this is precisely the way to ensure social cohesion within the democratic order: "the miracle happens in the course of the democratic process, as individuals and social groups go through the motions of out-and-out confrontation and end up building in this odd manner a cohesive democratic order." Thus, according to Hirschman, to invoke shared values is "essentially an admission that concrete ways of dealing with the respective problems have not yet been discovered — community spirit is called upon as some *deus ex machina*." In invoking shared values, moreover, Taylor may be quite content to regard fundamental rights as values without taking into account the demands of social movements. He also disregards the importance of political initiative in relation to the question of pluralism.

Some alternative interpretations of pluralism seem inadequate because of a narrow conception of liberalism or a metaphysical conception of diversity. It would therefore be advisable to redefine liberalism in such a way that it could integrate groups without sacrificing the principle of the universality of rights. First, there is a need to break away from the idea that the universal is spontaneously embodied by a particular group, specifically white, Protestant, Anglo-American males. The universal should, instead, be derived from the ability of the individual to distance him/herself from the group and at the same time, to think the application of the principle of freedom to his/her group. Second, there is also a need to recognize that the application of freedom in terms of a particular context is conditioned by the law. The law structures society, and even the State. It is in and through the law that the conditions affecting choice and action can be introduced; moreover, the law is always formulated on the basis of a community, the democratic community.

At present in Canada, for a number of reasons, including the many historical compromises in fields such as education, only legal tradition seems to serve as an antidote to the erosion of a social and political diversity. This was obvious in the *Morgentaler* case, where the judgment rendered by Justice Wilson revealed a considerable effort to reconcile the individual rights of women with the social context. While that which is regularly condemned as the judicialization of politics does in fact compel us to note that there has been a significant failure of politics to manage diversity in recent years, this is insufficient justification to consider the law an end in itself or a means leading to the Americanization of society. The law is a lever for more democratic action. However, as long as each advance in the area of minority rights, women's rights, and so on angers those who hold an abstract view of individual rights, any possibility of conceiving of citizenship in terms other than the individual will, bring the discourse of lost unity back with a vengeance in Canada, the effect of which would be to jeopardize opportunities for democratic action.

CONCLUSION

The critical distance we have tried to maintain in this paper with respect to liberalism forces us to note that liberalism still appears today as an inevitable ideological current, the full scope of which must be grasped before any suggestion can be made to transcend it. Within liberalism there exists a progressive

moment, C.B. Macpherson would say, that we believe is evident in the principle of universalism (Macpherson, 1985). The latter constitutes a form of sociological apperception, insofar as one accepts that freedom is achieved only on the basis of particular contexts structured by the law. Thus, liberalism would not be incompatible with a certain social questioning. Is this not, moreover, what the author of both *The Wealth of Nations* and *The Theory of Moral Sentiments* believed?

In other words, the questions that derive from our paper are the following: can one conceive of the subject without reductionist liberalism and narrow nationalism? Can one transcend Anglo-American liberalism while still recognizing its potential universalism? Following the Québec referendum, we believe that the Canadian political class should try to answer these questions before finding superficial solutions to the problem of Québec nationalism and demands made by social movements since 1982. Liberalism can adapt to pluralism and can be multidimensional, insofar as one accepts that it cannot be reduced to the application of a principle of freedom based on the concept of an abstract individual considered apart from any context. The law contributes to this possibility of a non-reductionist liberalism that is conducive to a freedom defined according to a contextualist approach. It should be possible to be liberal in a different way in North America, or in other words, to be able to conceive of the group, or even the nation, outside of the narrow nationalist discourse or an individualistic vision completely removed from any concrete social context; to imagine the existence of different forms of modernity and of relationships peculiar to that modernity.

It seems to us that a less metaphysical approach to the unity question and the need for social cohesion would make it possible to conceive of the development of Canadian society and political representation in a different way, before we end up at the turn of the century with a confrontation between two intransigent forms of nationalism, English-Canadian nationalism and Québec nationalism, both paradoxically sustained by the fundamental ambiguity of institutions from the Trudeau era. □

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* This paper is a full collaboration between Dr. Cardinal and Dr. Couture. The names are in alphabetical order.

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DISHONOURABLE CONDUCT: THE CROWN IN RIGHT OF CANADA AND QUÉBEC, AND THE JAMES BAY CREE

Grand Chief Matthew Coon Come

For many centuries, the mandate of our Cree elders and leaders was to guide us. We Crees conserved the land, the waters, the animals, and sustained ourselves in an environment that many regard as harsh, but we regard as a paradise and which we must cherish and protect for our children. In the last few centuries, as others came to claim our resources and lands for themselves, we have had to change. One of the biggest changes is that we have had to defend our lands against environmental destruction on an unimaginable scale, and also defend and assert our fundamental rights as a people.

While the land still provides the most employment for the Crees, our environment continues to be threatened by hydro-electric development, large-scale clear-cutting of the slow-growth boreal forests, and mineral development in which there is no gain for the Crees and much loss.

Current political developments in Canada and Québec also threaten Cree rights gravely. In September, 1995 the people of Québec elected a government committed to separating from Canada and becoming an independent country. This government of Québec declared, in a law, that if a simple majority of Quebecers voted Yes in a referendum on October 30, 1995 it would act unilaterally to separate from Canada.

The referendum result, in which the No forces won, has led the Government of Québec to now turn to economic issues. Economic issues also are of concern to the Cree, and I discuss these toward the end of this essay. But the continuing threat posed by the sovereignist forces also must continue to be addressed by the Crees. That is, for the most part, the main object of this essay. In Part One, I describe our opposition to the Québec government's proposed laws

to achieve sovereignty released in advance of the October 30, 1995 vote. In Part Two, I describe the process leading toward the near unanimous result in the Cree referendum, withholding our consent as a people to be separated from Canada. Finally in Part Three, I discuss the Cree position with respect to post-referendum developments, including the federal government's declaration that Québec constitutes a "distinct society."

I

A unilateral declaration of independence by the government of Québec would undemocratically change or terminate our relationships with the government, Parliament and people of Canada. A unilateral declaration of independence by the government of Québec would attack our fundamental right as a people to determine our own political future; it would constitute fundamental breach and repudiation of the terms of the James Bay and Northern Agreement of 1975; and it would be in violation of fundamental principles of democracy, consent and human rights.

A few weeks prior to their referendum, the government of Québec released its "Declaration of Sovereignty," the preamble to the bill that would bring about the independence of Québec and the break-up of Canada. This document, with its long declaration, was a deep injury to the original inhabitants of this land, to *Eeyouch*, our people the Crees. Once again, it was declared in this preamble that Canada has "two founding peoples." The many First Peoples in Québec still gather, hunt, travel and are born and are buried, just as we have for thousands of years, in places that we named: Chisassibi, Mistissini, Whapmagoostui, Kanawahke, Povungnituk, Manicouagan, Kuujjuaq, Wendake. We first peoples, the Crees, the Inuit, the Mohawks, the Huron, the Innu, are here as we have

always been. And yet this myth, this terrible lie of two founding peoples, was proposed to be entrenched in the instruments of a new Québec state.

It was claimed in this preamble that the history of this place began four hundred years ago, "at the dawn of the 17th century." This is not the history we Crees have of our territory. Our Elders have taught us knowledge and history of our people that is *thousands of years old*. Our history did not begin when the Europeans arrived in our land.

Once again, it was implied in this preamble that it is these people, who have only been here some hundreds of years, have always been in this place, "from Ungava to the American border." There are Crees alive today whose grandparents never saw a white man anywhere in Ungava. We Crees are still the only permanent inhabitants, and are the majority residents, of our traditional lands. (I am not yet 40 years of age, yet even I have been in *Eeyou Astchee* longer than the government of Québec!) This shameful declaration denies our existence. This shameful declaration diminishes our status and rights — it is an outright and intentional lie, repeated in 1995 by people who should know better.

The separatists' sovereignty Bill, which would have been enacted in the event of a Yes vote, also was tabled. This Bill was as shameful as the preamble that introduced it. Once again, provisions were being proposed that would do more to diminish our rights than to recognize or advance them. Our right to self-government, our treaty rights, our right to participate in development were all mentioned in the sovereignty Bill. But they were all diminished — all made subject to Québec's ownership, jurisdiction, territorial integrity and control. This law was a fraud on Aboriginal peoples and those who support the full and meaningful recognition of our rights. Yes, the concepts were there in the text, but their actual formulation was a denial rather an affirmation of them. For Aboriginal peoples in Québec, this was a cynical law. Its provisions were a plain attempt to dominate and subjugate our societies, cultures and ways of life.

The provisions of this Bill with respect to our rights were a fraud on the Aboriginal peoples and on those in the international and national communities who are concerned about our rights. These provisions did not guarantee, enhance or affirm our rights. On the contrary, they diminished and denied the status and rights of all Aboriginal peoples in Québec. What is proposed to be done to the Aboriginal peoples by

the separatists would never be accepted by Québec if it were attempted by Canada.

I ask: how can people who claim these rights deny these same rights to us? Where is the logic? So how is it that this critical debate is being conducted as though the Aboriginal Peoples do not exist? How is it that in 1995 — after years of oppression, after the 1969 White Paper, after 1982, after all of the constitutional conferences, after Meech, Oka and Charlottetown — that our fundamental rights can be so easily disposed of?

Is this the hidden agenda: to forcibly incorporate us into an independent Québec state, and to severely diminish our rights, such as they are, for once and for all? I wish someone would tell us we are wrong, but they cannot — the preamble and the sovereignty Bill are there for anyone to read. We ask: "How can this be?" In 1670, King Charles of England gave much of Canada — all the land that sheds water into Hudson Bay — to the Hudson's Bay Company. He named this land Rupert's Land after his cousin Rupert. Nobody advised or requested the consent of the real owners of these lands, which included *Eeyouch*, our people the Crees.

In 1870 another Royal colonial grant was made. This time Rupert's Land was granted to Canada, a country that was just three years old. Again no one spoke to us or told us. Then again in 1898 and 1912, Rupert's Land was transferred once more, this time by Parliament to a number of provinces including Québec. Again nobody thought to inform, let alone consult us. Interestingly, a binding condition was attached to the 1898 and 1912 transfers, including the transfers to Québec. It was stipulated that the rights of the aboriginal peoples affected by the transfers be recognized by Québec, and surrenders obtained with the approval of the Governor-in-Council. The lands Québec claims to have brought into Canada never included *Eeyou Astchee* — the Cree Territory. It can be seen that our lands were never historically a part of the entity called New France or Québec.

