

CANADA'S PROSPECTS

Proceedings of the 1996 Pluralt Conference

SHOULD WE KEEP TALKING?

Issue Editors:

Janet Aizenstat and Caroline Bayard

Contributors:

Kenneth McRoberts

Jocelyne Couture

Nadia Khouri

Daniel Latouche

Peter Russell

Frank Cunningham

Comments:

Eric Montpetit, Joe Murray and
Round Table Discussion



CONSTITUTIONAL
FORUM
CONSTITUTIONNEL

Centre for Constitutional Studies / Centre d'études constitutionnelles

CONSTITUTIONAL
FORUM
CONSTITUTIONNEL



Special Issue Editors:

Janet Ajzenstat and Caroline Bayard

Editor:

David Schneiderman

Design & Layout:

Christine Urquhart

Constitutional **Forum** Constitutionnel is a quarterly publication of the Centre for Constitutional Studies / Centre d'études constitutionnelles published with the financial support of the Alberta Law Foundation.

Centre for Constitutional Studies
Management Board / Conseil administratif

Bruce P. Elman, Chair

Timothy J. Christian	Gerald L. Gall
Susan Jackel	Roderick C. Macleod
Kenneth Norrie	June Ross
David Taras	Allan Tupper

David Schneiderman, Executive Director
Christine Urquhart, Executive Assistant

Advisory Board / Conseil consultatif

Paul Bender	Thomas R. Berger
Lise Bissonnette	Henri Brun
Alan C. Cairns	Michael Crommelin
Mary Eberts	Thomas Flanagan
Pierre Foucher	William Henkel, Q.C.
Peter W. Hogg, Q.C.	J.D. House
Andrée Lajoie	Norman Lewis
Geoffrey Marshall	J. Peter Meekison
David Milne	Richard Price
Peter H. Russell	Campbell Sharman
Richard Simeon	Jeffrey Simpson
David E. Smith	Katherine Swinton
Ronald L. Watts	John D. Whyte

The opinions expressed herein are those of the individual contributors only. Contributions and replies are invited in either official language. Notes and articles should be limited to 3,000 words in length. The Editor and Management Board reserve the right to edit any submissions. Inquiries and contributions should be directed to the Editor, David Schneiderman, 459 Law Centre, University of Alberta, Edmonton, Alberta, T6G 2H5 or by telephone at (403) 492-5681 or Fax (403) 492-4924; or e-mail: curquhart@law.ualberta.ca.

Associate Memberships to the Centre for Constitutional Studies are available at \$35.00 per year (entitlements are: newsletter, notification of Centre publications, lectures and events.) Retroactive memberships are still available for an additional fee. Retroactive membership for 1989-90 through 1995/96 are available at \$10.00 per year. Make cheques payable to: The Centre for Constitutional Studies.

Constitutional **FORUM** Constitutionnel is indexed in: **Index to Canadian Legal Periodical Literature**, **Index to Canadian Legal Literature** and **Current Law Index**.

ISSN: 0847-3889

SHOULD WE KEEP TALKING?

TABLE OF CONTENTS

INTRODUCTION: SHOULD WE KEEP TALKING? Janet Ajzenstat and Caroline Bayard	79
WHY WE CAN'T TALK: THE LOST LANGUAGE OF CANADIAN POLITICS Kenneth McRoberts	82
SOME WAYS OF TALKING Jocelyne Couture	89
ON THE QUEBEC-QUEBEC CONVULSIONS: THE QUEBEC REFERENDUM AND ITS AFTERMATH Nadia Khouri	95
SHOULD WE SIMPLY TALK, OR TALK FOR REAL? DISCURSIVE PLEASURES AT THE END OF THE CANADIAN CENTURY Daniel Latouche	105
ABORIGINAL NATIONALISM AND QUEBEC NATIONALISM: RECONCILIATION THROUGH FOURTH WORLD DECOLONIZATION Peter Russell	110
THE CANADA-QUEBEC CONUNDRUM: A TRINATIONAL PERSPECTIVE Frank Cunningham	119
COMMENTS	
A RESPONSE TO McROBERTS AND LATOUCHE Eric Montpetit	130
VIOLENCE, BORDERS, AND LIBERAL TOLERATION Joe Murray	133
ROUND TABLE DISCUSSION	139

CONTRIBUTORS

Janet Ajzenstat, Department of Political Science, McMaster University.

Caroline Bayard, Department of French and Department of Philosophy, McMaster University.

Joyce Bellous, Divinity College, McMaster University.

William D. Coleman, Department of Political Science, McMaster University.

Jocelyne Couture, Département de philosophie, Université du Québec à Montréal.

Frank Cunningham, Department of Philosophy, University of Toronto.

Nadia Khouri, Department of Humanities, Dawson College.

Daniel Latouche, Institut national de la recherche scientifique, Montréal.

Kenneth McRoberts, Department of Political Science, York University.

Eric Montpetit, Doctoral Candidate, Department of Political Science, McMaster University.

Joe Murray, Doctoral Candidate, Department of Philosophy, McMaster University.

Ed Navarro, Student, Faculty of Social Science, McMaster University.

Kai Nielsen, Professor Emeritus, Department of Philosophy, University of Calgary.

Peter Russell, University Professor, University of Toronto.

Michael Stein, Department of Political Science, McMaster University.

INTRODUCTION: SHOULD WE KEEP TALKING?

Janet Ajzenstat and Caroline Bayard

Should Canadians keep talking about constitutional issues? Should we keep hoping for a resolution? After two decades of negotiations both Quebec and the Rest of Canada are experiencing an acute sense of failure. Can we subject ourselves to further wrangling? Can we risk further failures?

On 22 November 1996, the research group *Pluralité* (*Pluralité et Alterité*) posed these questions to invited guests and the McMaster University community at a day-long conference. Presenting papers were Kenneth McRoberts, Jocelyne Couture, Nadia Khouri, Daniel Latouche, and Peter Russell. Graduate students Joe Murray and Eric Montpetit acted as commentators. A round-table discussion followed the presentations to which all the participants contributed, with comments from the audience. This issue of *Constitutional Forum constitutionnel* includes the entire proceedings, with the addition of an essay by Frank Cunningham written for an earlier *Pluralité* meeting.

Should we keep talking? In a sense the response was predictable. What academic can say "No" to the idea that more talk is in order? Talk, after all, is what professors do. The academy is one of the world's great talking shops. It is no surprise, then, that conference participants expressed at least guarded enthusiasm for the notion that Canadians should continue to explore constitutional issues in the hope of finding remedies.

The surprise emerged when the subject of First Nations' constitutional demands was introduced. Since the report of the Royal Commission on Aboriginal Peoples had been presented to Parliament only the day before, the insertion of Aboriginal arguments was perhaps inevitable. But the *Pluralité* organizers had their doubts about the advisability of expanding the conference agenda; it was argued that consideration of the Royal Commission recommendations would deflect attention from the Canada-Quebec debate, making

resolution of that dialogue more difficult. In the event, something rather different happened.

The conference participants and audience leaped at the idea, proposed by Peter Russell, that we focus on the Royal Commission recommendations. They believed that this broader focus would promote, not hinder, resolution by jolting constitutional talk out of the tiresome old Canada-Quebec ruts and clearing the way for consideration of a new ordering of the major groupings within Confederation. If a consensus emerges from the *Pluralité* conference, it is that the Royal Commission's argument for sovereign Aboriginal nations within Confederation lends legitimacy to the bold suggestion that Quebec be considered a *country* within Confederation.

In "Why We Can't Talk: The Lost Language of Canadian Politics," Kenneth McRoberts contends that the natural participants in a dialogue about Quebec's status in Confederation — Quebec and Canada Outside Quebec — seldom engage. The institutions of Canadian federalism pit Quebec against a government which represents the citizens of Quebec as well as Canadians in the other provinces. Both sides in the debate, Quebec and Ottawa, can fairly claim to speak for the Québécois, with the inevitable result that the real issues fail to emerge. McRoberts argues that the unfortunate effects of these institutional constraints are exacerbated when the federal government is headed by a francophone.

In McRoberts's view, Canada was closer to genuine dialogue during the Pearson years. The prevailing concepts of that period, especially the notion of "two founding peoples" (*deux nations*) with its echoes of the nineteenth-century "compact theory," promoted exactly what present institutions so conspicuously hinder, talk between Quebec and Canada Outside Quebec. The two sides shared a political language: the "lost language of Canadian politics." The

Pearson government established *de facto* special status for Quebec and entertained proposals for constitutional recognition. But when francophones Trudeau and Lalonde assumed leadership at the federal level, dialogue broke off. Today there is no comparable common framework for discussion; at best each side engages in monologue.

Jocelyne Couture addresses the issue in not dissimilar fashion: Who is talking? What is the language of discourse? What are the objectives? From John Rawls she draws a list of conditions for fruitful democratic dialogue; there must be a common language of discourse, frank acknowledgment of claims and acceptance of the fact of disagreement, and determination to resolve issues by reason rather than coercion. In Couture's opinion, Quebec's submissions over the years have adhered to this democratic model; Ottawa's have not. On two points, in particular, English Canada's participation has been deficient. The first is that English Canada has failed to recognize the liberal democratic character of Quebec. Quebec has one of the oldest parliamentary systems in North America and is no stranger to democratic discourse. In this connection Couture notes that Quebec today is a model guardian of civil rights — a characteristic English Canada has notably failed to acknowledge. The second way in which English Canada's participation has been lacking is that Canada seldom acknowledges Quebec's objectives, continuing to conduct negotiations as if Quebec were always bent on separation rather than partnership.

Couture acknowledges that sovereignty, in some form, is now inevitable. The dialogue from this point must concern conditions for partnership between two nations. Whether we will at last engage in true democratic debate as we undertake this task she cannot foresee but, as she notes, talk of some sort will inevitably continue between the intellectuals of the two communities. Couture puts the onus on intellectuals in English Canada to explain to fellow citizens that a parting of the ways will be mutually advantageous.

From Nādia Khouri's paper one would not conclude that it is fruitful to engage in discussion with Quebec's intellectuals; quite the contrary. Khouri argues that Quebec's intellectuals and political leaders are deliberately misrepresenting the strength of nationalist sentiment in the province. Faced with growing ethnocultural diversity in Quebec they find it necessary to manufacture the appearance of homogeneity by perpetuating an atmosphere of crisis and submitting

Quebec to storms of nationalist emotion. In Khouri's view, the crucial participants in the debate on Quebec's future are not Canada and Quebec, but Quebec's leaders and intellectuals on the one hand, and the sophisticated, feisty Quebec electorate on the other. In this contest between Quebec's elites and electorate, Khouri's sympathies are all on the side of the latter.

She admires the voters for simultaneously returning obstructionist governments at the federal and provincial levels; their seemingly erratic behavior is proof of their strong attachment to both Canada and Quebec. She places considerable confidence in the fact that Quebecers have refused to give their leaders a clear mandate for sovereignty. She welcomes the prevailing tendency of voters to suspect politicians' motives; a climate of distrust has its uses in her opinion. And she supports the entry into the debate of new organizations representing regional interests within Quebec.

In "Should We Simply Talk, or Should We Talk for Real? Discursive Pleasures at the End of the Canadian Century," Daniel Latouche adheres to the old formula in one respect; he believes the crucial question is whether Canada and Quebec can still engage in fruitful discussion. He is not open to Khouri's suggestion that the true debate lies within Quebec, where the Quebec electorate is pitted against its elites. Like Couture, Latouche contends that reason is the prerequisite in the Canada-Quebec game. He calls for lucidity, self-abnegation, and openness. Unlike Couture he finds these qualities lacking on both sides.

"Talking for real" means that Canada must give up hopes of a "quick fix." *Minimal* constitutional change is not an option. In Latouche's view the reforms proposed by the Prime Minister after the 1995 referendum were at best cosmetic. But Quebec for its part must realize that it cannot negotiate the end of Canada as if the referendum had been won. Indeed, Latouche suggests that the recent referendum loss may yet persuade the Québécois to give up "abstract," "immaculate" dreams of sovereignty. "Defeat is a great eye-opener," he says. Quebec must accept that it will never reach "the status of a fully sovereign country along the Bolivia-China-Germany model." The tangible problem Canada and Quebec now face is how to make Quebec a "country within Canada." The way to deal with sovereignty, he concludes, is to make it a Canadian project.