No one spoke to us for another sixty or so years, until 1970, when once again they came to flood our land, and still they did not speak to us. This was when we learned that as far as governments and the courts were concerned, our rights had been disposed of by a king in England in 1670! Judging from the present Québec independence debate, everyone assumes — just as they have for hundreds of years — that we can

be passed along from Crown to Republic just like before.

In 1975, under circumstances of oppression and duress, we entered into an Agreement with Canada and Québec, along with the Inuit. In the present context, it is important to point out that this Agreement gives rise to a number of treaty rights pursuant to section 35 of the *Constitution Act, 1982*. The Agreement states that it can only be amended with the consent of all of the parties including Canada and the Crees; that the Crees shall have the rights of Canadian citizens, and shall have access to all benefits, programs and services as are made available to Indians and to other Canadian citizens by the federal government. The Agreement provides for ongoing federal involvement in Northern Québec in such areas as the environment, programs and services, education, and justice; yet it has no termination clause, and is therefore perpetual and permanent unless amended with the consent of all of the parties. The Agreement was ratified by laws passed by both the Parliament of Canada and the National Assembly of Québec, led by then Premier of Québec René Lévesque, in 1976. The Parti Québécois is therefore in no position to claim that this was the work of another party, one which tricked Quebecers into a federalist trap.

The treaty comprises a division of powers between three orders of government in a federal system — federal, provincial and Aboriginal. Under this system we have access to the Supreme Court of Canada, a special relationship with Parliament and the government of Canada, and we have a historical fiduciary relationship with the federal Crown. No matter what it claims, Québec could never assume these obligations and powers with regard to our rights.

Is this treaty perfect? Far from it. It is inequitable, and few of its provisions treat us justly. It has been interpreted in a narrow and mean-spirited way, rather than according to its spirit and intent as we understood it. We are forced to wait decades for its promises to materialize. We have to go to court endlessly to enforce its terms. But a treaty it is, nevertheless. The rights we gained are all treaty rights under the Canadian constitution, which is still the supreme law of the land, binding upon Québec, and binding upon Canada. Or is it only Indians who must respect the rule of law?

We understand these rights to mean that we have a permanent connection with two other levels of government, the federal government, and the govern-

ment of the Province of Québec within Canada. We invite the separatists' scholars and thinkers to join our debate. So far, we have not heard a single argument against our case that is not standing on a foundation of double standards and colonial misconceptions about our rights. We hope that the separatists have the honesty and courage to discuss these issues with us, but to date they have not.

I do not mean to praise the federalists with silence on their policies and actions. The federal government's apparatus for dealing with Indians and the policies it pursues across this country are to this day destructive and discriminatory against Aboriginal peoples. The Crees are clear on this point: there is an urgent need for fundamental change. But the fundamental changes currently under way are being undertaken without our consent as a Nation and as a People. And we will not easily exchange our treaty relationship with two other orders of government, federal and provincial, for a precarious relationship with a unitary state whose first official Act is a massive denial of Aboriginal and treaty rights.

Our fundamental rights are simply not for sale. And they are not for the taking — in October 1995, or ever.

II

My people, *Eeyouch*, the James Bay Crees, voted on October 24, 1996 not to be separated from Canada. We spoke clearly. We will not be separated from Canada. We withheld our consent. The message was clear: We Won't Go.

Let me state at the outset, though, that we Crees understand the aspirations of Quebecers. We fully respect their right to hold consultative referendums and determine their future. But I must also state that this cannot, and will not, be done at the expense of our rights, or of the rights of other peoples in Canada. We Cree have the self-same right to our aspirations and to determine *our* future.

Let me explain the circumstances under which this choice was made. In October, it is already winter in James Bay. It is already snowing in James Bay, and the hunting season is under way. In James Bay, from September to spring, we Crees are out hunting on the land. Our communities are often ghost-towns at this time of year. On October 24, 1995, things were different. From hundreds of kilometres away, people made their way back to our communities. In

Mistassini, in Chisasibi, in Whapmagoostui and in Wemindji, they made their way to our polling stations in our schools and our meeting-halls. There were line-ups, and some people waited an hour or two to vote.

This referendum was different — no one was left out. There were voting stations in every community. There were voting stations outside of our territory, in Montreal, in Val d'Or, in Senneterre, in Ottawa, and even in North Bay in Ontario, where our post-secondary students are studying. And this referendum was even more different than that. There were Cree families in their hunting camps that were too far away in the bush to get back to the communities. Our territory is not covered by a network of roads and telephone services. These families were each contacted by radio. They were asked to provide their coordinates and to stay in their camps between Friday the 20th of October and Tuesday the 24th. And in order to ensure that every Cree had a chance to vote, we chartered three helicopters, which flew thousands of kilometres across our territory.

Imagine the challenge Mr. Parizeau would have faced if he had called a referendum to be held at the end of July. We were forced to do the equivalent: our referendum could not have been held at a more difficult time. And yet, under these conditions, over 77 per cent of eligible Crees participated in our vote. More importantly, they made their choice abundantly clear.

The Cree people were almost unanimous: over 96 per cent of my people stated their choice: "We Won't Go." What does this mean? The separatists say that our Cree referendum is all very well, but it does not count. We Crees and our lands, they say, are to be forcibly included in any future Yes majority vote. And then, they state calmly, we Crees and our territory are to be forcibly included, if necessary by force, in a sovereign Québec. Well let me say calmly in reply that the James Bay Crees spoke clearly: "We Will Not Go."

A few days prior to the vote, the Parti Québécois chief spokesman on Aboriginal issues, Mr. Cliche, said that the Crees would be violating the law, violating international law, if we resisted our inclusion in his independent Québec. I find this truly ironic. Here we have a separatist government of a province contemplating an illegal and unconstitutional secession. The Superior Court of Québec ruled that the P.Q.'s Bill 1 is illegal and unconstitutional and that its plans are a grave threat to the rights and freedoms of Québec citizens.¹

My people have spoken. We are no longer prepared to be treated like cattle in a field. We are no longer prepared to be treated like a second-class people, with second-class rights. We showed at Meech, and we showed at Charlottetown, that the politics of exclusion and the politics of denial are no longer acceptable. My people expressed their will. We will no longer allow decisions to be made by others that are ours, and only ours, to make.

I am always asked (so I may as well answer the question here), "Will the Crees become violent?" We are not a violent people. We oppose the use of force, and have always found other means of resolving our differences. The use of violence and force is against our most fundamental beliefs. We Crees are committed to working together with Québécois and other Canadians, to building a country that is responsive to all of our aspirations and priorities, and fully respectful of *all* of our rights. But we will not be passive in any strategies of inequality and unilateral action. We know our rights. We know we will receive the support of many Quebecers, and the support of other Canadians. We will not be forcibly included into a sovereign Québec. Our traditional territory, *Eeyou Astchee*, will not be forcibly removed from Canada and included in a sovereign Québec. Our human rights will be upheld.

III

The arguments in this debate are now reaching surprising heights. I learned that representatives of the government of Québec are now stating internationally that certain of the Aboriginal peoples in Québec are not indigenous to that land, that they came from other foreign places, such as Ontario. Also, it appears that the government of Québec simply has stopped referring to the region in which we live as "James Bay," using instead the name "Radissonie."

It is clear that by suddenly renaming our lands after a French explorer, the government of Québec is hoping to avoid and obscure questions about the status of our lands in a future independent Québec. And by saying that some of the First Nations in Québec are from somewhere else, they are clearly hoping to export this thorny problem of our Aboriginal status and rights.

I would like to inform the government of Québec that we Crees did not come from anywhere else. Actually, we do not refer to ourselves as the Crees, but rather as *Eenouch*, the People. The Creator placed

us where we have always been, in *Eenou Astchee*. This is the real name of our land. Not Nouveau Québec, not Radissonie, not even James Bay, but rather *Eeyou Astchee*.

Matters of self-determination can no longer be decided or imposed. These changes cannot be made without our free and informed consent. Now we are reminding the world that since time immemorial *Eenouch* — the James Bay Crees — have lived in *Eenou Astchee*. We are reminding the world that our status as a people has always been, and is, self-evident to us. We are pointing out that this status is recognized in the Canadian constitution, and in constitutional instruments such as the Royal Proclamation of 1763. We are reminding the world that according to fundamental precepts of human rights, we have the right as a people to determine our own destiny, and the right to choose to continue our treaty relationship with Canada.

In a moment of panic during the October 1995 referendum campaign, Prime Minister Chrétien made three promises to the people of Québec. He promised that he would divest the federal government of jurisdiction over labour market training. He promised he would confer a constitutional veto on Québec. And he promised to recognize Québec as a distinct society. With respect to labour market training, we understand the provinces' desire for far greater control over what goes on in their own backyards. These are arguments that we have been making for years with respect to our inherent right to self-government.

We examined the veto bill that was passed in such a rush over the New Year after the referendum, in which British Columbia ended up with a veto it did not want. We were very concerned and therefore proposed an amendment that would have preserved the right of the federal government to propose constitutional amendments in such core areas as the Charter, the territorial integrity of Canada, and Aboriginal and treaty rights. The Crees' and other constitutional authorities in government and in the universities judged that this was a sensible amendment to propose, given that the present government of Québec, to which the veto was being given, has the goal of separating from Canada. The federal government refused to consider our amendment.

With respect to the resolution recognizing Québec as a distinct society, we had similar fundamental problems. As I have mentioned, we Crees are not opposed to further constructive recognition of Québec's unique

role and place in Confederation. But we Crees and other Aboriginal peoples in Québec cannot allow ourselves to become subject to a distinct society clause in the Canadian Constitution.

When the government of Québec first passed its language legislation in the 1970's, Aboriginal peoples in Québec were made subject to its terms. Suddenly, after thousands of years of being Cree or Inuit societies in Northern Québec, we were to be French societies, and the riot police were sent to Aboriginal communities in the north to enforce what seemed to us to be a distinctly unacceptable law. Only after it became an international embarrassment, did Premier René Lévesque back down and exempt Aboriginal peoples from the terms of his French language laws.

Since then, Aboriginal peoples in Québec have experienced many other attempts by successive separatist governments to subjugate our status and rights to the legal, economic, social and cultural approaches of the Québec distinct society. For this reason, we fought for and obtained clauses in the Meech Lake and Charlottetown Accords that would have ensured that any recognition of Québec as a distinct society would not be at the expense of our Aboriginal and treaty rights.