In passages Latouche speaks of the new Confederation in terms of not two, but three nationalities:

Canada, Quebec, and the First Nations. This is the theme developed by Peter Russell; it is subsequently picked up by Frank Cunningham in the round-table discussion. It is the line of argument that electrified the Pluralt audience. As the day moved on, it was apparent that at least some of those present were prepared to say that the essence of what Kenneth McRoberts calls the "lost language of politics" might be recaptured by thinking in terms of *trois nations*.

Peter Russell's task at the conference was to address the issue of Aboriginal nationalism. He describes Aboriginals in the USA, Australia, New Zealand and Canada as "colonies within former colonies." If Aboriginal claims are resented it is because the ex-colonial nations, having completed their own process of "decolonization" and established themselves as self-governing nations, see Aboriginal demands as a challenge to their sense of achievement and identity. From this striking premise Russell builds an argument supporting Aboriginal claims to collective possession of a substantial portion of their ancestral homeland, with a tangible measure of self-government. At the same time he acknowledges that self-government is not the preferred route for all Aboriginal individuals, or Aboriginal peoples. Some, perhaps many, will choose the route of "integration," joining the political and economic mainstream.

Reflection on the two routes, self-government and "integration," leads to the conclusion that in a tri-national Canada Quebec's role is crucial. From the Aboriginal perspective, Quebec may seem merely another ex-colonial colonizer. Yet as a modern liberal polity — host to peoples and immigrants of many backgrounds, as Couture points out — Quebec is vitally interested in the process by which peoples "integrate." Moreover Quebec and the Aboriginal peoples are alike in so far as both have nationalist aspirations; both claim to enjoy a deeper sense of collective and national identity than obtains in Rest of

Canada. Quebec thus has reason to sympathize with Aboriginal arguments for self-government and cultural autonomy.

Russell concludes that Aboriginal nationalism and Quebec nationalism can be accommodated:

if we Canadians can follow the defining genius of our constitutional culture. At the core of that genius is a capacity for building a political community — a political nationality, to use George-Étienne Cartier's concept — that enriches itself through recognition and respect for the diverse peoples of which it is constituted.

In "The Canada-Quebec Conundrum: A Tri-National Perspective," Frank Cunningham addresses directly the idea that tri-nationalism will rescue us from the constitutional impasse. The paper sketches one version of tri-nationalism; he explicitly invites other formulations. (There are bound to be readers amused by Cunningham's suggestion that resolution of Canada's constitutional dilemmas requires conversion to socialism!) The sturdier idea in his paper, and his speech from the floor at the Pluralt conference, is the one on which the audience fastened: that in some form the idea of *trois nations* will elicit the support of Canadians, providing us safe conduct into novel political territory.

Should we keep talking?

Yes.

Janet Ajzenstat

Department of Political Science, McMaster University.

Caroline Bayard

Department of French and Department of Philosophy, McMaster University.

DEDICATION

This special issue of *Constitutional Forum* is dedicated to Elaine Nardocchio, founder and program director of the Pluralt Research Group. Since 1993 Dr. Nardocchio has been the driving force and inspiration behind Pluralt, making possible Pluralt's programme of interdisciplinary seminars, conferences and publications. She was President of the Federation of the Humanities from 1994 to 1996, and has published numerous articles in international journals as well as two books: *Theatre and Politics in Quebec* (Edmonton: University of Alberta Press, 1986) and *Reader Response to Literature: The Empirical Dimension* (Berlin: Mouton de Gruyter, 1992). We thank her for her commitment to interdisciplinary studies and her presence in our national scholarly community.

J.A. and C.B.

WHY WE CAN'T TALK: THE LOST LANGUAGE OF CANADIAN POLITICS

Kenneth McRoberts

The question before us, "Should We Keep Talking?" is highly provocative. Indeed, like all good questions, it contains several mini-questions: Who is "we"? What are we talking about? Is there an alternative to talking? Beyond that, the phrase "keep talking" posits that in fact we *have* been talking. Yet, I would argue that by some understandings of the term "we," we have not been talking at all, or at least not for many years. This in turn explains the crisis which now faces all Canadians, however "we" may define ourselves.

On this basis, my answer to the question before us would be that "we" should *start* talking. At the same time, I fear that we have had so little practice in doing so that we are likely to fail. In the end, we may keep on talking to ourselves, rather than to each other.

WHO IS "WE"?

The organizers of the conference, and framers of the question, have indicated that "we" stands for Canada and Quebec. From my perspective this is the most fruitful way to proceed, but it does insert us in a debate which has gathered considerable momentum these days. What is Quebec? What is Canada?

With respect to Quebec, the literal answer is workable: "the province of Quebec." But in this context "Canada" seems to imply something else: Canada with Quebec excluded. The last few years have witnessed a flurry of attempts to fashion a term to denote this second entity: such as "The Rest of Canada" or "Canada Outside Quebec," with their corresponding abbreviations of ROC and COQ. None of them has really taken hold, but collectively they have displaced an older term, which continues to have some currency in Quebec: "English Canada."

The complaint against "English Canada," of course, is that it refers not to territory but to people. The population of Canada outside Quebec is not

homogenous. Thus, the argument goes, "English Canada" includes the social reality of Canada outside Quebec. "Quebecker" or "Québécois" would seem to be safe from attack. Yet, as Jacques Parizeau continues to remind us, some Quebec francophones do not extend the term to *all* residents of the territory of Quebec. In his latest sally, Parizeau has limited Québécois to residents of Quebec who are more or less integrated within francophone culture.

All of this proper concern to avoid terms which appear to exclude some of the residents of a territory has tended to disguise some basic social realities. The fact of the matter is that the overwhelming majority of residents of Canada outside Quebec *are* anglophone. According to the 1991 census 87.6 per cent of the residents of ROC used English as their main language at home. Only 3.2 per cent used French; a far greater proportion, 9.3 per cent, used a "non-official language."¹ By the same token, in 1991 ROC contained 95.9 per cent of the anglophones in Canada as a whole.² Despite the best efforts of the federal government and some provinces to reinforce francophone populations outside Quebec, between 1981 and 1991 francophone minorities declined both numerically and as a proportion of the total population in all provinces but New Brunswick.³ Finally, in 1991, 97.7 per cent of the population of ROC claimed to be able to speak English; only 10.6 per cent claimed to be able to speak French.⁴ Thus, if the term "English Canada" is understood to designate language use, rather than ethnic descent, then in strictly numerical terms it is not as far off the mark as we might think.

¹ *Census of Canada, 1991*, Catalogue No. 93-317, Table 1 (as reproduced in B. R. Harrison and L. Marmen, *Languages in Canada* (Scarborough, Ont: Prentice-Hall, 1994) Table A.2).

² Calculated from *ibid.*

³ *Ibid.*

⁴ *Ibid.*, Tables 1.4 and 2.4

As for Quebec, the overwhelming majority is francophone. In 1991, 93.6 per cent of Quebec residents used French as their home language. Another 11.2 per cent used English, down from 14.7 per cent in 1971. In 1991, 5.8 per cent used a non-official language.⁵ By the same token, Quebec contained 89.9 per cent of Canada's francophones.⁶ Finally, 93.6 per cent of Quebec residents claimed to be able to speak French; 40.9 per cent claimed an ability in English.⁷ On this basis, French is almost as much the common language of Quebec as English is the common language of the rest of Canada.

These caveats aside, if language is added to territory in order to designate who is to do the talking, then four groups emerge: the francophone majority and the anglophone minority of Quebec and the anglophone majority and the francophone minority of ROC. This in turn creates four different forms of Quebec-Canada communication. I would argue that certain combinations have tended to do most of the talking.

Historically, communication has tended to follow linguistic lines, going between majority and minority. Ties among francophones were, of course, supported by the notion of a French Canada promoted by Church leaders and nationalist organizations. This sense of solidarity was permanently shaken by Quebec neo-nationalism in the 1960s. The Trudeau government's "national unity" strategy, which was premised on restoring this French-Canadian solidarity, clearly failed in its task. Indeed, the transparent "nation-building" purpose of the government's attempts to shore up the francophone minorities served to reinforce the estrangement between francophones within and without Quebec. Yet, a sense of affinity among francophones remains.

The historical solidarity between the anglophone majority of ROC and the anglophone minority of Quebec was rooted less in religion, let alone any sense of a distinct English Canada, than in economic power. As long as Canada's economic institutions were centred in Montreal, anglophones in ROC would continue to see themselves as organically linked with their Quebec compatriots. Indeed, given the ability of Montreal anglophones to keep the Quebec government in check, there was no reason to distinguish between Quebec and ROC. All of Canada's anglophones played in the same league, with its economic centre in Montreal and its

political centre in Ottawa. To be sure, both Montreal and Ottawa had competitors.

In recent decades, as its economic power has waned, the Montreal anglophone community lost its ability to command the deference, and even the attention, of anglophones elsewhere. More recently, however, as it has come to see itself as a minority within Quebec, the Quebec anglophone community has assumed a new image for many anglophones in ROC: linguistic compatriots who are besieged by Quebec nationalism and a hostile government.

This status of besieged minority also has been assumed by many of Quebec's "allophones," those whose first language is neither English nor French and whose share of the Quebec population has increased as the anglophone share has decreased. The close linkages between Montreal allophone communities and their counterparts in Toronto and other major cities elsewhere have ensured continued Quebec-Canada bonds. All of this has been reinforced by the migration of Quebec anglophones and allophones to the major centres of ROC, where they have sensitized ROC to the grievances of Quebec's non-francophones.

By all indications, linkages between the two minorities, Quebec anglophones and ROC's francophones, have been much more sporadic. After all, the socio-economic conditions of the two minorities are quite different. Moreover, the challenges facing the two communities are different: out-migration in the case of Quebec anglophones and assimilation in the case of ROC francophones. Nonetheless, they do share a common interest in defending the rights and interests of linguistic minorities. Not surprisingly, they constituted the strongest base of support for the Trudeau government's "national unity" strategy and have continued in various ways to demonstrate intense loyalty to the Trudeau vision of Canada.

The most difficult communication, by far, has been between the two majorities: francophone Quebec and anglophone ROC (or "English Canada"). Indeed, they have had little experience talking to each other. In part, this reflects institutional factors: there is no political structure to speak for English Canada. On rare occasions, premiers of Ontario have been able to assume that role. Otherwise, communication between francophone Quebec and English Canada has taken place within federal institutions. Yet, federal institutions have tended to be biased against such discussions. After all, if debate is to be structured between francophone Quebec and English Canada then the Quebec provincial government, which has the first loyalty of

⁵ *Ibid.*, Table A.2.

⁶ Calculated from *ibid.*

⁷ *Ibid.*, Tables 1.4 and 2.4.

most Quebec francophones, may well claim that it is better placed to represent Quebecers than are the Quebec members of the federal government. Better then for the federal government to deny the significance of any distinction between Quebec francophones and English Canadians and to assert the essential unity of the Canadian nation. In post-war Canada, this dynamic has been especially clear when the federal government is itself headed by Quebec francophones: Louis St. Laurent and Pierre Trudeau.

Nonetheless, this form of communication between Quebec and Canada is crucial to the future of Canada, and Quebec. As the last few years have shown, whether Quebec francophones opt for sovereignty will be heavily shaped by their dealings with English Canada. By all indications, their ties to francophone minorities will not make the difference.

WHAT DO "WE" TALK ABOUT?

If in fact we focus on francophone Quebec and English Canada as the two partners in conversation, what should they talk about? They might talk about who they are. Over the years, federal policy-makers have assumed that the better the two groups get to know each other the more they will find some common bonds. This is, after all, the premise of such federal government initiatives as support for intercultural exchanges between students and other categories of Canadians. In these terms, the experience of the last few years is not very encouraging. The debate over Meech Lake and Bill 178 suggested that the more Quebec francophones and English Canadians got to know each other, the more they found to object to in each other. Still, if the purpose of the talking were to get a clearer sense of how the two groups differ, rather than of how they are the same, then it would be an important beginning.