Unfortunately, Prime Minister Chrétien chose to ignore these precedents in the distinct society resolution that he rushed through Parliament early in the New Year. This distinct society resolution would result, if it was constitutionalized, in the creation of two classes of Aboriginal peoples in Canada: those Aboriginal peoples who are subject to the distinct society provisions in Québec, and those outside of Québec who are not. This would leave Québec in a position to argue in court that its language laws, or our rights to our lands, or the legal characterization of Aboriginal peoples as peoples, are an obstacle to the preservation of its distinct society. This is a situation that would diminish our rights, and is obviously unacceptable to us.

But the impact of any distinct society initiative on Aboriginal rights is clearly connected to the broader "national interest." We Crees have been stating since 1991 that if Québec secedes from Canada, we Crees have the right not to be forcibly included into a sovereign Québec, that we have the legal and constitutional right to remain in Canada, with our ancestral lands. For more than three years before the 1995 referendum we called upon the federal government to declare that if Quebecers have a right to determine their future,

then certainly so do the James Bay Crees. We undertook a poll, and discovered that if the federal government would declare that it would defend our right to choose to remain in Canada, up to a quarter of the Yes voters in Québec would change their minds or become undecided. But for some reason the federal government refused to declare that it would uphold the Crees' treaty rights and the Constitution of Canada.

Actually, someone in Ottawa went so far as to leak an unsigned Privy Council memo to the press, on the same day last September when we released our study on our rights.² This memo, which could just as well have been written by the separatist government of Québec, stated that the best policy would be for the federal government to stand at the border if Québec secedes, and wave the Crees goodbye. It took the near-death experience of October 30, 1995 to change the federal government's mind, and so, in the New Year, we suddenly saw Mr. Chrétien and Mr. Dion and Mr. Irwin saying that the Crees have the right to choose to remain in Canada with our ancestral lands.

We Crees did not go looking for this debate or these problems. We are not trying to secede from anyone. But we now understand that we and our lands are perhaps a cornerstone of this country. Our Aboriginal and treaty rights will be diminished if a distinct society provision fails to exclude our rights from its scope. Our Aboriginal and treaty rights will be diminished if they are not elaborated and recognized at the very same time as any constitutional provisions are enacted to meet the perceived needs of Québec.

If our Aboriginal and treaty rights are diminished in this way, our ability to retain and strengthen our links with Canada will also be diminished. There is an irony that the separatists, who are threatening to leave, are being recognized as a founding people, while Aboriginal peoples, who are threatening to stay, are being denied the status of founding peoples. I defy anyone to say that we are not among the founding peoples of Canada.

The recent veto legislation enacted in favour of the Parti Québécois government of Québec will make constitutional amendments to preserve national unity more difficult than ever. For this reason, the existing Aboriginal and treaty rights of the Crees on our ancestral lands have become critically important to national unity. I believe it would be negligent in the present secessionist context, if a distinct society clause were put in the Constitution without ensuring that

Aboriginal and treaty rights are not in any way diminished or curtailed.

We were not able to achieve this goal in the veto legislation and distinct society resolution passed in Parliament in December and January. But this was only symbolic legislation. A failure to do so in the next constitutional round will not only harm the Crees, it could well harm all Canadians who are in favour of national unity and of fundamental rights.

Regardless of which scenario may eventually take place in Canada, the James Bay Cree People — *Eenouch* — take the firm position that it will determine its own future. Neither Canada nor Québec has the legal or moral authority to forcibly subjugate the Crees or other indigenous peoples to a new sovereign power. The Crees and other Aboriginal peoples have rights of self-determination that cannot and must not be denied.

Neither Canada nor Québec has behaved honourably to Aboriginal peoples. Nevertheless, we Crees feel that our rights and interests will be best protected if we remain within Canada, in the context of a broadly-based, multicultural federal state. This decision is based on realism. This decision is based on unease about being included into a unitary state that was built on a foundation of ethnic nationalism and the denial of our political, cultural and other rights. It is also based on the provisions of the treaty we entered into in 1975.

You will surely understand when we Crees state that we have never given up or surrendered the dignity, or the sovereignty, that is the gift of the Creator to every people. These rights cannot be extinguished or taken away. They mean that a people cannot be simply passed with the land.

The separatists have warned that if the right of the Crees to choose to remain in Canada is affirmed, then Aboriginal peoples elsewhere will also have a right to secede. But it should be clear by now that we Crees are not secessionists. Along with all other Aboriginal peoples in Canada, we are seeking to improve and strengthen our relationship with this country and with the province in which we live on the basis of fairness, equity, and a real partnership. This is an argument raised by the separatists to draw attention away from the real threat to Canada, which is posed by them.

I have mentioned above our treaty with Canada and with Québec, now twenty years old. When it was signed, it was hailed by all involved as the first modern land claims agreement in Canada. This Agreement brought the Crees certain benefits, and many of its features have been incorporated into and improved upon in more recent treaties. However, our treaty contains certain provisions, over which we had no control, that bring dishonour upon the Crown. And we have learned that, when the signing is done but before the ink is dry, the implementing and upholding of treaty promises is full of difficulty. In our case, we met our side of the bargain, by sharing our lands and resources. But the other parties have failed to do so, according to their own judges', and commissions', and auditor-generals' reports. And now it is proposed that the treaty provisions that are to Québec's advantage will survive, while those that are to ours, namely our relationship with Canada, will not, if Québec secedes.

I have mentioned our efforts to preserve our lands and waters in the face of destructive development. Mainstream Quebecers and Québec business people are now relieved that the Crees prevented Hydro-Québec from building a 15 to 20 billion dollar megaproject, using borrowed funds, to produce electricity for which there will be no market for decades to come. The environmental questions we were raising made economic sense, as they so very often do.

The economies of the non-native communities in which the Crees' small airline lands and in which we Crees do business would be in poor shape without our participation. Still, too many Crees are unemployed and without adequate housing or services, because the approach is mostly one of government hand-outs and not genuine partnership. If governments and non-native communities would only be expansive in their approach to sharing resources and sharing the land, then the economies of the provinces and the country as a whole would feel the benefit many times over.

The James Bay Crees need one thousand housing units, just to deal with our backlog, and we will need many more as our population expands. If we are left appealing to the government of Canada for funds, these units will never be built. But if we had only a small share of the resource revenues flowing from our lands, flowing mostly out of the country, the Québec economy would experience a small boom.

Canadian companies go halfway around the world in search of development and market opportunities. Aboriginal peoples in Québec, the Maritimes, Ontario,

the prairies, the West and in the North, constitute a province of China right in Canada's backyard. Give us the resources and tools, and we will need your products and services to become full participants in the benefits of living in this land.

In 1992, the High Court of Australia did the unthinkable, and ruled in the *Mabo* case that: "the fiction by which the rights and interests of indigenous inhabitants in land were treated as non-existent was justified by a policy which has no place in the contemporary law of this country."³ In one stroke, the legal foundation for non-Aboriginal title to Australia was gone. And yet the Aborigines did not try, or even want to "take it all." They wanted honourable negotiations, and a rational process of sharing and coexistence.

In the end, it is clear to me, to paraphrase the words of the president of General Motors, that what is good for the Aboriginal peoples in Canada will be good for Canada. This is especially true in the context of Québec and questions of national unity, where the ongoing failure of the federal government to uphold the Crees and Inuits' Aboriginal and treaty rights almost cost it the country. These policies with respect to our rights are still very much alive, as Ottawa insiders tinker with the constitution in ill-advised ways.

But this is also true in Ontario, Saskatchewan, British Columbia, in the North, and elsewhere. I know that all Aboriginal peoples feel the way we Crees do when we say, to Quebecers and other Canadians alike: "Walk honourably with us. Share honourably with us. Deal honourably with us. And this will be good for us all. □"

Matthew Coon Come

Grand Chief of the Council of the Crees (of Eeyou Astchee) and Chairman of the Cree Regional Authority.

This essay draws on a submission made to the Cree Eeyou Astchee Sovereignty Commission (21 September, 1995), remarks made at a press conference announcing the results of the Cree Referendum (25 October, 1995), and a presentation made to the First Nations Summit and the Laurier Institution in Vancouver, B.C. (26 March 1996).

Endnotes

1. *Bertrand v. Quebec (P.G.)* (1995), 127 D.L.R. (4th) 408.
2. The study is: *Sovereign Injustice: Forcible Inclusion of the James Bay Crees and Cree Territory into a Sovereign Québec* (Nemaska: Grand Council of the Crees, 1995).
3. *Mabo et al. v. State of Queensland* (1992), 107 A.L.R. 1 at 28-29 (H.C.).

THE THREE FAILURES IN MODERN CANADIAN FEDERALISM: WHY IS IT IMPOSSIBLE TO FIND A NEW QUÉBEC-CANADA PARTNERSHIP?

Guy Lachapelle

The outcome of the recent referendum should be the signal for major constitutional reform and change in the federal administration. While 80.5% of Quebecers polled were hoping for such change after the slim No victory, they were not very optimistic: 44.2% thought those changes were unlikely to happen (see Table 1). Many Quebecers who voted No believed that the federal government would initiate the necessary reforms leading to the recognition of Quebecers as *un peuple distinct*. However, the attitude of Jean Chrétien and his advisors since the referendum, including the appointment of Stéphane Dion as Minister of Intergovernmental Affairs, certainly fails to reassure citizens who still believe that some progressive steps are possible.

Table 1

Question:		
Si le Non l'emporte au référendum, souhaitez-vous qu'il y ait quand même des changements dans la façon dont le Canada fonctionne?		
Oui	Non	NSP/PR
80.5	12.4	7.1

Question:		
Si le Non l'emporte au référendum, croyez-vous que des changements se produiront effectivement dans la façon dont le Canada fonctionne?		
Oui	Non	NSP/PR
42.1	44.2	13.7

Source: SOM/Le Soleil/The Gazette, October 13-16, 1995.
N=981

On the other side, Quebecers who voted Yes did so because they had reason to believe the federal government is incapable of the innovations necessary to truly respond to Québec's demands. Their Yes vote was not directed against Canada, but arose out of the judgment that the risks of placing Québec's future in the hands of the Liberal government were too high. As *The Economist* wrote, if the federal government is incapable of initiating those reforms, then Canada is a country whose political breakup has only been postponed (*The Economist*, 1995).