Having a better sense of who the other is, as well as where they differ, francophone Quebec and English Canada then could discuss what should be done to their common political institutions. As survey after survey has demonstrated, neither wants to see Canada broken up. Indeed, most Quebec francophones agree with English Canadians that Canada is "a country where it is good to live." They even agree that francophones and anglophones should be proud of what they have accomplished together.⁸ Apparently, the problem is not with Canada but with its political institutions.

SHOULD WE TALK?

The results of the last Quebec referendum have given English Canadians and Quebec francophones more than enough reason to talk about what should be done to the Canadian political order. For the first time the referendum made Quebec sovereignty a distinct possibility. Neither English Canadians nor Quebec francophones have recovered from that shock. Unless the two groups can come to terms, the pressures to follow through on that possibility could be overwhelming.

Yet, even now, English Canadians and Quebec francophones are unable to engage each other in conversation. There has been a lot of "talk," perhaps too much. But, by and large, it has focussed on the outcome that neither group really wants: Quebec sovereignty. Despite the erstwhile pleas of English-Canadian academics and organizations such as the Business Council on National Issues,⁹ public debate outside Quebec has focussed not on finding the basis of a new accommodation with Quebec but upon defining the terms upon which Quebec might leave Canada. For all the acknowledgment of the need for a "Plan A," most English-Canadian energy and passion has gone into "Plan B." Yet, this fixation on sovereignty is not a response to the Quebec side of this would-be conversation. The formal leaders of the sovereigntist movement, the Bouchard government, have generally shied away from the question, leaving the field open to Daniel Johnson, the ostensible leader of Quebec federalists. His attempts to engage English Canada in a discussion of "Plan A" have been largely ignored.

Not only have English Canadians and Quebec francophones been unable, even now, to engage in a conversation about the future of their country, but the level of animosity between the two groups has reached new heights. In part, this stems from the intensified exchanges between English Canadians outside Quebec and Quebec's anglophones. Heightened sympathy for the plight of their Quebec compatriots has made many English Canadians even more resistant to the demands of Quebec francophones, federalist or sovereigntist. Also, English-Canadian discussions of "Plan B," seem to have provoked resentment among Quebec francophones. And the Quebec government's refusal to drop its formal commitment to sovereignty, or even discuss what might be the terms of a "renewed federalism," have frustrated many English Canadians

⁸ R. Mackie, "Poll Finds Quebecers Proud of Canada" *The Globe and Mail* (24 February 1996).

⁹ Confederation 2000, *Today and Tomorrow: An Agenda for Action* (Ottawa: May 3 & 4, 1996).

and alienated them from Quebec altogether, Daniel Johnson notwithstanding.

Yet, this current inability of English Canada and francophone Quebec to talk about the future of their country is in fact only the most dramatic instance of a longstanding pattern. The same thing happened in the late 1980s, when the Quebec government was in federalist hands and English Canada's first ministers joined with it to adopt the Meech Lake Accord. Once other political elites and the larger publics of English Canada and Quebec became involved, the "conversation" rapidly became a "*dialogue de sourds*" from which each side emerged severely wounded and angry.

THE 1960S: THE FIRST AND LAST CONVERSATION

Given the current impasse, we tend to forget there was a time when English Canadians and Quebec francophones could and did "talk" about their country. During the 1960s, all three of the major federal political parties were the locus of major debates between English Canadians and Quebec francophones over the nature of Canada. And all three parties adopted positions which sought to accommodate the demands of Quebec francophones for formal recognition of Canadian duality, and of Quebec's role as the centre of francophone society.¹⁰

The Liberal government played a leading role in this process, as Lester Pearson worked with francophones in his Cabinet to define the terms of an accommodation of Quebec nationalists. In 1963, Pearson appointed a Royal Commission on Bilingualism and Biculturalism with a mandate to define the conditions necessary to make Canada "an equal partnership between the two founding races."¹¹ At the same time, he openly recognized the distinctiveness of Quebec through such statements as that Quebec "is more than a province because it is the heartland of a people: in a very real sense it is a nation within a nation."¹² In addition, the Pearson government established a wide range of asymmetrical arrangements

under which Quebec assumed a *de facto* particular status. Pearson even declared a readiness to see special arrangements incorporated in a revised constitution.

Not all members of the Pearson government subscribed to this approach. In particular, officials in the Department of Finance mounted a campaign against asymmetry and, with the appointment of Mitchell Sharp as Finance Minister, were able to secure a roll-back of some of the arrangements that had been put in place. Yet, other English-Canadian members of the government, including Pearson himself, continued to see a need to accommodate Quebec's distinctiveness and to explore with their francophone colleagues the terms of such an accommodation. By 1967, however, this search for accommodation was compromised by a vigorous campaign against the very notion of accommodation that was led by new Quebec francophone voices in Ottawa: Pierre Elliott Trudeau and Marc Lalonde.

Within the Progressive Conservative Party the issue was joined in 1967 when, as part of an effort to make the party more attractive to Quebec francophones, a "thinkers conference" at Montmorency, Quebec, rose to a challenge from Marcel Faribault and adopted a declaration to the effect that "Canada is composed of two founding peoples (*deux nations*)."¹³ At a subsequent leadership convention, virtually all the leadership candidates endorsed the concept. The winner, Robert Stanfield, also had declared an openness to asymmetry. As with the Liberals, these ideas did not go uncontested. John Diefenbaker led a vigorous campaign against "two nations," but lost the party leadership anyway.

Finally, the New Democratic Party was confronted with these questions at its founding convention in 1961. There, a strong Quebec delegation, led by Michel Chartrand among others, succeeded in having the convention amend the party's program to recognize that Canada was formed by "two nations." By the same token, within the party's constitution, the term "national" was to be replaced by "federal." And in

¹⁰ This argument is developed in my *Misconceiving Canada: The Struggle for National Unity* (Toronto: Oxford University Press, 1997) c.2.

¹¹ Royal Commission on Bilingualism and Biculturalism, *Preliminary Report* (Ottawa: Queen's Printer, 1965) at 151.

¹² A 1963 statement to the Canadian French-Language Weekly Newspapers Association quoted in P.C. Newman, *The Distemper of Our Times* (Toronto: McClelland & Stewart, 1968) at 320.

¹³ The full sentence: "That Canada is composed of two founding peoples (*deux nations*), with historical rights who have been joined by people from many lands." (*Report on the Montmorency Conference, Courville, Quebec, August 7-10, 1967, The Progressive Conservative Policy Advisory Conference of the Centennial Convention, undated, 104.*)

1967, the party formally agreed to a position drafted by none other than Charles Taylor to the effect that:¹⁴

In fields of government which touch a community's way of life — fields such as social security, town planning, education and community development — Quebec must have the right and the fiscal resources to adopt its own programme and policies in place of those designed and financed by the federal government.

Here too some English-Canadian figures in the party rejected the notions proffered by their francophone colleagues. Indeed, Eugene Forsey left the party over the "two nations" question and historians Ramsay Cook and Kenneth McNaught broke with the party over special status for Quebec. Nonetheless, they had failed to persuade the party as a whole to their positions.

To be sure, this conversation between English-Canadian and francophone political and intellectual elites was uneven. Quebec francophones did most of the talking, and English Canadians did most of the listening. Moreover, there were real limits to what the English Canadians were prepared to adopt. Nonetheless, at least English Canadians and Quebec francophones were engaged in a discussion, and debate, over the nature of their country and the changes that were needed in its political institutions. And, for a while at least, it was an open debate: all possibilities were fit for discussion.

As such, the debate of the 1960s is a far cry from the current state of affairs where discussion focusses not on how to renew Canada but upon the terms under which Quebec might leave it. Thirty years later, it is inconceivable that the Prime Minister of Canada could refer to Quebec as "a nation within a nation" and that leading forces in the opposition parties would recognize the idea of "two nations," however minimally, or advocate a particular status for Quebec.

Several factors made the debate of the 1960s possible. First, it was new. English-Canadian elites had never really confronted the very different terms in which their francophone counterparts had always understood the country. The rise of Quebec nationalism had forced them to do so. It would take a while before fatigue and closure began to set in.

¹⁴ D. Morton, *The New Democrats, 1961-1986: The Politics of Change* (Toronto: Copp Clark Pitman, 1986) at 25.

Second, political circumstances favoured an engagement between English Canada and francophone Quebec. The federal government was led by a Prime Minister who was himself from English Canada and could claim to speak for English Canada while, at the same time, seeking the terms of an accommodation of Quebec. With very brief exceptions, this has not happened since. Moreover, in devising his Quebec strategy, Pearson was guided by officials, such as Gordon Robertson and Tom Kent, who were also English Canadian but had close personal links with the Quebec Premier, Jean Lesage. Beyond that, the political economy of English Canada was still sufficiently centred in Ontario for Premier John Robarts to assume the role of unofficial spokesman for English Canada and to draw the other premiers into a formal discussion with his friend Daniel Johnson, at the Confederation of Tomorrow conference.

Third, and perhaps most important, English Canada and French Quebec could "talk" because they still shared a language and the concepts for doing so. In the late 1990s, we tend to forget the extent to which English-Canadian political and intellectual elites used to view Canada as a "compact" among "partners."

The compact theory itself may have been first advanced by a French-Canadian judge, in 1884, but it was quickly seized upon by then premier of Ontario, Oliver Mowat. Together, Mowat and Quebec Premier Honoré Mercier organized an interprovincial conference in 1887 to assert provincial rights. According to Ramsay Cook, by the end of the century:¹⁵

It would be difficult to find a prominent politician who was not willing to pay at least lip-service to the principle of provincial rights and its theoretical underpinning, the compact theory.

And it continued to retain adherents far into this century. Indeed, during the 1960s Ontario's Attorney-General repeatedly asserted the compact theory of Confederation.¹⁶

To be sure, English-Canadian elites did not subscribe to the reformulation that the compact theory

¹⁵ R. Cook, *Provincial Autonomy. Minority Rights and the Compact Theory, 1867-1921* (Ottawa: Queen's Printer, 1969) at 44.

¹⁶ C. Armstrong, "The Mowat Heritage in Federal-Provincial Relations" in D. Swainson, ed., *Oliver Mowat's Ontario* (Toronto: Macmillan, 1972) at 115.

underwent in Quebec in the hands of Henri Bourassa. The compact among provinces was joined by a compact between two founding peoples; this notion of a "double compact" became the predominant understanding in Quebec.¹⁷ For that matter, many English-Canadian elites rejected outright the very idea of a compact, however formulated.

Nonetheless, the idea that Canada constituted a "compact" remained a key component of the discourse of Canadian politics, both in Quebec and in English Canada. English Canadians and French-Canadians could argue over the terms of the compact, but at least they had a common frame of reference.

Thus, in the 1960s it was still possible for a Canadian prime minister to charge a royal commission with the task of making Confederation "an equal partnership between the two founding races." Thirty years later, the notion of such a "partnership" has no resonance in English Canada. It has been left to the Quebec sovereigntists.

LOSING THE DISCOURSE OF CANADIAN POLITICS

Several factors contributed to the demise of this older discourse of Canadian politics, and ensured that the remarkable debate of the 1960s could not reoccur.

The political economy of English Canada changed. As power shifted westward, the Ontario government could no longer pretend to speak for English Canada. Indeed, by the mid-1970s provinces such as Alberta and British Columbia were insisting that all provinces are equal and, on that basis, all must have a veto over constitutional change. The Victoria Charter amending formula that they had agreed to just a few years before was no longer acceptable.

Beyond that, power within the federal government shifted away from English Canadians. The Trudeau government afforded Quebec francophones a new role, both in the Cabinet and the public service, while also reinforcing the position of members of Quebec's anglophone minority and ROC's francophone minorities. In the process, the bases for a dialogue between English Canada and French Quebec were undermined. The francophone and anglophone minorities had no interest in such a dialogue.

The informal alliances between English Canadians and the Quebec government that had marked the Pearson government were no longer possible. Indeed, within the federal cabinet English Canadians were no longer party to discussions of the "national unity" question. The conception of "national unity" and the strategy for securing it was now defined by Quebec francophones, who were virtually at war with their counterparts in the Quebec provincial arena, whether they be sovereigntist or federalist. In this, they were assisted by members of the Quebec anglophone minority and ROC's francophone minority.

The "national unity" campaign of the Trudeau government closely reflected this complex of social forces represented within the government itself. Language policy was defined in individualist terms which focused upon support for linguistic minorities, both anglophone and francophone, rather than the francophone majority of Quebec. These rights were constitutionally entrenched through a charter intended primarily for that purpose. The 1960s concept of biculturalism, rooted in the notion of two distinct societies, one based in Quebec and another based in the rest of Canada, was discarded for multiculturalism. And Quebec was rigorously held to the same status as all the other provinces.

In this way, the old conception of Canada, rooted in compacts and partnership among provinces and societies, was replaced by a new one which concentrated on individual rights. Indeed, the older conception of Canada was contradicted by the way in which this new one was entrenched in the Canadian constitution: over the objections of the Quebec legislature. Earlier, the Trudeau government had even threatened to secure the revision and patriation of the constitution over the objections of *most* provincial governments. Moreover, the Supreme Court had declared both actions to be legal; only the second violated convention. In the process, both versions of the compact theory, French Canada's and English Canada's, became dead letters.

This new conception of Canada is now deeply rooted in the political culture of English Canada. Nonetheless, much of francophone Quebec continues to adhere to its version of the old one. On this basis, English Canada and francophone Quebec are bound to talk past each other.

¹⁷ This is discussed in McRoberts, *Misconceiving Canada*, *supra* note 10, c.1.

THE 1993 ELECTION

This state of affairs was dramatically demonstrated in the new Parliament created by the 1993 federal election. The three established federal parties lost their monopoly of the House. The Official Opposition fell to a party based solely in Quebec. The second largest opposition party was based exclusively in ROC. For the first time in decades, the federal arena provided separate representation to francophone Quebec and English Canada. Moreover, both sets of representatives emphatically rejected the Trudeau vision of Canada to which all three established parties had, to varying degrees, subscribed. In principle, then, the conditions existed for a reoccurrence of the kind of debate over the nature of the country which had marked the 1960s.

The result, of course, was quite different, as the Bloc Québécois and Reform became locked in bitter debate. More was involved than a jockeying for position between competing opposition parties. The two parties simply had no common framework for comprehending the country. Reform had in fact developed a language policy which, recognizing provincial preeminence, should have had some appeal to the Bloc. But it was framed within a conception of Canada which denied Canadian duality. As such, it was unacceptable to the Bloc.

WHAT DO WE DO NOW?

On this basis of this analysis, the answer to "Should we Keep On Talking?" must be "No." English Canada and French Quebec haven't been talking *to* each other for years now. At best, they've been talking *past* each other. And in the post-referendum climate, "talking" just seems to make matters worse.

Yet, *can* we stop "talking"? Is a moratorium possible? The Bouchard government would like to suspend talk of Quebec sovereignty for awhile. Public opinion in English Canada, and much of Quebec, is positively hostile to "talk" about renewing the constitution. Yet, the consequences of the last referendum are inescapable: it made sovereignty a distinct possibility.

Quebecers may well want to put off facing this fact until some other day, if not some other decade. But English Canadians, who unlike Quebecers have never thought seriously about such a prospect, cannot simply put it aside. Thus, the Chrétien government has been compelled to "talk" with Quebec, even if it be in terms of "Plan B" rather than "Plan A." More important

perhaps, economic elites in Quebec, in the rest of Canada, and internationally, cannot ignore the need to factor the possibility of Quebec sovereignty into their calculations. As they modify their plans they are, in effect, "talking" with Quebec. In sum, it seems that we will "keep on talking," one way or another.

Could we at least change the "speakers?" Maybe other categories of people than politicians would be better able to have a real conversation. This is hardly a new idea. Recently, the CBC organized yet another excluded weekend encounter of 25 "ordinary Canadians." Their intense personal exchange did produce a consensus, but with no discernable impact on public opinion, let alone political elites. If these "ordinary Canadians" were formally charged with responsibility for devising a new Canada, as with the many proposals for a "constituent assembly," then politicians would have to pay attention. But for precisely that reason politicians are unlikely to agree to a constituent assembly in the first place.

The real obstacle to a successful "conversation" between English Canada and francophone Quebec is not logistical or institutional, it is intellectual. Whereas English Canada has abandoned the traditional discourse of Canadian politics for a new one, French Quebec is still clinging to the old one. This should not be surprising since the new discourse was conceived precisely to negate Quebec's claims to distinctiveness. But with two contradictory discourses, it's impossible to carry on a conversation.

Is there a way to re-establish the bases of a conversation? Conceivably, it might emerge as Canadians struggle with the Aboriginal question. Clearly, notions of compacts and partnerships are essential to any coming to terms with Aboriginal Peoples. Whether they might then be applied to relations among non-Aboriginal Canadians remains to be seen. Otherwise, English Canada and French Quebec are doomed to talk past each other, if not *at* each other. Even then, talking is a better means of getting at each other than most of the alternatives. □

Kenneth McRoberts

Department of Political Science, York University.

SOME WAYS OF TALKING

Jocelyne Couture

The theme of this session raises a cluster of interesting questions: Is talking the appropriate thing to do in the aftermath of the referendum? And talking in opposition to what — keeping silent or taking action, and what kind of action? And, if we should keep talking, who is the 'we' who is going to talk, and to whom? Since Meech, various people have been engaged in the talking; we have had Premiers of various provinces talking to each other, or talking to the Prime Minister of Canada. We also have had various commissions and consultations where people are talking to; apparently, no one. We also have had, and still have, the media and the politicians doing a lot of things with words, although one might wonder whether they have done any talking at all.

I shall begin by describing normatively what it means to "talk" in a constitutional democracy. This will be more a matter of clarifying — in a way, I hope, that is almost uncontroversial — some of the terms I use later. I shall then attempt to describe the perception many Quebecers, both federalists and sovereignists, have concerning dialogue with English Canada. I do not believe I will say anything very original on that point. But I will argue that, on the basis of what it means to talk in a constitutional democracy, this perception is justified in some respects and unjustified in others. I conclude that we should keep talking, with some specifics concerning who should be speaking and to whom, and what should reasonably be expected from such talk.

WHAT DOES IT MEAN TO "TALK" IN A CONSTITUTIONAL DEMOCRACY?

There are, I think, four criteria to identify "talk" in a constitutional democracy. Those of you who know John Rawls' notion of public reason will recognize these criteria. It is not necessary, however, to be acquainted with that notion to understand these criteria and recognize their fit with democracy.

To talk in a constitutional democracy is:

1) To assume, as a common background, the values of democracy as they are usually formulated in the constitutions and fundamental texts of liberal societies. I mean such values as freedom of speech, freedom of association, democratic equality, religious tolerance, and so on. To assume these values as a common background means that we assume complete and basic agreement, not on their exact content, but on their being values that are not up for question; on their being values accepted in our political culture and being, in that sense, intractable. To talk in a constitutional democracy, then, is to assume the existence of a common language and to rely on the fact that some basic issues have been "safely removed from the political agenda."

2) To actually comply with, and reinforce, the standards of discussion which follow from the aforementioned values of democracy. If we accept the basic value of freedom of speech, we do not try to silence persons or groups. And if we believe in democratic equality we do not give more weight to the views of one person or group just because of who she is or who they are. To be concerned with the application of these standards presupposes a willingness to discuss them, to clearly identify them, and to state publicly the ways in which they apply. By doing so, we are engaging in the disambiguation of the values of democracy in the lived context of public discussion and extending the basis for the common language of democracy.

3) To show a willingness (as for other matters on the political agenda) to give *reasons* for the claims we are making and, conversely, to show a willingness to consider the reasons other people offer for the claims they make. In doing so we are assuming that other people's views, although they often differ from ours, are grounded on reasons (that these views are

reasonable in that sense). In addition, we are assuming that *people* are reasonable in the sense that they ask for reasons. We are acknowledging, then, that in a constitutional democracy disagreements are not going to be resolved by force or coercion, but by reason alone.

These three criteria together mean that talking in a constitutional democracy means securing democracy itself, by making public the rules of democratic processes and ensuring the common acceptance of these rules. But talking in that sense is also talking in order to come to specific political arrangements. Deliberation builds on common understanding or, if one prefers, on a very basic agreement between people within a common political culture. It seeks to extend this basis of understanding so that we can come to further agreement, where motivations are clear to all on terms that are acceptable to all parties.

Talking in that sense, however, does not necessarily lead to actual agreement. Some issues are too complex to be clearly settled. People sometimes will disagree on the weight given to other people's reasons, or the reasons given by various people will not be comparable, not being of the same level or of the same kind. People who agree on the standards of a democratic discussion and are willing to conform to their contents, will view this kind of failure not as a failure of democracy, but as a fact of political life in a constitutional democracy. This leads to a fourth criterion of "talking" in a constitutional democracy.

4) One should be ready to encounter disagreements and to assess them as being reasonable that is, disagreements which do not follow from a violation of the democratic standards for discussion. As John Rawls puts it, to hate the possibility of reasonable disagreements is to hate human nature and democracy.

PERCEPTIONS AND FACTS

The perception of many Quebecers — and here I am not only talking about *souverainistes* Quebecers — is that they have talked a lot and for a very long time. The perception is also that they were seldom listened to and, in addition, that they were the only ones to really talk. This perception is exaggerated and I will try to explain why this is so. But I also want to say that, in some important ways it seems to be somewhat right.

For the last 20 years at least, Quebecers have been engaged in answering the question "What does Quebec

want?" Perhaps this never was a real question, perhaps it was just a way, for those who raised it, of *asserting* that Quebec will never be satisfied, no matter what. But we certainly thought it was a question worth answering — for everybody, including ourselves — and we thought that not only what we want should be addressed but also the reasons why we want what we want should be made clear, public and, in turn, deliberated upon in the public forum.

One could fill a good size library with books and material on that subject; books which range from poetry and novels, to reports, to academic surveys of the historical, political, and sociological grounds for our claims; with articles published in newspapers; tapes of interviews, public debates on television, panel discussions, and conferences. Obviously, there was not enough of this material or it was not clear enough, for there were more questions about what we mean by our identity in cultural, sociological, and political terms. We patiently answered all these questions, even if we were repeating ourselves.

Later on, there also were questions about whether we really were willing to recognize, in a sovereign Quebec, equal democratic rights. Those who raised these, and other similar, questions really did not seem to have listened to what we had said before. Moreover, they did not seem to have reflected upon the fact that, to engage in such big scale answering and giving of reasons was to show considerable concern for democracy; a lot of democratic respect and trust in our fellow citizens; a considerable confidence in their willingness to engage in democratic discussion and in their willingness to seek reasonable agreement.

Here again, we had reason to think that these questions about our not really accepting democratic rights were not questions at all. But still we went on answering them. We explained that Quebec has one of the oldest parliamentary systems in North-America, one of first in the world (1791), and that we were not about to give it up. We patiently explained that nationalism is not always ethnic and that the nationalism of the sovereignists was not ethnic at all. We also explained, for the benefit of those who think that the Canadian state is the sole guardian of human rights in this country, that Quebec has its own Charter of Human Rights and Freedoms, adopted in 1973, that includes a range of social and economic rights not found in the Canadian Charter or other statutory human rights codes.

That amounted to a lot of *talking*. And what did we hear in response? Not much talk: but we could see some action, including the adoption of a constitution for Canada without the consent of Quebec. Now, more than one year after a narrow victory in the referendum, the federal government of this country still says little. Instead, it engages in more action, such as realizing plans, which are anything but public, and supporting the threats of the partitionists and the cause of those who oppose the democratic rights of Quebecers to express their will in a future referendum.