The biggest losers of this referendum were Jean Chrétien and his government. The federal government, in choosing to put the constitutional issue on the back burner since its election in 1993, showed its misplaced confidence that the No side would prevail. Even during the referendum debate, its attention focused upon economic concerns — debt management and job creation. Indeed, not only were Quebecers expected to vote No, as they did by a thin margin, but they also were expected to give up any hope of attaining sovereignty in the future. These assumptions clearly were wrong. The outcome of the referendum proved that the federal government's assertion during this period — that it was in full control of the situation — misled the majority of Canadians and Quebecers. Québec history speaks for itself. Québec's demands will not vanish, certainly not after this last referendum. Instead of wishful thinking, pragmatism should guide the federal government in dealing with the political situation in Québec.

The important questions everyone is afraid to ask remain these: "Does the federal government have the capacity to deal with the difficult reality of Canada-Québec relations?" and "Do Canadians and Quebecers actually need the federal government to

solve their constitutional disagreements?" Before answering these questions, Canadians must ask themselves a more factual one: "Has Canadian federalism promoted or impeded democratic politics in Québec over the last thirty years?"

A good majority of Quebecers feel, wrongly or not, that federalism has limited their collective will and effectively hampered Québec's democratic rights. Calls for the partitioning of Québec if independence is achieved, threats to send in the army, and assertions that at least 60% of all referendum votes cast must favour sovereignty in order to proceed with the sovereignist project, are fine cases in point which should provoke an outcry from all defenders of democratic politics. Voices in favour of democracy, that is, *a system of government under which the people rule either directly or indirectly, where power is held by the many, and where the principles of equality, fairness and justice are central*, have remained silent during the past two years. It does not seem politically correct to have a moderate tone concerning Québec's requests. Yet conciliation and cooperation with Québec leads to decreases of support for sovereignty among Quebecers. (Lachapelle et al, 1993).

If political stability and democratic rights are shared values among Canadians, then the state of today's political climate indicates that Canada has probably reached a level of political stagnation rarely seen since the end of the Second World War. If intergovernmental relations are at the heart of cooperative federalism, Canada is now a dysfunctional state. Although some successes in cooperative federalism had been achieved before the arrival of Pierre Trudeau as leader of the federal Liberal Party, numerous federal confrontations with Québec governments followed Mr. Trudeau's election in 1968. Trudeau's vision of a strong central government, shared by Jean Chrétien and his advisers, precipitated two refusals: the refusal to see Canada as a confederation, and the refusal to recognize provincial rights. Logically, this stance led quite often to deadlock situations (Simeon, 1979; Lamontagne, 1954). Moreover, the inclusion of the *Charter of Rights* in the 1982 *Constitution Act* installed a regime that conditions and impedes the exercise of power by all provincial legislatures, including Québec's National Assembly, notwithstanding that Québec was not a signatory to the document.

According to this diagnosis, three factors have led to the present situation: the failure of interest-

group liberalism; the failure of intergovernmental relationships; and the failure of the politics of accommodation. In this short essay, I wish to address each of these factors and offer some advice to Canadians who share the view that Quebecers do constitute a nation, *un peuple distinct*, having all the rights to universal recognition.

THE FAILURE OF INTEREST-GROUP LIBERALISM

In Canada's federation, as in any other political system, citizens do not participate as individuals: rather, they participate through the mediation of organized interest groups — clusters of people sharing common values. Politics is seen as a competition among interest groups which shapes public policy. Public policy, in turn, represents the equilibrium reached in group struggle at any given moment, as well as the balance which the contending factions or groups constantly strive to tip in their favour.

To date, this point of equilibrium has not been reached in Québec-Canada relations. One reason may be that the province is regarded as an interest group in itself, like the aboriginal people or francophones outside of Québec. Another reason may be the view that Québec should be treated equally in the policy-making process, that it should not have additional rights regardless of its cultural and economic differences from other provinces. One of the serious flaws in the federalist-pluralist model is that politics is seen as simply the epiphenomenon of overall socioeconomic relations between sectional interest groups; the federal government is only one of the many power centres in Canada and just another actor in the market system. In response, Quebecers usually adopt a more neo-conservative approach, viewing the Québec government as the central actor that can assure their social and economic development.

The question is not so much whether Canada should attain a certain level of political stability as whether federalism can embody a system in which such a stability could exist. It is difficult to predict whether stability can be achieved at all. Federalists believe that it is possible to secure greater political equality in Canada or, at least, lesser economic inequalities between groups and provinces through the Canadian political system (Canada, 1979). But a large majority of Quebecers believe that such stability cannot be attained without a major reorganization of the whole political system; so for some Quebecers,

sovereignty and a partnership offer to Canadians is the only solution.

More fundamentally, provinces should be recognized by the federal government as equal partners in the Canadian political system. The federal strategy has been to use interest groups to divide the provinces, this being the only way for the federal government to escape harsh criticism from the premiers. In my opinion, the Premiers' Conference in St. John's in August 1995 clearly indicated that a consensus regarding the social fabric of our societies can be achieved. New solidarity should be found among the provincial leaders to escape federal intrusion in provincial matters and, more importantly, to assert the fundamental role provinces should play in enhancing greater economic and social relations among North Americans.

THE FAILURE OF INTERGOVERNMENTAL RELATIONSHIPS

When it comes to applying the federalist-pluralist model to intergovernmental relationships, it can be argued that the Canadian political system is the result of the competing forces of local, provincial and central governments. The coordination-cooperation-consultation process among these levels of government is similar to an intergroup bargaining process: the party having the strongest interests will override the weaker ones. As Jean-Luc Pepin described it in 1965, cooperative federalism has its own limitations:

Cooperative federalism requires, among other things, frequent meetings between federal and provincial government representatives ... Cooperative federalism, as its name implies, also means that the federal government must not take any action in a jurisdictional field which is reserved under the Constitution for the provinces without the approval of the provinces concerned. Cooperative federalism is easy to define but difficult to operate (Bella, 1977, 86).

Since a multiplicity of decision-making centres exist in all federal systems, it becomes very difficult for the federal government to reach a consensus with the various political actors regarding the attainment of certain political objectives, such as the lessening of

regional social and economic inequalities (Canada, 1981). The failure of all constitutional discussions in the 1980s — the patriation of the Constitution in 1982, the Meech Lake Accord in 1990, and the Charlottetown Accord in 1992 — illustrates well the complexities of finding a *modus vivendi* between or among competing regional interests. Too many governments, each with a deadly veto power, or merely the capacity to undercut policies, may make policy implementation difficult, leading to governmental and bureaucratic stagnation that holds a country or a province in a political shackle.

Many Quebecers believe that Canada has already reached this level of political stagnancy. In a fragmented society such as Canada, intergovernmental relations are based upon cooperation among regional elites who represent the interests of their followers. This process of accommodation among the elites becomes essential to achieve stability (Lijphart, 1969, 1968). According to hyperpluralist theorists, policy goals can be thwarted by the fragmentation of government power. Many Quebecers are resentful that the public policies which are of concern to them are never passed in Parliament, and that transfer payments and the taxing power are used by the federal government to influence provincial policy decisions. In sectors such as health and cultural policy, the federal government's use of its spending and taxing powers has modified the priorities of the Québec government.

Federalists who advocate a strong central government in Ottawa argue that too much decentralization without some degree of federal authority cannot be effective. When there are too many forceful governments, public policies are either rejected or never implemented. From this viewpoint, intergovernmental transfer payments and revenue sources are a positive means of modifying policy decisions of another level of government. Consequently, federal hyperpluralists claim that a centralized government is the "best" political structure for preventing hyperpluralistic stagnation. With this belief at heart, federalists support the view that a federation is the optimal political structure to achieve harmony among the different regional interests, especially in a fragmented society like Canada. Pluralism and hyperpluralism are threats to democracy because they usually undermine the importance of social inequalities.

It has become clear that this type of political system, as proposed by Pierre Trudeau in 1968, has failed to accommodate Québec's political and social

interests. I am referring here not only to times when sovereignist leaders were in power, but also when Premiers such as Robert Bourassa headed the province. During Bourassa's leadership, the concept of centralized power had caused the failures of the Victoria Conference in 1971, the Meech Lake Accord in 1990, and the Charlottetown Accord in 1992. The federal application of its spending and taxation powers remain a source of contention between Québec and the federal government. But, as Mr. Trudeau wrote in 1969: "I find it even more extraordinary that political scientists fail to see the eroding effect that the 'power of the purse' will have on Canadian democracy if the present construction continues to prevail, and in particular what chaos will result if provincial governments borrow federal logic and begin using their own 'power of the purse' to meddle in federal affairs" (Trudeau, 1968, 137). Too much decentralization and the recognition of a "special status" for Québec were devilish ideas according to the former Prime Minister (Trudeau, 1969, 1971). The only thing that can be said for Trudeau is that he was right. This form of federalism has had, in fact, a corrosive effect on both Canadian and Québécois democracy. As a net result, the sovereignty option has never been so heartfelt in Québec.

THE FAILURE OF THE "POLITICS OF ACCOMMODATION"

The inadequacy of the federal pluralist agenda is evident when the economic and cultural differences between Québec and Canada, as well as those among anglophone provinces, are considered. As consociational theorists have already pointed out, federal-pluralism needs cleavages within economic cultural groups, but not between the groups themselves. Some important elements to sustain political stability are, firstly, that there be a minimum of heterogeneity between these groups, and, secondly, that there also be a minimum of homogeneity in order to facilitate group politics.

Some observers have suggested that consociational democracy or "elite pluralism-accommodation" can be a successful political system if four essential conditions are met: (1) elites have the ability to accommodate the divergent interests and demands of subcultures; (2) elites have the ability to transcend cleavages and to join in a common effort with the elites of rival cultures; (3) elites have a commitment to the maintenance of the system and to the improve-

ment of its cohesion and stability; and (4) that elites understand the perils of political fragmentation (Lijphart, 1969). Elites in both Canada and Québec have failed in large part to meet these challenges.

The Canada-Québec relationship has always been perceived as an elite accommodation process. For the longest time, public policies have been perceived to be the manipulated results of influential elites representing both French and English Canadians. The failure of the Meech Lake Accord, a proposal which encouraged the supplantation of Canada's two founding nations concept by the newer theory of a federation of ten equal provinces, left many Québec federalists and confederalists skeptical of the future of elite accommodation. Since the rejection of Meech Lake, many Quebecers are not ready to commit to maintaining the Canadian political system as it is. Hence, the governing elites are unable to reach political stability along these lines of cleavage without provoking major conflicts between Québec City and Ottawa.

CONCLUSION

It is the search for greater democracy that has put Québec in a competitive position with the federal government, bringing with it the need to redefine the Canadian constitution. As polls are showing and the last referendum indicates, Quebecers are coming ever more strongly to the conclusion that the federalist approach has failed. The reasons are many. Firstly, it does not recognize the Canadian duality. Secondly, it places priority on the various groups involved in the policy process. Thirdly, the federal system fails to establish sound intergovernmental relationships with Québec. Competition over fiscal and political powers has resulted in a zero-sum game. Finally, the federalist-pluralist approach fails because of the elites' incapacity to recognize a "special status" for Québec, and Quebecers as *un peuple distinct*.

Federalism theory has its limitations. Canada's federal failing of the last twenty years is largely due to its inability to respond to Québec's aspirations. To reach a political equilibrium, policymakers must bargain for political and economic advantages; the role of politicians and bureaucrats is, therefore, to balance the demands of society's different sectional interests so that they may attain political stability or "elite accommodation" in Canada.

For many federalists, the pluralistic image of democratic politics is comparable with the market theory of the economy; there are always mechanisms which can be used to permit the attainment of a certain level of stability within the political system. The demands of Québec have the ability to effectively influence public policy by means of the voting system; cases such as the election of the Parti Québécois in September 1994, the support of the Free Trade Agreement, the election of 54 Bloc Québécois MPs in Ottawa, and the 1995 referendum outcome can be readily acknowledged as Québec's assorted responses to relieving the risks imposed by the political system. The result of a convincing voting process should lead normally to greater and more efficient political stability, but the Canadian political system has shown that the opposite has been happening due to the competition for autonomy between levels of government.

Most Quebecers feel today that if the No side had won 60% of the referendum vote, as predicted by Jean Chrétien and Lucienne Robillard at the beginning of the referendum campaign, it would have been detrimental for the future of Québec. Those who believed or wanted English Canada to believe that the referendum was a piece of cake had a misguided understanding of Québec voters. Québec will have another referendum on the sovereignty issue in the next few years. Canadians should take seriously the possibility that Québec will separate and act accordingly, with a deep sense of their social and democratic responsibilities. Are English Canadians ready again to endorse all federal proposals on the distinct society, manpower training, communication and cultural responsibilities?

The actual political debate facing Quebecers and Canadians concerns not only Canadian federalism, but also the value of democratic politics. Many citizens feel that they have been misinformed and blinded by the government in Ottawa over fundamental issues which are of concern to them, causing inflammatory discourse and emotional behaviour. Is it too late for Canadian federalists to have a more respectful attitude toward Québec's aspirations? I, for one, believe so. The design of a new partnership between Québec and Canada is what is needed. □

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FROM AN ECONOMIC AND POLITICAL PARTNERSHIP BETWEEN QUÉBEC AND CANADA TO A CANADIAN UNION

Daniel Turp

On October 30, 1995, Quebecers did not take the other decisive step towards sovereignty. The Canadian federation experienced, however, a very dramatic event as the people of Québec rejected by a narrow margin of 1.16% a proposal authorizing the National Assembly to proclaim the sovereignty of Québec and to propose a formal economic and political partnership with Canada. Whereas 93.52% of Quebecers cast their vote on October 30th and 91.80% cast Yes or No votes¹ — a level of participation unseen in democratic jurisdictions of the world — 49.42% voted Yes and 50.58% voted No, a difference of barely 54,288 votes.

These results showed a significant increase in the support for sovereignty for Québec when compared to the analogous results of the referendum held on May 20, 1980 on sovereignty-association.² And whereas this latter proposal did not authorize the National Assembly of Québec to proclaim sovereignty and provided for another referendum before sovereignty could be achieved, the 1995 referendum would have led, according to the terms of the Prime Minister of Canada Jean Chrétien, to a final and irrevocable decision of Quebecers to sever links with Canada. Although the same Prime Minister suggested that Quebecers did not understand the real meaning of the 1995 referendum question and that the leaders of the sovereignty movement were attempting to fool them, Quebecers weighed heavily their decision and came very close indeed to accepting a proposal that would have brought an end to the federal experience in which they have participated since 1867.

Since October 30th, there has been once again an attempt to propose changes to the Canadian federal system and to show that federalism should continue to receive the support of Quebecers. Although the Prime Minister of Canada was reluctant to envisage any significant reform of the federal system (especially if it took a constitutional route) since elected in

1993, he was forced to commit himself to make changes to the federation at the very end of the 1995 referendum campaign. Thus, on November 27, 1995, the Prime Minister tabled a resolution before the federal Parliament recognizing, in a very limited context, Québec as a distinct society,³ as well as draft bills lending the federal government's veto to six provinces or regions of Canada, including Québec,⁴ and devolving, in appearance more than in reality, the jurisdiction over manpower and training to the provinces. These proposals have come under heavy criticism within the House of Commons, the provincial governments and legislatures and, as one might expect, in Québec as well.

Quebecers do not consider these proposals satisfactory⁵ and the Bloc Québécois, the Parti Québécois and the Action démocratique du Québec have rejected them as insufficient measures to deal with the fundamental claims of Québec. The federal government is presently working on an additional package of proposed reforms to the federal system: the Prime Minister of Canada has recently shuffled his cabinet in order to improve the national unity capacity of his government, and has said he is devising a comprehensive and new plan for Canada.⁶

Whatever stems from these proposals for federal reform, sovereignty and partnership still remain a competing choice for Quebecers. The government of Québec, led by the former leader of the Bloc Québécois, Lucien Bouchard, since January 29, 1996, will most probably call another referendum in the near future on the political status of Québec — once again the sovereignty and partnership proposal will be on the ballot. For many Quebecers, this proposal remains a valid and credible alternative to Canadian federalism.

While the sovereignty proposal continues to lead the thrust for change, Quebecers clearly want to

ensure a considerable measure of continuity in their relationship with Canada. Although some simply will claim that it is only in proposing such ties that the sovereignist dream could come true one day and that leaders of the movement are only giving credit to the idea of partnership for strategic purposes, many promoters of sovereignty have an authentic, and in many cases, an emotional attachment to Canada.

This emotional attachment stems from the sharing of a common history and destiny with the other peoples of Canada, 128 years of federal experience, as well as from the fact that networks of personal, professional and political links have been woven by the citizens of Québec and Canada. Quebecers can remind other Canadians that their ancestors were the first to identify themselves as "Canadiens," that the Canadian experience is also their experience, nurtured through their leaders, and that they have a great deal of commitment to the economic, social and cultural success of such an experience.

In that respect, one has to be reminded that the concept of sovereignty has evolved considerably and can accommodate itself with the creation, or in the case at hand, the maintenance of links with other sovereign states. For historical reasons, but also for motives linked with the contemporary trends in favour of economic, and even political, association, sovereignty-seeking peoples have not refused to consider the prospect of exercising some jurisdiction in common with other states. Quebecers have come up with innovative proposals to bind, albeit in a different frame, their future with other Canadians and have recently given a new meaning to the notion of association with Canada by proposing to establish an economic and political partnership.

This proposal is thus motivated, to some extent — some would say to a great extent — for reasons of the heart, but a heart that does work independently from the mind. This mind has come to realize increasingly that the Canadian experience was not able to meet the Québec challenge and that it should be replaced by a new framework, one of economic partnership (I) but also of political partnership (II).

THE DESIRABLE ECONOMIC PARTNERSHIP

Since the creation of the contemporary sovereignty movement, economic association with Canada has been an integral part of the sovereignist discourse. A reading of the founding manifesto of the

Parti Québécois is very instructive in that regard and shows the importance of the association leitmotif in this discourse.⁷ This fundamental component of the sovereignist political project is not seen as being in contradiction with sovereignty. It is, on the contrary, something that sovereignty can render possible, as has been proven with the experience of the European Communities — oft-cited in the original literature of the sovereignist movement⁸.

Underlying this proposal for association is the fact that economic interdependence has gained so much ground and that economic actors have long decided to associate themselves in the pursuit of their own legitimate interests, that states should not themselves shy away from associationist ventures. The multiplication of free-trade zones, customs unions, common markets and economic and monetary unions since 1947 has proven that states are willing to enter into economic partnerships and take measures that limit their sovereignty, but conversely enhance their economic well-being and that of their peoples.

In the particular case of Québec and Canada, there are compelling reasons to opt for the maintenance of an economic association. These reasons were clearly stated in the 1980 white paper on sovereignty-association,⁹ but the more recent statement of the Bélanger-Campeau Commission deserves particular attention. Based on several working documents that showed the intricate and important exchanges in goods and services between Québec and the rest of Canada, and the intimate relationship of their financial systems, the Bélanger-Campeau Commission strongly supported the maintenance of economic links with Canada and argued in the following terms:¹⁰

Relations between societies are also of other types, particularly economic. Québec, like Canada, as a whole, has an open economy fully integrated into the main world trends, especially North American currents. The close economic interdependence which characterizes Canada indicates that the reciprocal benefits of ensuring the free movement of persons, goods, services, and capital are advantageous to everyone concerned and should, as far as possible, be maintained, regardless of the political and constitutional status Québec adopts. Moreover, Québec is not calling into question economic and financial commitments and ties it has established with its Canadian and foreign partners.