One of the few things we have heard from the rest of Canada is that Quebec wants to break up this country. That never was the primary or even the secondary intention of Quebecers. We were trying to reach an agreement within Canada; one which would have Canada become a multinational state, that is, a recognition — and not only in the rhetoric of two founding nations together with First Nations — that there is more than one nation in Canada. We wondered what was so intolerable about that from the point of view of a modern state. How would Canada be destroyed were it to adapt to a socio-political reality that many other states in the world have for a long time recognized — at least in their structures, if not in their constitutions (i.e. Spain, Belgium Switzerland). Is the concept of a multinational state such an oxymoron from the point of view of a state which claims to be both modern and liberal? We never received an answer to these questions. They simply were ignored; silently drowned in Meech Lake.

For a long time — beginning with René Lévesque in the 1960s but continuing with a provincial liberal government — we tried to devise and to discuss various forms of partnership between sovereign states. Before the last referendum, an economic *and* a political partnership was proposed both by the Parti Québécois and the Bloc Québécois. This could have taken the form of a federation of states comparable, in many respects, to the European Union. The answer of the Canadian government, and echoed by all the English media, was clear and brief: “No way.” But “why not,” we asked? And why is it, by the way, that Canada wants to keep Quebec in the federation but refuses to include it as a national entity. Why is it that Canada wants what it wants? If the reasons cannot be made public, they are not good reasons, that is, they are not reasons acceptable in our democratic political culture. The only reason we heard for continuing present Canadian political arrangements is that Canada is such a wonderful country. We, in turn, have tried to make it

more wonderful for more people. To say that Canada is such a wonderful country is hardly relevant. Moreover, it flatly ignores everything which has been said on that question by Quebecers. Hence, we have the impression that we talked a lot, that we were the only ones to talk, and that no one was listening.

If we are focusing on the behaviour and attitudes of the federal government, this perception is entirely sound. But there are other people in this country who have shown a willingness to provide reasons and to listen to ours. Many intellectuals from the English provinces of Canada have engaged in what I call “talking” with us (they include Philip Resnik, Robert Young, John Conway, Frank Cunningham, and Ken McRoberts). They learned from us and we learned from them. This does not mean that we have reached agreement about what this country should become, but they are willing to discuss the question in good faith and are urging their governments to do the same. Many of them also have come to realize that there are some very fundamental differences between what, in their view, constitutes a decent political arrangement and what Quebecers aspire to. Many of these intellectuals have come to believe that Canada and Quebec should part, if that is the democratic choice of Quebecers, and they have become engaged in devising proposals for parting in a fair and democratic way. Once again, they are urging their government to do the same.

This, understandably enough, does not form part of the perception of many Quebecers. This is because these efforts seldom are echoed in the media and never are reflected in the attitudes of the government officials. Many intellectuals in this country have been silenced and they are, as well as the average Quebecer in a position to complain about the democratic concern of the federal government.

There is another group of people in this country whose voice is never heard except when it can serve the ideology of the federal government. I am speaking now of the ordinary people of Canada. I am not among those who believe that the crowd who invaded Montreal a few days before the referendum was made of hypocrites and of cynics. I believe that most of the people who gathered there truly and sincerely were attached to Canada in its present form and I think they came to Montreal in order to express that. I do not think that their attachment is odd; I see people in Quebec, in my own family, having a similar attachment to Canada and I find it perfectly respectable. After all, they made that country.

Nor do I think it odd that many people in Quebec, in spite of their attachment to Canada, are now seriously thinking of leaving it. They are attached to Canada but they realize that something has gone wrong with it. As Leonard Cohen would put it, "they love the country but they cannot stand the scene."

I think that ordinary English Canadians are able to understand that for many francophones there is at least as much and as good reason to be attached to Canada and that something must have gone terribly wrong to provoke them to leave. It does not require more than that sort of empathy, or as some prefer to say, civic friendship, to start talking. But empathy of this kind has been fought successfully by almost all of the media in Canada, and, more importantly, by the passive, and other times active, support of the Canadian government to Quebec bashing.

What I am saying here, in summary, is that the federal government failed to meet two duties that, by definition, all democratic governments should fulfil. The first duty is to adhere, as should any agent engaged in the public life of the country, to the four criteria of a democratic discussion that I enumerated at the outset. The Canadian government has violated all of them.

The first criterion requires that democracy and the values of democracy not be put into question. The government is giving support to the cause of Guy Bertrand, who, among other things, opposes the basic democratic right of the people of Quebec to express their will in a democratic consultation. We were fooled into thinking that the issue of the very existence of that right was a point which could safely be removed from the political agenda. The Prime Minister of Canada has demonstrated that we should never have assumed such a right. By doing so, the Prime Minister is following his mentor who thought that it unnecessary to secure the approval of Quebec for the adoption of what was to become the "Canadian constitution."

The second criterion simply asks that we comply in practice with the publicly recognized standards for democratic participation. By allowing for the massive intrusion of federal publicity during the last referendum campaign, the federal government first violated, then encouraged the violation of, Quebec electoral law — an explicit and publicly agreed-upon standard of democratic participation.

The third criterion insists upon a willingness to listen to the reasons of other people and to provide

one's own reasons. I do not think that I have to insist on this one. By refusing to provide reasons and being unwilling to listen to other's reasons, the federal government encourages that disagreements be resolved by force or coercion.

The federal government violates the fourth criterion when it refuses, in advance, to acknowledge the result of democratic consultations on the sovereignty of Quebec (if that result, of course, is in favor of sovereignty). Denying the possibility of reasonable disagreements, that is of disagreements not resulting from the violation of democratic standards, the Canadian government then, as agent in public deliberation, offends against the fourth criterion of democratic discussion.

The second duty that, by definition, a democratic government is bound to fulfil is to secure, promote, and encourage democratic discussion in the political forum. One important way of doing this is to have government itself be an exemplar of public reason. As we seen from the above discussion, the Canadian government has not been so. A second way of securing and promoting democratic discussion is to firmly oppose and disavow any attempt made by some citizens or group of citizens to subvert the climate of confidence, mutual trust, and civic friendship which forms the basis of democratic participation.

Unfortunately, the federal government gives its complete support to those who deliberately cultivate doubt and foster confusion about the nature of the basic values referred to in the constitution and the charter of rights — is there anybody in this country who still has a clear idea of what freedom of speech means? It lends its support to those who cultivate hatred, suspicion, and rivalry, those who exploit prejudice and resentment against Quebec's "separatists," those who, in the place of reason, promote fear based upon obscure belief. At the same time, the federal government is allowing democratic culture to be destroyed by ignoring and distorting the voices of those in this country who try hard to protect and further democracy. They, presumably, are the ones trying to break up Canada.

SHOULD WE KEEP TALKING OR NOT?

To keep on talking one should have already started talking. I think we should keep on talking; we, that is the intellectuals from Quebec and from the other provinces of Canada, should, I think, keep on talking to

each other. And what should we talk about? I have a list of topics.

I start with a subject upon which can safely agree: Do we want democracy to flourish in this part of the world or not? I am not suggesting that we attempt to explain what democracy is to Jean Chrétien and Stéphane Dion. They are engaged in action, not in discussion. In dealing with them we too must engage in action, that is, exposing systematically and publicly their tactics as tactics of division and manipulation.

By doing so we might, with hard work, clear thoughts and, with some luck, break the circle of prejudice and obscure belief which prevents many people from discussing the present and future of this country. The numbers of people willing to talk about these issues might increase. The more people are willing to talk, the better are the chances of coming to a mutual understanding and democratic resolution of the tensions between Quebec and Canada.

I also think we should face honestly the fact that a majority of Quebecers have their mind set on, and are awaiting the democratic decision to be made by all of the Quebec people in support of, the sovereignty of Quebec. There will be no turning back from that position. Not because Quebecers are bloody minded, though some no doubt are, but because the situation inside and outside of Canada has evolved in such a way that there is no alternative for those committed to preserving French language and culture to supporting the sovereignty of Quebec.

The main problem, I believe, and here I am not alone, is demography. It is no mystery that the English language has become *the* language of international communication. Even a country like France had to enact special laws protecting its language in the public domain, such as in universities, governmental publications, commercial signs, and the media. Many other countries, such as Spain, Denmark, and Norway have followed suit. These laws are not oppressive for people living, or coming to live, in these countries. These people know very well that by living in France, for instance, they will speak French, learn it if they do not already have a mastery of it, have their children educated in French, deal in French with the public administration, and so on. A country like France can enjoy cultural and linguistic diversity within its borders, without having its own language and culture threatened. In Quebec, and especially in Montreal, there is a wonderful cultural and linguistic diversity and

we cherish it, want to keep it, and even increase it. But presently, this linguistic and cultural diversity — which in principle is perfectly compatible with maintaining a French common culture — is threatening our language and our culture. Why is that so? The reason is because the Allophones, when they come to Quebec, are immigrating to Canada, whose language is in fact English in spite of its *de jure* official bilingualism. If we combine that with the fact that English is the dominant language everywhere, it means that there is a strong tendency for Allophones to adopt the English language and assimilate into Canadian or American culture. We are not going to force people to integrate into francophone culture and we are not going to chase them away if they don't. We do not wish to isolate ourselves and be deprived of the cultural diversity that we now enjoy; but we do not want to become a minority in our own country either. We do not want French to disappear from Quebec, as it is disappearing now from Ontario and from Manitoba.

The situation I am describing is not the result of a conspiracy or a deliberate attempt to exterminate our culture. It is the structural effect of Quebec being included in an English Canadian state. No good will or well-intentioned change in Canadian immigration law can correct that. Only when newcomers deliberately and clearly choose to come to Quebec knowing that they are choosing to live their life in French, have their children educated in French, and participate in a francophone culture can this situation be corrected. But for that to happen Quebec must be a sovereign state. Then some of the linguistic laws that we now have in Quebec, and which rightly are perceived by immigrants and also by francophones as being an intolerable restriction of freedom, will no longer be required. It is interesting to notice that those who most fully oppose linguistic laws are also opposed to the sovereignty of Quebec. They do not seem to realize that most of these laws are the consequence of Quebec not being a sovereign state.

Not everyone will agree with the above argument. Some believe that we give too much weight to our culture, some challenge the demographic data, others say that the French language will in time disappear from Quebec anyway, while others reply that if there was only a small chance of avoiding its disappearance without violating the democratic rights of others, then we should take it. Hence, there might be intractable disagreement between federalists and the sovereignists. We should not see it as a failure of democracy, but as a fact of political life. We have to part ways. But we

will continue to live in the same world and, moreover, side-by-side.

How we are going to part and then live side-by-side is something we must discuss. I have a remark preliminary to that discussion. I think we should give a lot of consideration to the fact that the context for our discussion is Canadian public life and not the university. The aim of our discussion is not only to exchange views and eventually come to an agreement between us but to counter as much as we can, the incredible pressure put on Canadian citizens in the present difficult time. Meetings like the one we have now are wonderful; but we should not deceive ourselves into thinking that we have fulfilled our democratic duty just by talking between us about democracy.

Many sovereignist Quebecers are confident that, after winning a referendum, the Canadian government, for economic reasons, will become more conciliatory. I am not so confident that the Canadian government will be able, even supposing that it wants to, to contain the anger, suspicion, and hostility against Quebecers that it has fostered, and continues to foster, in English Canada. The possibility of a civil war has become, for certain persons, an argument against the separation of Quebec. I for one do not consider that possibility as a prediction but as a threat. One more threat. And those who make it are the ones who believe that the only way to resolve a disagreement is by force or coercion. Instead, I believe in reason and in people having a capacity for being reasonable. That is why I think we should talk now about how the relations between Quebec and Canada are to be after a winning referendum in Quebec. No doubt the situation will be difficult, but there are things we can do now to make it much less so.

Concerning relations between Quebec and Canada after a sovereignist referendum victory, we have to devise and make public arrangements which benefit everyone concerned. No arrangement should be acceptable from a democratic point of view if it is not to the advantage of everyone concerned. Conversely, no arrangement can work, in practice, if it is not clearly to the advantage of everyone concerned. To devise such arrangements is one thing, and to make them public is another. We should do both.