This idea of economic association was indirectly mentioned in *An Act Regarding the Process of Determining the Political and Constitutional Future of Québec*,¹¹ and was given a more direct place in the *Draft Bill: An Act Respecting the Sovereignty of Québec*.¹² The *Draft Bill* was not very explicit, however, on the nature of the economic association sought with Canada and referred to an "agreement the purpose of which is to maintain an economic association."¹³ It did not present the institutional framework of such an association and thus left many questions unresolved. This explains that a great deal of the discussion at the regional and national commissions on the political future of Québec were devoted to the provision of economic association and that several recommendations were formulated to give more clout to that specific article.¹⁴

This also led to what has become known, in Québec political circles, as the "virage," a proposal put forward by the Bloc Québécois leader Lucien Bouchard, inviting the government to place more importance on the relationship with Canada within the sovereignist project. This "virage" was followed by an extensive study of a Bloc Québécois Working Group that I had the privilege to chair,¹⁵ and that showed why the maintenance of an economic association between Canada and a sovereign Québec was desirable. A close examination of the economic data revealed, among other things, that more than 60 billion dollars were exchanged in trade and services between Canada and Québec and that half a million jobs depended on such trade. The economy of Ontario was largely dependent on Québec as a trading partner: at least 250,000 Ontarian jobs, as well as a trade surplus of 2.4 billion dollars, could be in jeopardy if an economic association was not maintained after Québec's accession to sovereignty.¹⁶

Although the leader of the Parti Québécois and Prime Minister, Jacques Parizeau, was somewhat reluctant to reintroduce economic association as a major component of the sovereignty political platform, he did participate in negotiations and contributed to the adoption on June 12, 1995 of the *Agreement between the Parti Québécois, the Bloc Québécois and the Action démocratique du Québec*.¹⁷ This agreement, which later was incorporated in *Bill 1: An Act Respecting the Future of Québec*,¹⁸ gave a new emphasis and a prominent place to a proposal for economic and political partnership. Invoking the volume of trade between Québec and Canada as well as the extent of their economic integration, the *Tripartite Agreement* clearly opted for a partnership that would take the form of an economic and monet-

ary union. The Partnership would thus have authority to act in the areas of customs union, free movement of goods, individuals, services and capital, as well as in matters of monetary policy and labour mobility. Furthermore, agreements in other matters of an economic nature could be negotiated, in areas such as international trade, transportation, financial institutions, and fiscal and budgetary policies.

This proposal clearly was made to assure continuity in the trade relations between Québec and Canada. This component of the sovereignists' agenda for continuity was not left unattacked by the opponents of sovereignty, notably during the 1995 referendum campaign. But, in large, most economic actors realized that it was in every party's interest to maintain the Canadian economic space and to not upset the patterns of trade between Québec and Canada. Polls continue to reveal that, on the one hand, a majority of Canadians themselves are willing to negotiate a treaty for economic association with a sovereign Québec¹⁹ and, on the other hand, that Quebecers believe that Canada will agree to negotiate a partnership in case they decided to opt for sovereignty.²⁰

The sovereignist forces also went beyond a proposal of economic partnership and included in their offer elements of political partnership aimed at ensuring a certain degree of political continuity in the Québec-Canada relationship.

THE INITIAL POLITICAL PARTNERSHIP

For some sovereignists, the issue of political partnership raised the fear of a return to the federal model and the difficulties that such a model would perpetuate. This explains the reluctance of some sovereignist spokespersons to include in the partnership proposal elements of a political in nature.²¹ Yet, the integration into the sovereignist camp of the Action démocratique du Québec, formed of dissident members of the Liberal Party of Québec and very soft sovereignists, entailed adding such a feature to the project.²² Hence, an initial political partnership was incorporated into the *Tripartite Agreement* — and subsequently in Bill 1 — in order to obtain the continued support of the Action démocratique du Québec in the government's drive toward sovereignty.

This was made possible through the brokerage of the Bloc Québécois which had shown some willingness in recent history to go beyond a merely econ-

omic association.²³ The *Tripartite Agreement* itself suggested that the Partnership treaty would create joint "political" institutions required to administer the new economic and political partnership. Those institutions are sketched in the agreement and consist of four bodies: a *Council* made up of an equal number of ministers from the two states, which would have a decision-making power with regard to the implementation of the Treaty; a *Permanent Secretariat* that would mainly provide operational liaison between the Council and the governments; a *Parliamentary Assembly*, made up of Québec and Canadian Members appointed by their respective legislative assemblies, and given the responsibility to forward recommendations concerning draft decisions of the Council; and a *Tribunal*, which would resolve disputes relating to the interpretation and implementation of the treaty.

When reasoning in terms of political partnership, one looks mainly at the legitimacy granted to the persons appointed to institutions. In the case of the members of the Council, their legitimacy would be indirect, based on the fact that they are part of a government formed on the basis of the popular support of the people. The same can be said of the members of the Parliamentary Assembly who would derive their legitimacy from their electoral mandate. The *Tripartite Agreement* does not provide for the election by universal suffrage of the members of the Parliamentary Assembly, as is the case for the European Parliament — the preferred option of the *Action démocratique du Québec*. The members of the Council would not, in their case, be confirmed by the Parliamentary Assembly, in the way the members of the European Commission are by the European Parliament as a result of the Maastricht Treaty. In as much as there are political actors sitting on these bodies, they might be referred to as political institutions, but their political legitimacy is only indirect. Some politicians and commentators have argued that such indirect legitimacy is not sufficient in the context of an economic and monetary union, and that a union of such a magnitude requires an elected body to prevent any democratic deficit²⁴.

In looking at the list of areas where jurisdiction is given to the Partnership or other areas of common interest that could give rise to agreement between the state parties, one can also sense the will to initiate a political partnership as well. The best example of this will is the reference to citizenship, which is one of the areas the Partnership will be authorized to consider a priority. Although it is difficult to assess the real meaning of this reference to citizenship, it

could entail the existence of a citizenship of the Partnership (analogous to the citizenship of the European Union), or setting out rules to determine the rights and obligations for those people who retain their respective citizenships of Québec and Canada. Other examples of political partnership are in the areas of international representation where there is a potential role for political representation of the state parties by the Partnership, or in the area of defense policy where joint participation in peace-keeping operations or a coordinated participation in NATO and NORAD is envisaged.

The matters that could be qualified as political are thus few — this suggests a reluctance to enter into a more ambitious political partnership. If the making of a political union is rather difficult in an aggregate process, such as that underway within the European Union, this difficulty can also be understood in the context of the disaggregation of a state and the unwillingness of the seceding entity to rebuild a political union which has justified, to some extent, its drive toward sovereignty. It is thus understandable, for example, that one rejects a proposal to elect the members of a Parliamentary Assembly through universal suffrage and to give such an assembly legislative power when the cause of many of Québec's past grievances is its minority status within the House of Commons and the abuse of legislative power by the Canadian Parliament as a whole.

Here, the proposal for political partnership reaches its limits. If the economic partnership is desirable — that it makes sense to maintain the free flow of goods, services, capital and persons — the political partnership proposal deserves to be initially modest in its outlook. But for many Quebecers, a limited form of political partnership is also desirable and could lead progressively into more advanced forms of political union. One can point to the experience of European integration to show that political union needs time to emerge and that it can only be accomplished at a progressive and slow pace. This could also be the case of Québec and Canada, if the latter showed some willingness to enter into negotiations to rebuild, not only on economic grounds, but on some modest political basis, a partnership with Québec.

CONCLUSION

For many Quebecers, a majority I now believe, Canadian federalism has reached the limits of its potentialities. The 1995 referendum has probably

created *un point de non-retour*, which will most probably be confirmed by the inability of the rest of Canada to offer a valid federalist counter-proposal to Québec before the 1997 constitutional conference. Some structural impediments are entrenched in the federal body politic, such as the notion of equality of provinces, making it impossible to accommodate Québec's past and present demands for more powers within the confines of the federal system. Although one can acknowledge the existence of some enlightened proposals for reforming federalism in Canada, such as proposals of binational²⁵ or partnership federalism,²⁶ these proposals seem to be non-starters in political circles in the rest of Canada. Confronted with the status quo, or an unsatisfactory proposal of renewed federalism, Quebecers will not hesitate to choose the path of sovereignty and partnership next time around. A Léger & Léger poll, conducted February 15-19, 1996, reveals that the sovereignty and partnership proposal would have obtained the support of 54.3% of Québec voters.²⁷

In a sense, Quebecers might have resisted the temptation to vote Yes on October 30th 1995 because they wanted the rest-of-Canada to get ready for a serious and meaningful negotiation regarding the proposal of economic and political partnership put forward by the government of Québec at the request of the Québec people. It is my wish, and the wish of many Quebecers, that the governments of Canada, and their leaders, follow such a path and look at the partnership proposal with an open mind and a critical eye,²⁸ and that negotiations be held on those foundations even before a new referendum is called by the government of Québec.²⁹

Such a path would be much more healthy than a discourse using threats to the economic stability of Québec or its territorial integrity³⁰ and which puts emphasis on the illegality of Québec's eventual accession to sovereignty or the need for a higher vote hurdle.³¹ Sovereignists do not want to destroy and break-up Canada, as their political opponents often put it. Their intention is to invent a new country with its own distinctiveness and ambitions to live their national aspirations. Yet, Quebecers are also committed to building new bridges with a neighbour, a country with which it would like to enter into a friendly, peaceful, and novel form of Union,³² which could be labelled, for the sake of history and continuity, as a new Canadian Union.³³ □

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This paper is written in my capacity of professor and does not engage the institutions in which I have a political or professional affiliation.

Endnotes

1. The total number of votes casted was of 4,757,509. 2,308,360 voted Yes, 2,362,648 voted No and 85,501 (1.2%) spoiled their ballot.
2. In 1980, the Yes vote was 40.44% (1,485,851) and the No vote 59.56% (2,187,991), a difference of 19.12% (702,230). 85.61% of voters took part in the 1980 referendum.
3. This resolution was adopted by the House of Commons of Canada by 148 to 91, the members of the Liberal Party voting in favor of the resolution and the members of the Bloc Québécois and the Reform Party voting against: see G. Gauthier, "La motion sur la société distincte est adoptée: bloquistes et réformistes s'y opposent pour des motifs contraires; Charest s'absente" *La Presse* (12 December 1995) B1.
4. See *An Act respecting Constitutional amendments*, Bill C-110, First Session, Thirty-fifth Parliament 42-43-44 Elizabeth II, 1994-95. This Bill was adopted by the House of Commons and the Senate and was given royal assent on February 2, 1996. Some constitutional lawyers have argued that this Bill is unconstitutional: see M. Campbell, "Legality of Regional Veto Law questioned by experts" *The Globe and Mail* (3 February 1996) A5. See also, in a more political tone, F.L. Morton, "Why Chrétien's Proposal won't wash in the West" *The Globe and Mail* (30 November 1995) A21.
5. An SOM—La Presse—Radio-Québec poll taken between the 1st and 5th of December showed that 53% of Quebecers considered these proposals insufficient and 24% sufficient, whereas 23% did not answer: see M. Fontaine, "Les Québécois ne sont pas satisfaits des propositions du gouvernement Chrétien" *La Presse* (8 December 1995) B1.
6. It seemed, however, that the federal cabinet was preparing two plans: the plan on terms of reconciliation and the plan on terms of secession, to use the words of the new minister for Intergovernmental Affairs Stéphane Dion. But Prime Minister Chrétien appears to have denied the existence of these two plans: see S. Delecourt, "Chrétien steps back from unity issue — Prime Minister refocussing on economy as constitutional veto passes, Parliament prorogues" *The Globe and Mail* (3 February 1996) A1 and A4.
7. See René Lévesque, *Option-Québec* (Montréal: Les Éditions de L'Homme, 1968) at 48-64.
8. See D. Turp, "L'influence du modèle communautaire européen sur les projets d'association et de partenariat du Québec avec le Canada" in *Actes du Colloque sur l'Union européenne dans le contexte de la Conférence intergouvernementale de 1996* (à paraître).
9. Gouvernement du Québec, *Proposition du gouvernement du Québec pour une entente d'égal à égal: la souveraineté-association* (Québec: Conseil exécutif, 1980).
10. See Commission on the Political and Constitutional Future of Québec, *The Political and Constitutional Future of Québec: Report* (Québec, 1991) at 72 [hereinafter the *Bélanger-Campeau Report*]. This Commission had been created by *An Act Respecting the Commission on the*

Political and Constitutional Future of Québec, S.Q. 1990, c. 34.

11. S.Q. 1991, c. 34 [hereinafter *Bill 150*].
12. First Session, Thirty-fifth Legislature, tabled by Mr. Jacques Parizeau, Prime Minister, Québec Official Publisher [hereinafter the *Draft Bill*], art. 2. For a detailed analysis of this *Draft Bill*, see D. Turp, *L'Avant-projet de loi sur la souveraineté du Québec: texte annoté* (Montréal: Les Éditions Yvon Blais, 1995) [hereinafter *L'Avant-projet annoté*] and J. Brossard and D. Turp, *L'accèsion à la souveraineté et le cas du Québec* (Montréal: P.U.M., 1995) 797-850. See also, for a comment of a political nature, D. Turp, "A Democratic Process for a Fundamental Choice: The Draft Bill on Sovereignty and Québec's Political Future" (1995) 3:4 *Canada Watch* 45, 47 and 48, art. 2.

For a summary of those recommendations, see *L'Avant-Projet annoté* at 27-29.
13. *Ibid.*, art. 2.
14. For a summary of those recommendations, see *L'Avant-Projet annoté* at 27-29.
15. Bloc Québécois — Working Group on Economic Union and Common Institutions, *Sovereignty and Interdependence — Harmonizing the Essential with the Inevitable — A Proposal for an Economic and Political Partnership between Québec and Canada* (June 8th 1995) 29.
16. *Ibid.*, at 11.
17. The text of this Agreement is contained in the schedule of Bill 1 *An Act Respecting the Future of Québec*, *infra*, note 18 [hereinafter the *Tripartite Agreement*]. See on this agreement D. Turp, "The June 12 Agreement: A Common Project for Québec's Future" (1995) 3:7 *Canada Watch* 1-3 and D. Turp, "PQ-BQ-ADQ — Une entente ni superficielle ni dysfonctionnelle: c'est le fédéralisme du statu quo qui souffre de ces défauts" *Le Devoir* (18 September 1995) A7.
18. First Session, Thirty-fifth Legislature, introduced by Mr Jacques Parizeau, Prime Minister [hereinafter the *Bill on the Future of Québec* or *Bill 1*].
19. For an in-depth analysis of these polls, see P. Martin, "Association after Sovereignty? Canadian Views on Economic Association with a Sovereign Québec" (1995) XXI:1 *Canadian Public Policy* 53 and ff.
20. In a CROP-TVA—La Presse—The Toronto Star poll taken from September 7th to 12th, 46% of Quebecers believed that Canada would accept to negotiate a new partnership with Québec, 39% did not believe so and 15% had no answer: see M. Fontaine, "Le Canada acceptera de négocier avec un oui — mais l'échéancier d'un an semble bien téméraire aux yeux d'une majorité de Québécois" *La Presse* (1 October 1995) A4.
21. See on this issue the comment of S. Dion, "Union politique : Jacques Parizeau a raison ... et tort en même temps" *La Presse* (13 April 1995) B3.
22. The position of the Action démocratique du Québec on political union can be found in two documents: Action Démocratique du Québec, *Partenaires d'une nouvelle Union Québec-Canada*, 6 p. and Action Démocratique du Québec, *La nouvelle Union Québec-Canada: Institutions et principes de fonctionnement* (5 May 1995) 29.
23. See Bloc Québécois, *Un nouveau parti pour l'étape décisive* (Montréal: Fides, 1992) 85-99 and 119.
24. See for example R. Bourassa, *L'union monétaire et l'union politique sont indissociables* Parti libéral du Québec-textes référendaires n° 10, avril 1980. See also for an analysis of these arguments and others R. Young, *The Secession of Québec and the Future of Canada* (Montréal and Kingston: McGill-Queen's University Press, 1995) 60-74.
25. See P. Resnick, *Toward a Québec-Canada Union* (Montreal: McGill-Queen's University Press, 1991).
26. See A. Burelle, *Le mal canadien: essai de diagnostic et essai d'une thérapie* (Montréal: Fides, 1995).
27. See R. Mackie, "Poll finds Quebecers proud of Canada — Responses show support for sovereignty based on rejection of existing federal system" *The Globe and Mail* (24 February 1996) A5. It is also interesting to note that, according to two researchers of the Université de Montréal, the simple aging of the population will create a natural majority favorable to independence by the end of the century: see J. Gray, "Yes support will expand as voters age, study says — Research rejects idea that Quebecers become more cautious" *The Globe and Mail* (17 November 1995) A3.
28. See D. Turp, "Post-Referendum Reflections: Sovereignty is Alive and Well, Partnership Remains the Roadmap to the Future" 4:2 *Canada Watch* 17, 42 and 43.
29. See the remarks to that effect made by the vice-prime minister of Québec and minister of International Affairs Bernard Landry: R. Séguin, "Amicable Split-up Possible: Landry- Québec minister eyes Czech model" *The Globe and Mail* (16 January 1996) A1 and A4.
30. See Tu Thanh Ha, "Partition talk gives Québec a jolt — English propose, French oppose" *The Globe and Mail* (5 February 1996) A1 and A4.
31. See R. Howard, "Slim vote can't split Canada, PM says — Liberals Discuss raising hurdle" *The Globe and Mail* (31 January 1996) A1 and A5. However, as the newly appointed Prime Minister of Québec Lucien Bouchard argued: "Quebecers will rally against federal 'provocation and scare-mongering tactics' on the issue of how much support is needed to take Québec out of Canada." See R. Séguin, "Ottawa tactics will backfire, Bouchard says — Premier predicts Quebecers will unite to support separation in face of 'provocation and scare-mongering'" *The Globe and Mail* (31 January 1996) A10.
32. See on a proposal for a novel form of Union, D. Turp, "Québec and Canada's Future after the Charlottetown Accord Referendum: Genuine Sovereignities within a Novel Union" (1993) 4 *Constitutional Forum* 47-49; (1993) XVI *The Canadian Law Newsletter* 41-45.
33. See in that respect the Draft Treaty creating a Canadian Union (Projet de Traité instituant l'Union canadienne) which I presented to the Bélanger-Campeau Commission and that I revised and published in *L'Avant-projet annoté* at 155-176. This concept of a Canadian Union has recently been given a political stamp of approval by the same Bernard Landry, recently appointed minister of State for Economy and Finances of Québec: see R. Séguin, "Québec calls for talks on a 'Canadian Union' — Two-nation Partnership terms to be sought before a vote" *The Globe and Mail* (1 February 1996) A1 and A8..

AMENDING THE CANADIAN CONSTITUTION: A MATHEMATICAL ANALYSIS

Thomas Flanagan

On November 27, 1995, Prime Minister Jean Chrétien released a proposal designed to affect the workings of the constitutional amendment process. Under his draft legislation, the "general procedure" (7 provinces with 50% of the population of the provinces) would have remained in force, but the federal cabinet would have been barred from introducing a constitutional resolution into the House of Commons unless it already had the approval of at least Ontario, Québec, two provinces in the West having more than 50% of the population of that region, and two Atlantic provinces having more than 50% of the population of that region.¹ On December 7, responding to unhappiness in British Columbia, the Minister of Justice announced that this four-region veto would be changed to a five-region formula under which passage of an amendment would require approval by Ontario, Québec, British Columbia, two of three prairie provinces having more than 50% of the population of the prairies, and two of four Atlantic provinces having more than 50% of the population of that region.

Using party discipline and time allocation, the Liberal government passed its legislation quickly through Parliament. Although the bill was supposed to fulfill a promise made by Prime Minister Chrétien during the last week of the 1995 referendum campaign, public opinion in Québec seems unimpressed, and there has been heavy criticism in British Columbia and Alberta as well as by native leaders.

This short paper attempts to shed light on the controversy by using some simple mathematics to analyze the existing and proposed amending formulas. The first conclusion is that the regional veto will create tiers of provinces with very different and permanently unequal shares of amending power. Thus, if we regard even rough equality of the

provinces as a value to be protected, there is much to be said for the existing "7/50" formula. The second conclusion is that the regional veto is a negative-sum game which, even as it redistributes amending power from some provinces to others, also makes all provinces worse off in terms of their ability to obtain future changes to the constitution.

THE BANZHAF POWER INDEX (BPI)

The BPI is a method for comparing the relative decision-making power of participants in systems of weighted voting. Steven J. Brams defines the BPI as "the number of winning coalitions in which the member's defection from the coalition would render it losing — which is a critical defection — divided by the total number of critical defections for all members."² Winning coalitions that would be turned into losing coalitions by the defection of a single member are known as Minimum Winning Coalitions (MWCs). Thus the BPI is computed by enumerating all MWCs, counting the number of critical defections, or "pivots," for each player, and dividing by the total of pivots for all players.

As an example, consider a hypothetical system with four participants — A, B, C, and D. A has 3 votes, B has 2, and C and D each have 1. With 7 votes altogether, any MWC must have at least 4 votes if the decision rule is simple majority. All MWCs are tabulated below; members that are pivotal in a particular coalition are underlined.

n = 2	<u>AB</u> <u>AC</u> <u>AD</u>
n = 3	<u>ABC</u> <u>ABD</u> <u>BCD</u> <u>ACD</u>
n = 4	none

<u>Player</u>	<u>Number of Pivots</u>	<u>BPI</u>
A	6	.50
B	2	.17
C	2	.17
D	2	.17
	12	

It might seem obvious that A, with 3 votes, would have the greatest voting power; but it is not obvious that the power of B, which has 2 votes, should be equal to that of C and D, which have only 1 vote each. This surprising result is a function of the coalitional possibilities in the particular situation; it would not necessarily be true in a different configuration of voters and weights. The virtue of the BPI is that it focuses precisely on particular configurations and thus moves beyond generalities based on surface impressions.