When I talk about arrangements which benefit everyone concerned I am thinking not only of the two parties formed, on the one side, by Quebecers and, on

the other side, by the rest of Canada. I think the reality is more complex. Any arrangements which include the separation of Quebec should also be acceptable to First Nations, or at least not contrary to their interests. This also obtains for anglophones in Quebec, and also for the francophones outside Quebec. Is it utopic to believe that political scientists, philosophers, jurists and other intellectuals already engaged in talking, can devise an arrangement of that sort? In any event, I do not think it would be very wise to proceed in this way. We are not the ones to say, to First Nations for example, what arrangement is to *their* advantage. First, they know that better than we do and, second, it displays a very low opinion of their capacity to participate in such an exercise. That is to say, it is not by denying the democratic capabilities of people that we can induce them to participate in the democratic process. What we should, and I think can, do is encourage them to participate in the elaboration of a mutually advantageous agreement. That will involve a lot more talking than we have done until now. Talking, however, shows a willingness to understand and come to an agreement. If we exhibit this willingness, we will have achieved a lot in terms of devising a mutually profitable arrangement.

Given the actual political and social climate in Canada, I frankly believe that intellectuals from English Canada are in a better position to do that than intellectuals from Quebec. They are more likely to be listened to, and to be trusted. So my final proposal is to say that it is now your turn to explain what Quebec wants. What Quebec wants is a fair, decent, and democratic arrangement with Canada; and almost a majority of Quebecers wants such an arrangement to be a fair, decent, and democratic parting of our ways. And in wanting that, we desire this parting to be rooted in a mutually advantageous agreement between a sovereign Quebec and every party concerned. If you succeed in explaining that we will, of course, be there to contribute our share to such arrangement. Then together, we will have done a lot for restoring the health of democracy in your country. □

Jocelyne Couture

Département de philosophie, Université du Québec à Montréal.

ON THE QUEBEC-QUEBEC CONVULSIONS: THE QUEBEC REFERENDUM AND ITS AFTERMATH

Nadia Khouri

When Caroline Bayard called me a few months ago she told me she was organizing a conference on the "Canada-Quebec Convulsions." I found the title out of sync, for I had just returned from a trip to Vancouver where I stayed with friends from Quebec. I had then flown to Calgary where my brother and his family live. On my way home I stopped in Ottawa to visit my summer neighbours from Quebec's Eastern Townships. Echoes of Canada-Quebec convulsions sounded very remote indeed. When I returned to Quebec, however, I found myself plunged again in an atmosphere of perfervid open-line talk shows, with hosts prattling away about our "neverendum referendum," with Lucien Bouchard at odds with the PQ's language zealots, and federalist groups and municipalities considering "partition." Most of all, I came back home to the situation of the near million Quebecers on welfare, the half a million unemployed, the dismal prospect of a shrinking job market for the young, the hemorrhage of business, investment and skills out of the province. All this is dismissed as an exaggeration by our cynical finance minister, Bernard Landry, and disgracefully passed over in silence by the union brass who entertain a *Peronista*-like collaboration with the PQ.

I told Caroline that Canadians outside Quebec may be under a misapprehension: there are no Canada-Quebec convulsions, if we exclude, that is: 1) the Quebec political class; 2) Quebec nationalists-at-large who have a stake in maintaining an atmosphere of ongoing crises; 3) their "objective allies" outside Quebec — proponents of ethnocultural "duality," Reformers and other regionalists who are allergic to bilingualism and to the funds spent to promote it, public opinion makers who confuse the Quebec *nationalist elites* with Quebec *society*; or 4) Canadians in general who are simply tired of constitutional wrangles, and want a "solution," *any solution*.

Solution to what exactly? Has the problem been accurately identified? I would argue it has not. I also would contend that the problem is due, in part, to a

misreading of the dynamics of Quebec society, and to an overestimation of the ideological discourse held by nationalist brokers in academia and the media. The failure to clearly identify such a problem leads to the perennial question "what does Quebec want?" But the recurrence of such a question is itself part of the problem, because it presupposes: a) that the subject of the question is *Quebec*, the presumed collective reference of all Quebecers; and b) that somehow Quebecers are either time-pleasers who capriciously temporize in order to maximize federal windfalls, or are weathercocks that do not know what they want. I would argue first for the politically and sociologically specific notion of *Quebecers* versus the conceit of *Quebec* as a hegemonic national entity. I would then contend that *Quebecers do know what they want*, and that they have shown it with great constancy and coherence, though this has systematically been disregarded, misinterpreted or misrepresented by their political class. All polls have, for instance, repeatedly shown that, as part of the key founding groups in Canada, the vast majority of francophone Quebecers are attached to their double identity as *Quebecers and Canadians*. Hence they favour a strong government in Quebec and a strong government in Ottawa, both of which they can comfortably identify with in the *national* sense of the term, and both of which they can rely on to counter-secure checks and balances. The weakening of the federal presence creates an asymmetry in political response which becomes contingent more on the vicissitudes of fortune — the juncture of electoral dynamics (including imbalances produced by the lack of proportional representation) and the appeal of populism — than on cool-headed evaluations. The seeming contradiction, in the 70s and part of the 80s, of Quebecers' overwhelming support for the federalist and centralist Pierre Trudeau in Ottawa, and their solid, though by no means as strong support for the sovereigntist René Lévesque in Quebec City, is perfectly comprehensible. Trudeau's *French power* in Ottawa was not only *power* and *French* in the *Canadian* sense, it was most of all *winning power*. It projected an image of cultural vigour, philosophical

vision, and political presence, an image which Quebecers could easily identify with and be *proud* of. Pride is emphasized here as an important component of identity and self-recognition.

This national mood vanished with the period of constitutional turmoil initiated by the Mulroney government. Failed accords destroyed a crucial balance, weakened confidence in federal power, promoted the rise of two pugnacious sovereignist forces both in Ottawa (the Bloc) and in Quebec (the PQ headed by the autocratic Jacques Parizeau), with the honest but lacklustre Jean Chrétien unable to match Lucien Bouchard's charismatic ambiguity and rhetorical dexterity. Quebecers' apathy towards federalism during the referendum can be interpreted as a response to the transformation of their central government into an abstract idea, or at best an administrative convenience (or inconvenience for that matter, depending on intergovernmental confrontations), neither of which can address the questions of identity or belonging. It is no wonder then that a large portion of "Yes" voters may have missed the urgency of the situation, for the federal silence was astounding where the nationalist voice was ubiquitous, eloquent and more reassuring.

Quebec's problem lies not in some kind of fickle political game that it presumably plays as "the spoilt child of Confederation," but in the concurrence of a visionless or weak government in Ottawa which behaves as a foreign government on the defensive, and an opportunistic nationalist government in Quebec which possesses all the latitude to waywardly manipulate the electorate. The question "what does Quebec want?" should therefore be reformulated as "what does Quebec's *nationalist class* want?" For it is indeed the internal conflicts of such a class, between hard- and soft-liners, secessionists and nationalist advocates of "profitable federalism," and their mutually scuffling struggle to patriate total power from the federal government into their own hands, which has created the myth of a permanent war between the province and the rest of the country. As my central thesis, I shall argue that *there are no Canada-Quebec convulsions, though there is a concerted effort by nationalists in Quebec to nurture such confrontations. There are, conversely, Quebec-Quebec convulsions, and these convulsions are systematically manufactured by Quebec's political class.*

It is imperative for us to understand this fact if we want to understand why *there has never been in Quebec solid majority support for either the separatist Parti québécois or its secessionist program.* There is, however, the very real possibility of a historical

accident brought about by a combination of political unscrupulousness on the part of a separatist party — from sweeping political purges, patronage appointments, influence peddling, strict control of freedom of expression during the referendum campaign, the transformation of the National Assembly, the Quebec media, and even provincial ministries into propaganda tools (in August 1995, for instance, separatist advertisements were distributed along with family allowance and old-age pension cheques), to bare-knuckle tactics such as voting fraud — and unpreparedness on the part of the electorate, the public in general, and the federal government.

We can briefly summarize the situation as follows: before the PQ election in 1994 there was no crisis in Quebec. After two years of PQ government and a highly divisive referendum, a local chronic crisis has been created. It is crucial for us to emphasize that such a crisis is by no means between Quebecers and other Canadians but between *some* Quebecers and *some other* Quebecers. As I shall attempt to demonstrate, this is due to the fact that, although nationalism in Quebec is an active force, most nationalist Quebecers themselves refuse to grant a separatist government the clear, democratically-proclaimed mandate that it needs in order legitimately to declare Quebec independent. Hence the presence of a sustained Quebec-Quebec tension between hard and soft nationalists, and between nationalists and federalists with, of course, repercussions on the federal scene.

To analyze such a crisis we need to narrow down to a basic interpretive model the reactions and counter-reactions that have occurred over the past twelve months. The ongoing post-referendum crisis can in fact be explained by the counterposition of two major forces in Quebec, mediated by a third one. I am referring to a relatively new dynamic channeled through the coexisting forces of nationalism and multiculturalism in an open and democratic society governed by a third force, that of the rule of law with its discourse on the primacy of rights. Quebec stands as a fascinating illustration of the creative, albeit tense interaction of these three forces. The referendum provided a concentrated view of such an interplay. It was a moment of avowal. It triggered a period of intense debates and soul-searching. A number of arguments were made to coalesce, political convictions were put to a test, masks came off, and the great questions of belonging, of democracy, of rights and the rule of law were submitted to a stiff reality check. Moments of crucial decisions such as these also serve as measures of the extent to which the people involved are ready to go. Will they take the plunge or will they recoil? What constants in behaviour can we observe and what transformations

have occurred over time? There is still a problem of interpretation here. During referenda, where people are subjected to intensive propaganda, campaign marketing and political storming aimed at creating a momentum, things tend to be more complex and confusing than they are revealing of clear choices. In the case of a sophisticated Quebec electorate with a long experience of democracy, a strong sense of identity, a proverbial cautiousness *à la normande*, and a history of playing it safe by electing simultaneously feisty, and mutually obstructionist governments in Quebec and in Ottawa, the task is even trickier.

The referendum also was a perfect proving ground for the ways in which a nationalism which seeks to assert itself in a multicultural and open society is able to reproduce and adapt itself. In such a context nationalist discourse finds itself trapped in the dilemma of being ethnic in its profound motivations, while being mindful not to let a narrow ethnicism emerge in its rhetoric. In a pluralistic and democratic society nationalists must strive to project a civic, modern, and progressive image onto the citizenry, because they cannot win their own ethnic vote without it. The vote becomes doubly ethnicized as ethnic nationalists woo ethnic communities in order to bring them to their fold. For example, the previous Ministry of Immigration and Cultural Communities, now renamed *Ministère de l'immigration et des relations avec les citoyens*, dotted the landscape in May 1995 with billboards showing seven lovely multi-ethnic eight-year-olds, and bearing an inscription in French, English and Spanish that said:

La beauté du monde, Le coeur québécois
Faces of the World, Hearts in Québec
La belleza del mundo, El corazón quebequense

The message in Spanish targets members of the Latin American community who may be sympathetic to the nationalist cause. Both Latin-American and Quebec nationalists share a romance-language resistance to the all-powerful English language in North America. They both have bones to pick, one with the American establishment, the other with the English Canadian one, and they may both feel empowered by the idea of a joint political front. The message in Spanish also indirectly suggests a connection with Mexico (and by extension Chile), a member of NAFTA, an organization which separatists wish to join eventually.