The BPI can also be used to measure voting power where the decision rule is one of qualified majority, as in the "7/50" amending formula. For a simple illustration, leave everything the same in the previous example except the decision rule, which is now set at 5 votes out of 7.

n = 2	<u>AB</u>
n = 3	<u>ABC</u> <u>ABD</u> <u>ACD</u>
n = 4	<u>ABCD</u>

<u>Player</u>	<u>Number of Pivots</u>	<u>BPI</u>
A	5	.5
B	3	.3
C	1	.1
D	1	.1
	10	

As it happens, the winner in this move from simple to qualified majority is B, whose BPI increases from .17 to .3, while C and D fall from .17 to .1 and A remains unchanged at .5. This illustrates a fundamental principle of BPI analysis that will become strikingly evident in the discussion of constitutional amending formulae: because power is a relational concept, any change in the number of players, weighting of votes, or decision rule can have

major unanticipated and perhaps undesired consequences in the distribution of power in the system.

Finally, note that for any configuration there are not only Minimum Winning Coalitions but also Minimum Blocking Coalitions (MBCs). That is, if it takes 5 votes to pass a measure under a qualified majority rule, 3 votes can block it. The BPI will be the same whether the analysis is done in terms of MWCs or MBCs, as illustrated below.

n = 1	<u>A</u>
n = 2	<u>AB</u> <u>AC</u> <u>AD</u> <u>BC</u> <u>BD</u>
n = 3	<u>ACD</u> <u>BCD</u>
n = 4	none

<u>Player</u>	<u>Number of Pivots</u>	<u>BPI</u>
A	5	.5
B	3	.3
C	1	.1
D	1	.1
	10	

Depending on the situation, it is sometimes more practical to compute the BPIs in terms of MBCs rather than MWCs; but it is always possible to do it both ways and get the same results.

THE "SEVEN/FIFTY" FORMULA

The "7/50" rule was analyzed by D. Marc Kilgour in 1983, using population statistics from the 1981 census. Kilgour proceeded by way of MBCs. In his words:

- (1) No province acting alone can block an amendment.
- (2) Of the 45 possible coalitions of two provinces, only the coalition of Ontario and Québec can block an amendment.
- (3) Of the 120 possible coalitions of three provinces, only 12 have the power to block an amendment. These are the eight which include both Ontario and Québec, and the four consisting of Ontario and British Columbia together with one of Alberta, Saskatchewan, Manitoba, Nova Scotia.

- (4) Every coalition of four or more provinces can block an amendment.³

Using this approach, Kilgour calculated the following BPIs for the provinces:⁴

Ontario	.1234
Québec	.1132
British Columbia	.1031
Alberta	.0954
Saskatchewan	.0954
Manitoba	.0954
Nova Scotia	.0954
New Brunswick	.0929
Newfoundland	.0929

The 7/50 rule treated the provinces in a relatively equal fashion, giving Ontario, the strongest province, only 33% more power than each of the three weakest provinces (.1234/.0929). Moreover, it did not classify provinces into permanent categories differentiated by possession or non-possession of a veto. No province had a veto by itself, and all provinces could exercise a veto by becoming pivotal partners in a variety of MBCs. Provinces' BPIs might change over time as population changed, but these would be gradual adjustments registered in every decennial census, not sudden realignments of power.⁵

THE FIVE-REGION VETO

The five-region veto found in the amended version of the Liberals' legislation always requires a MWC of size 7. A successful amendment must have the support of Ontario, Québec and British Columbia, as well as Alberta with either Saskatchewan or Manitoba, plus two out of three of Nova Scotia, New Brunswick, and Newfoundland. Three initial observations are that:

- (1) The five-region veto completely supersedes the 7/50 rule inasmuch as any coalition of seven provinces that meets the five-region test will also have more than 50% of the population of Canada. Thus the five-region formula can be analyzed on its own without worrying about interaction with the still constitutionally valid general procedure.
- (2) Prince Edward Island becomes a dummy player, deprived of all power under this formula. Its population is so small that it can never be pivotal in the Atlantic region; and since any MWC under this formula already contains 7 provinces, PEI can never be pivotal in that sense. The disenfranchisement of PEI was probably not intended, but it is nonetheless complete.
- (3) In the 1991 census, Alberta had 2.5 million people, against 1.09 million for Manitoba and .99 million for Saskatchewan. Alberta thus has a de facto veto because it has more than half the population of the three prairie provinces; and because its population is growing, that veto is likely to persist for the foreseeable future. On the other hand, Saskatchewan and Manitoba do not become powerless dummies like PEI. Alberta can veto an amendment by itself, but it cannot pass an amendment without the support of either Manitoba or Saskatchewan. The two smaller prairie provinces share a veto, so to speak.

The mathematical analysis is straightforward. There are only 6 possible MWCs of size 7. Ontario, Québec, British Columbia and Alberta are always pivotal; Saskatchewan and Manitoba are each pivotal 3 times; and Nova Scotia, New Brunswick, and Newfoundland are each pivotal 4 times. For $n = 8$, there are 18 MWCs, produced by adding one or another of the three left-out provinces to one of the MWCs of size 7. There are only 6 MWCs of size 9 because the four veto-wielding provinces must always be included, and of course there is only one MWC of size 10.

Summing the pivots for MWCs of all sizes yields the following results:

<u>Province</u>	<u>BPI</u>	<u>Ratio over 7/50 BPI</u>
Ontario	.1667	135
Québec	.1667	147
British Columbia	.1667	162
Alberta	.1667	175
Saskatchewan	.0538	56
Manitoba	.0538	56
Nova Scotia	.0753	79
New Brunswick	.0753	81
Newfoundland	.0753	81
Prince Edward Island	.0000	0

As mentioned above, Prince Edward Island is the big loser under this scheme, becoming a powerless dummy. The other Atlantic provinces and the two smaller prairie provinces also incur significant losses compared to their status in the 7/50 rule, while the four veto-wielding provinces make big gains. Ironically for a measure which was supposed to respond to demands from Québec, the biggest winner is Alberta (75% increase) and the second-biggest is British Columbia (62% increase).

A NEGATIVE-SUM GAME

Even though the four big provinces are all "winners" under the five-region formula, they are winners primarily in the negative sense of being able to prevent changes that might be desired by others. Their increased BPI does not imply an increased ability to secure changes that they might wish. BPI analysis shows that the four big provinces are now more powerful relative to the six small provinces in the constitutional amendment process, but all provinces are less powerful in an absolute sense of being able to constructively change Canada in the future. That is, regional-veto formulas are a negative-sum game that decrease the horizon of possibilities for all players even as they reallocate power from player to player.

We can measure the contraction of the horizon by enumerating the number of winning coalitions (all winning coalitions, not just MWCs) for any amendment formula and dividing by the total number of possible coalitions. With 10 provinces able to vote yes or no, the total number of possible coalitions is,

according to the binominal expansion, $2^{10} = 1024$, ranging from 10 yes and 0 no to 10 no and 0 yes. The least restrictive formula that anyone would recommend for amending a constitution would be a simple majority, in Canada's case 6 of 10 provinces. Under that rule, 386 coalitions, 37. % of the total, would become winning coalitions — 210 of size 6, 120 of size 7, 45 of size 8, 10 of size 9 and 1 of size 10. Using a similar approach, the number of winning coalitions for other rules is given below.

<u>Definition</u>	<u>Number</u>	<u>Percentage of Total</u>
All	1024	100.0%
Simple majority (6 of 10 or better)	386	37.7
7/50 rule (1981 census)	163	15.9
7/50 rule (1991 census)	161	15.7

The general procedure, allowing positive results in about 16% of cases, was certainly more restrictive than a simple majority; indeed, as a qualified-majority rule, it was designed to be so. However, it still held out a realistic possibility of achieving amendments. The five-region veto, on the other hand, is much closer in practice to unanimity than it is to the general procedure; it allows only 31 provincial coalitions, 3% of the total, to be winning coalitions.

A measure of each province's positive power to achieve a desired constitutional amendment can be derived by multiplying its relative share of power (BPI) under a particular formula times the probability of all participants acting together to achieve an amendment. The table below compares each province's positive power in 1981 under the 7/50 formula against its power under the five-region veto, using 1991 census figures.

POSITIVE POWER INDEXES		
Province	7/50 (1981)	Five-Region Veto (1991)
Ontario	.0196	.0050
Québec	.0180	.0050
British Columbia	.0164	.0050
Alberta	.0152	.0050
Saskatchewan	.0152	.0016
Manitoba	.0152	.0016
Nova Scotia	.0152	.0023
New Brunswick	.0148	.0023
Newfoundland	.0148	.0023
Prince Edward Island	.0148	.0000

The table shows that even provinces, like Alberta, that have more *relative* power under the five-region veto now have less *absolute* power to achieve desired constitutional amendments.

The effect of the five-region veto is to freeze the constitutional order around the status quo. This is bound to be unpopular in the West, where ideas such as Senate reform, property rights, and a Canadian common market still have many adherents. The five-region veto may be more popular in Québec if it assuages fears of a repetition of 1981, in which the constitution was amended without Québec's approval. However, politicians in Québec, federalists as well as separatists, have positive constitutional aspirations that go beyond forestalling changes desired by others.

If done under the rule law, a transfer of jurisdictions from Ottawa to Québec City, as well as the separation of Québec from Canada, will involve constitutional amendments, which will now be harder to obtain than they were previously. Ironically, therefore, it may be Québec, as the province least satisfied with the constitutional status quo, that loses most from the five-region veto. □

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Endnotes

1. Office of the Prime Minister, press release, November 27, 1995.
2. Steven J. Brams, *Rational Politics: Decisions, Games, and Strategy* (Boston: Academic Press, 1985) 99.
3. D. Marc Kilgour, "A Formal Analysis of the Amending Formula of Canada's Constitution Act, 1982" (1983) 16 Canadian Journal of Political Science 773.
4. *Ibid.*, 772.
5. For example, based on 1991 census figures, Ontario and British Columbia could combine with six provinces other than Quebec (Alberta, Saskatchewan, Manitoba, Nova Scotia, New Brunswick, and Newfoundland) to exercise a veto, rather than just four according to the 1981 census. But small changes like this would only affect the BPI at the third or fourth decimal place.

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