Inevitably, the civic discourse is marred by blunders, gaffes, *faux pas* or slips of the tongue. These suddenly pop up to reveal the repressed. A number of these slips have dogged the whole referendum process. There was Parizeau's adviser Pierre Bourgault warning that anglophones in Quebec could spark a dangerous

situation if their votes in the referendum prevented the francophone majority from achieving independence. Then Bloc Québécois MP Philippe Paré suggested that only old-stock Quebecers should decide the referendum result. Even union leaders such as Gérald Larose of the CSN raised eyebrows when he declared that there would be "a problem" if the referendum were lost *because of* the anglophone minority. On October 4, 1995 Lise Bissonnette referred to anglophones and allophones as a "*minorité de blocage*" (an obstructionist minority).¹ Then there was Lucien Bouchard's remark that "[w]e are one of the white races that has the least children." Then we had a statement by Bernard Landry about "unintegrated immigrants" being used "to deliberately prevent all Quebecers from having access to the concert of nations." The same minister had previously protested that he did not find it "healthy that democracy in Montreal be at the complete mercy of the vote of ethnic communities."² On the night of the referendum Landry, who was then both Deputy Premier and minister responsible for immigration and "cultural communities," harassed a clerk of Mexican origin at Montreal's Inter-Continental Hotel, ranting about immigrants who vote No, and creating a scene obliging employees to call hotel security, according to *The Gazette*.³ Denis Lessard of *La Presse* also reported the incident, though in a far more conciliatory tone, taking pains to explain Landry's, and by the same token the nationalist, point of view.⁴ Much has already been said about Jacques Parizeau's words on the night of the referendum blaming his defeat on "money and the ethnic vote." Parizeau emphatically and repeatedly reaffirmed this xenophobic position.

By mentioning these incidents I wish to attract attention to the forked-tongue discourse of manifest civic statements and their underlying transpositions in ethnic terms, requiring constant damage control. The necessity for damage control is dictated by the fact that the society in which such transpositions occur is more pluralistic and democratic than its own nationalist

¹ See Lysiane Gagnon's critique of these nationalists' endemic xenophobia in "La maison de verre" *La Presse* (2 Novembre 1995).

² A. Norris, "'We Are All Québécois,' Leaders of Ethnic Coalitions Say" *The [Montreal] Gazette* (25 October 1995).

³ R. Macdonnel and W. Marsden, "Hotel Workers Claim Landry Ranted About Immigrants" *The [Montreal] Gazette* (3 November 1995).

⁴ D. Lessard, "Landry laisse sans regret la charge des communautés culturelles" *La Presse* (4 novembre 1995). See also M. Venne, "Bernard Landry admet avoir échoué" *Le Devoir* (4 et 5 novembre 1995) and P. Authier, "Landry Gives up Cultural Communities Job" *The [Montreal] Gazette* (4 November 1995).

leaders. It is worth asking here whether nationalism is indeed compatible with democracy, if by democracy we mean the political equality of all citizens regardless of ethnic origin, sex or class. I defend a notion of democracy which upholds a civic need to maintain a multiplicity of social, political, cultural and linguistic voices, as our best guarantee against the debilitating effects of ethnocultural unanimity. I am reminded of a statement made by Bernard-Henri Lévy in an interview published by *Le Devoir* two weeks after the referendum:⁵

Nothing runs more counter to the spirit of democracy than the search for consensus, the taste for unanimity, the desire not to hear the sound of any conflict. Democracy is a kind of permanent civil war where debate replaces violence.

In his book *Nationalisme et démocratie*, Jean-Pierre Derriennic keenly observed that nationalism usually erupts in countries where democracy is preeminent, and where institutions are made to undergo a concomitant process of democratization. Thus nationalism is both a consequence of democracy, and a threat to it. It follows that the problem that democracy faces is not the problem of diversity, but that of nationalism claiming that cultural homogeneity is politically necessary for democracy to function.⁶

It is such a conundrum that prompted a sociology professor at UQAM, Pierre Drouilly, to make an astounding remark fifteen days before the referendum to the effect that if:⁷

the near unanimous vote of minorities in favour of the "No" overturns a francophone majority vote in favour of the "Yes," one

could come to the conclusion that now the French Quebec nation is *democratically* subjected to the English Canadian nation. In other parts of the world some people are fired at, here French Quebecers are voted at. In a way, it is more efficient.

Such a contradiction between ethnic nationalism and democracy leads nationalists to ignore repeatedly the outcome of the referendum vote if it does not grant them a victory. A "Yes" vote is definitive, but a "No" is not, they say. We'll have a referendum, and if it doesn't work we'll have another one, and yet another until we attain that 50 per cent plus one vote that will allow us to become independent. I have often thought with great trepidation of this emblematic individual on whose ballot our collective destiny rests. I also have speculated about the possibility of his or her having a fatal heart attack or an accident on the way home from the polling station! Let me add here that as untenable as this thread-bare version of democracy may be, it is yet an odd hybrid of arbitrariness and open-endedness. There is in Quebec a francophone majority which is directly implicated regarding its minority status in North America, and the need to maintain a *rapport de force* as the wick that would keep the flame of sovereignty burning. Hence the desire to perpetuate an atmosphere of *postponed democracy* and compensatory referenda.

One cannot talk about this type of nationalism without examining the inevitable shifts, swings, changes in direction and reversals that are bound to occur, owing to the very nature of a pluralistic society. I am referring to the dynamic of the *effet pervers*, the metamorphosis of the initial project into unforeseen consequences. By pluralistic I mean to go beyond culture, to other dimensions such as the political and ideological divergences that inhere in a democratic society. Quebec nationalists themselves span many colours of the rainbow, and francophone Quebecers are by no means a politically homogeneous group. In a multicultural context, nationalists are condemned to reinvent and update ethnicity in order to sustain the *we* feeling, the *nous* or *nous autres* in the face of that society's cultural continuum. The void left by a shrinking ethnocultural and linguistic homogeneity has been replaced by a struggle for ideological unanimity: sovereignty is presented as a self-evident truth requiring no justification. But in a pluralistic context such a struggle becomes an uphill battle. Pressures to conform to the path of nationalist duty often result in failure, or they remain inconclusive. The civil society is just too unconfomable by its very nature. So, when a rush order to save "*la patrie*" or "to give ourselves a country" ("*pour se donner un pays*") is placed on the

⁵ *Le Devoir* (18-19 November 1995): "Rien de plus contraire à l'esprit démocratique que la recherche du consensus, le goût de l'unanimité, l'envie de ne plus entendre le bruit d'aucun conflit. La démocratie est une sorte de guerre civile permanente où le débat remplace la violence."

⁶ J.P. Derriennic, *Nationalisme et démocratie. Réflexions sur les illusions des indépendantistes Québécois* (Montréal: Boréal, 1995).

⁷ P. Drouilly, "Le OUI disposera d'une majorité du vote francophone s'il dépasse les 42%" *La Presse* (19 octobre 1995) (emphasis added): "Si ... le vote presque unanime de la minorité en faveur du NON renverse une majorité francophone en faveur du OUI, on pourra en tirer la conclusion que maintenant la nation québécoise française est démocratiquement assujettie à la nation canadienne anglaise. Contre d'autres peuples sur terre on tire, contre les Québécois français on vote. D'une certaine façon, cela est plus efficace."

citizenry, as in a referendum on secession, the pressure to conform is presented as an emergency (“*l’urgence d’agir*”), a *now or never* proposition which requires an exceptional-measures mobilization. Out of the blue a *kairos*, a moment of great predicament is created, and citizens find themselves dragged against their will into binary choices of a “Yes” or a “No” which they are loathe to make. As Benoît Aubin already had indicated in August 1994: “revolting against Canada probably is the last thing on the minds of most Quebec voters nowadays.” The forthcoming election was “mostly about jobs, joblessness, budget cuts. And about a change of government.”⁸ Talk about “sovereignty” — a yet more warrantable term than “independence” — in the months preceding the 1994 elections was likened by Lysiane Gagnon to “a surrealist debate” leaving Quebecers cold.⁹

In this atmosphere of trumped-up emergency the end can easily come to justify the means. And the means may include expedients, from friendly persuasion, crude propaganda, indoctrination, public consultations initiated and controlled by the party’s commissioners, arm twisting, virtual gag orders (such as the referendum law called *La loi de la consultation populaire*, which makes the process of “consulting the people” almost entirely controlled by the two political parties in the National Assembly, and which establishes a ceiling in campaign spending, allowing the ruling party to impose financial limits on the opposition during the month-or-so stretch of the actual official campaign, and thereby to control the agenda and grant itself a campaign headstart long before the official period, without appearing to do so) and even last-ditch solutions, such as voting irregularities. Suspicion over the latter having occurred in a number of multiethnic and anglophone ridings with strong federalist support has led to investigations which are still pending. The Chief Electoral Officer, who has himself come under fire for holding that overspending during the referendum campaign is more harmful to democracy than electoral fraud, has charged 29 Deputy Returning Electoral Officers with illegally rejecting ballots and two “Yes” committee officials with instructing the Returning Officer to reject the ballots.¹⁰

In a multicultural society such as Quebec’s, the nationalists’ biggest headache is the people themselves. A rights-bearing lot, the electorate is suspicious of politicians. To the unanimity-seeking nationalist they are frustratingly recalcitrant. The nationalist militant confronts a society of individualists, and of regional interest groups which he or she struggles to bring into the orbit of the *peuple Québécois*. The Parti québécois militants and their opinion-making sympathizers promote a culturalist notion of “collective rights” for Quebec, and they tend to discredit individual rights as self-seeking justifications that undermine cultural solidarity. The primacy of rights for every individual, regardless of ascribed status, irks nationalist militants who see their struggle to impose their cultural model on other groups thus diluted. The *Charter of Rights and Freedoms* thus is often cast as a license for all kinds of abuse, the argument being that it gives inordinate freedom to individuals over and above governments. This interpretation of an abuse-generating *Charter* is due to the nationalist’s confusion between individualism and citizenship, and between citizenship and culture. A further annoyance resides in the fact that the *Charter* protects citizens against arbitrary measures taken against them by partisan politicians who happen to be in power, whether at the provincial or the federal level: the constitutionally-entrenched *Charter of Rights* in Canada does place citizens above both levels of government. In this connection nationalists who look up to a strong government in Quebec, favour the political over the judicial, perceiving the latter as an obstacle to the establishment of a nation state. The *Charter* comes to be seen as a straitjacket, stifling what militant nationalists call the “legitimate aspirations of the people” (*les aspirations légitimes du peuple*) for whom they are, of course, the self-appointed spokesmen.

They instead speak of *langue commune*, French unilingualism, and *culture commune* (for which there is no accurate definition) as the antidotes to what they believe to be the balkanizing effects of *Charter*-entrenched multiculturalism. Because they know that multiculturalism is a powerful unifying factor which causes them to lose secessionist referenda (the so-called “ethnic vote” being a Canadian unity vote which encompasses *all* groups in Quebec, including the 40 per cent or so federalist francophone Quebecers), nationalists are caught in the contradiction of having to emulate federal multiculturalism for its inclusive efficiency, and yet to fight it because it weakens the secessionist agenda. Hence the tremendous promotion by the francophone media, namely by *Le Devoir*’s Lise Bissonnette and by PQ ministers, such as Bernard Landry and Louise Harel, of Neil Bissoondath’s critique of multiculturalism in *Selling Illusions* as

⁸ “Back to the Future” *Maclean’s* (1 August 1994).

⁹ “Le débat surréaliste” *La Presse* (21 mai 1994).

¹⁰ Quebec’s Spoiled Ballots and Travel Discounts” *The Globe and Mail* (16 May 1996) and L. Gagnon, “Les étranges décisions de M. Côté” *La Presse* (16 mai 1994). See also W. Marsden, “One Year Later, Fraud in Referendum Still Not Tackled” *The [Montreal] Gazette* (30 October 1996).

“proof” of the “negative effects” of multicultural policies.¹¹

Nationalists labour hard to counter the effects of individual rights and freedoms and multiculturalism’s inclusive efficiency. They entertain a mimetic relationship with France’s Jacobin republican model of centralized assimilation, and like the French, they favour the notion of *interculturalisme*. Their emphasis is accordingly on strong national statehood, command posts, centres of authority capable of defining and prescribing the nationalist path of duty. I am not only referring to the party’s political élite, but also to the speakers and narrators of the secessionist cause: the party’s organic intellectuals, as well as out-of-party sympathizers, historians, sociologists, political scientists, legal advisers, and candidates for a career in nationalist politics. As T. S. Eliot would put it, the aim is to channel allegiances to “the still point of the turning world.” Nationalists often speak of a *devoir d’allégeance*, a pledge of loyalty to the Quebec State rather than to the present country of citizenship.

THE EVENTS

In September 1994, Quebecers granted the PQ a lukewarm electoral victory over a tired Quebec Liberal Party, giving it a bare 16,000 vote lead. Despite its 25 years in the business, as one journalist pointed out, the PQ still had not managed to become the broadly based coalition it would need to be to win a referendum.¹² Voters in Quebec lack clear political alternatives. They are faced with a Hobson’s choice between two parties who offer them blurred alternatives regarding “sovereignty,” autonomy or secession. Both the PQ and the Quebec Liberal Party practice different brands of nationalism, both play confrontational games with the federal government, both alternatively draw power advantages from the idea of sovereignty and its multiple versions as a negotiating tactic, and both have threatened, blackmailed or conversely embraced federalism or various brands of it (think of René Lévesque’s *beau risque*). In a provincial election Quebecers have therefore no other choice in their wish

for political change than to follow the law of alternation between the party in power and the other one waiting to take over. This Hobson’s choice was reflected in the outcome of the vote itself: the PQ won by the skin of its teeth, after campaigning on the slogan “*Une autre façon de gouverner*,” and it immediately triggered the process leading to the referendum on independence. In the absence of proportional representation, the winner takes all, as illustrated by the PQ victory. Let me attract attention here to the question of historical contingency: it so happened that the PQ that presented itself to the electorate in the 1994 elections was a party committed to bringing about independence.

Nevertheless, poll after poll indicated that Quebecers wanted their provincial government to collaborate with the federal government.¹³ Support for sovereignty was low. In January 1995 a massive poll carried by three independent polling firms confirmed that the vote against sovereignty remained solid.¹⁴ Throughout 1995 and up to three weeks before the referendum, Quebecers responded with indifference to calls of patriotism.¹⁵ Even among artists, the traditional allies of the PQ, the “sovereignty fire” seemed to have died out, as Lysiane Gagnon observed.¹⁶ When the artists finally decided to lend sovereignty a hand, they appeared to sing off-key and their support came late and lacked conviction, as *Gazette* columnist Don Macpherson described it.¹⁷

What was striking about the referendum campaign was the contrived nature of the process. A vast force-feeding apparatus was deployed during an eleven-month stretch in order to manufacture the electorate’s consent. The course of action was modeled on a self-fulfilling prophecy, the classic instance of a *false definition of a situation producing behaviour that ended up turning the originally falsely-defined situation*

¹¹ G. Leblanc, “La grande illusion. Dans un ouvrage percutant Neil Bissoondath écorche la vache sacrée du multiculturalisme canadien” *La Presse* (30 octobre 1994); K. Yakabuski, “Le multiquoi? En s’attaquant au multiculturalisme, Neil Bissoondath soulève un tollé au Canada anglais” *Le Devoir* (15 novembre 1994); P. Nepveu, “Les mirages de l’ethnicité” *Spirale* (février 1995). The book was readily translated into French and published by Boréal, with a laudatory introduction by Lise Bissonnette, publisher of *Le Devoir*.

¹² P. Authier, “PQ Caucus Ready for Referendum” *The [Montreal] Gazette* (17 September 1994).

¹³ Sondage Crop-Conseil du patronat, “Collaborez avec Ottawa, demandent les Québécois au PQ. L’électorat souhaite que, d’ici au référendum, Parizeau joue pleinement le jeu du fédéralisme” *Le Devoir* (13 décembre 1994).

¹⁴ “54 p. cent des Québécois disent Non à Parizeau” *La Presse* (26 janvier 1995).

¹⁵ See L. Gagnon, “Le syndrome de Tourette” *La Presse* (12 août 1995) and “The PQ Agitates While the Public Yawns” *The Globe and Mail* (19 August 1995). See also J. Simpson, “Quebec’s Secessionists Are Dramatically At Odds With Public Opinion” *The Globe and Mail* (23 August 1995).

¹⁶ “The Sovereignty Fire Has Gone Out in the Artists” *The Globe and Mail* (4 March 1995).

¹⁷ “Singing Off-Key. Artists’ Support of PQ is Late and Lacks Conviction” *The [Montreal] Gazette* (15 March 1995).

into reality. No sooner had the Parti Québécois come to power than Quebecers found themselves flung in an atmosphere of political hyperactivity and acrimony. The manufacturing of the people's consent depended on the manufacturing of a crisis, which could serve to boost support for secession. The first period of preparation towards the referendum was dominated, for instance, by the search for confrontations with the federal government and Canadians in general. Various attempts were made to turn the heat on, invoke bugbears, rub salt into old wounds, excite passions, raise the stakes, induce combative reactions, and generally create an escalation of hostilities. "Parizeau is looking for even the smallest incident that can be construed as an insult to Quebec and then used to fan sentiment in favor of political separation before the referendum," wrote a columnist in December 1994. He was referring to the remark the freshly-elected Parizeau candidly had made in connection with the trampling of the Quebec flag by the handful of fanatics in Brockville in September 1989. "Get me a half-dozen Ontarians who put their feet to the Quebec flag, and I've got it," warned the confident Parizeau.¹⁸

Quebecers ignored the warning, and only "sweetness and light" flowed from the rest of the country.¹⁹ However unsettling for him this lack of conflict proved to be, the undeterred Parizeau proceeded with provocation tactics, multiplying accusations of "Quebec-bashing," uttering pronouncements on the "irreconcilability" between the French and English "solitudes," trying Canadians' patience, sending senior PQ strategists, like Monique Simard, in March 1995 to universities in British Columbia and Ontario to pitch the secession message and thus provoke Canadians' temper.²⁰ In the same month, he hired lobbyists in Washington to sell secession to the U.S. and make it look like a near *fait accompli*. He then attended the annual conference of provincial and territorial leaders in St. John's in August 1995, for the sole purpose of garnering more ammunition to set everybody's teeth on edge,²¹ and so on.

¹⁸ D. Macpherson, "Canada Should Get Parizeau's Message" *The [Montreal] Gazette* (14 December 14, 1994).

¹⁹ T. Wills, "Déjà Vu in Ottawa" *The [Montreal] Gazette* (17 September 1994).

²⁰ W. McCann, "Simard's Sovereignty Pitch Gets Rough Ride in Toronto" *The [Montreal] Gazette* (21 March 1995).

²¹ D. Macpherson, "New Kid on the Rock. Parizeau will go to St. John's in Search of Ammunition" *The [Montreal] Gazette* (23 August 1995). See also E. Greenspon, "Premiers Wary of Quebec Fallout" *The Globe and Mail* (23 August 1995).

Quebecers were subjected to an intensive storming of their minds and emotions. Inaugurations, ceremonies, theatrical gestures, nothing was spared for the creation of a hothouse atmosphere of bigmanship and grandiloquence. Bombastic pronouncements of "*Un nouveau chapitre de l'histoire du Québec*" were proffered as blown up pictures were taken in the Assembly's dignified *salon rouge*. A *Declaration of Sovereignty* which Parizeau likened to the American *Declaration of Independence* was launched in Quebec City's *Grand théâtre*. Not only did it fail to elicit any interest, but it produced the opposite effect that was intended: it drew quips and scoffs. Its preamble was addressed strictly to old-stock Quebecers in embarrassingly archaic language: "The time has come to reap the fields of history. The time has come at last to harvest what has been sown for us by four hundred years of men and women and courage, rooted in the soil and now returned to it." It spoke of our "collective heart," but not once of our *citizenship*. This preamble was predictably lampooned in practically all editorials: Alain Dubuc of *La Presse* called it "*La plainte des dinosaures*." The *Journal de Montréal's* Jean V. Dufresne criticized it as a pathetic illustration of "spectacle-politics with collegiate staging," dismissing it as a litany of plaintive clichés. Even *Le Devoir* described it as a valiant effort despite its shortcomings. Most dismissed its "revisionist historiography and eye-glazing bureaucratism."²² And of course humorists and cartoonists had their own go at it. Josh Freed of *The Gazette* had a message for the Premier: "We're Rooted not so Much in the Soil as on the Balcony,"²³ and Serge Chapleau, *Le Devoir's* cartoonist (subsequently hired by *La Presse*), drew a farmer-clad Parizeau, standing in the middle of a field of tall oats, with an Old Macdonald's straw hat on his head and a sickle in his hand, admitting that "it would be much easier with a tractor."

In February and March 1995, public consultations on sovereignty were launched costing taxpayers, at conservative estimates, 5 million dollars. Regional Commissions, as they were called, traveled throughout the province to supposedly listen to the *vox populi* and register the participants' views on the government's draft Bill which declares "Quebec is a sovereign country." The Liberals boycotted the hearings. It became immediately obvious that these commissions were rigged in favour of secession. There was even a crude attempt to turn the public educational television network, Radio Quebec, into a pro-sovereignty

²² H. Bauch, "Reason for Tears" *The [Montreal] Gazette* (9 September 1995).

²³ *The [Montreal] Gazette* (9 September 1995).

propaganda tool for the referendum campaign.²⁴ Such hijacking of media neutrality led the head of Radio Quebec to resign. Implied in the commissions was the view that "the people, if only they knew better and had the right information, would accept sovereignty."²⁵ Briefs that were favourable to federalism were rejected, and when the odd speaker dared criticize sovereignty, the commissioners shook their heads in disbelief or gave the participant a little lecture.

Lysiane Gagnon likened these commissions to roving open-line radio shows with people taking advantage of the presence of politicians to voice their complaints or present their wish lists. In some instances, where some people were allowed to vent their discontent, both English and French-speaking citizens closed ranks to blast the government. On one colourful occasion, a rancher called Gervais Bisson who raises a herd of 125 buffalo in the Eastern Townships and who had presented a brief conspicuously titled *Vive le Québec libre*, took the politicians of the PQ to task comparing them to "clowns" who, "in order to get a "Yes" vote in the referendum ... will say any old thing." Refusing to let the irritated commission members intimidate him, he insisted that "Quebec's real separation will begin the day its citizens clean house in Quebec City by separating the PQ from its hold on government."²⁶

When the hearings failed to provide the expected momentum, the search began for a face-saving device. Couldn't the referendum be postponed? By that time the referendum itself had become a laughing stock. The hard-line separatist position was definitely not working. Severing all ties with the rest of the country is indeed a minority position among francophone nationalists themselves. When the question of passports was brought up during the campaign, it hit a raw nerve. The abandonment of their Canadian passport remains intolerable for most Quebecers. Such a realization prompted the panic-stricken PQ strategists to shift their strategy and push for a change of leadership in order to raise the support for their option. They began talking of a "virage," a turn in direction. The *virage* consisted in guaranteeing the double-citizenship, and in selling the idea of a "partnership" with the rest of the country, as

a bonus to "sovereignty," a *have your cake and eat it too* marketing strategy, reminiscent of René Lévesque's hyphenated connections. A year later polls have confirmed that the rise of the "Yes" vote in the last days of the referendum campaign was in fact due to such a strategy. They also show that today the "Yes" vote is receding and the "No" is showing a solid come back. "Sovereignty" remains a fragile proposition. Even the all-francophone Quebec City had not granted the "Yes" a clear majority.²⁷ It took the entrance of Lucien Bouchard on the campaign stage to give the vote a last-minute boost. The rest is history.

I would now like to say a few words about the turn of events since the referendum, and deal with the dynamic of the *effet pervers* that I mentioned earlier. The immediate consequence of the referendum was to give rise to a number of grassroots movements particularly, but not exclusively, among the anglophone and allophone minorities in Montreal and the southwest of the province demanding "justice, respect and equal rights." At the centre of these new developments is the key figure of Guy Bertrand, the Quebec City lawyer turned civil rights crusader. Guy Bertrand embodies an interesting complex of traits. He has introduced a spectacular reversal in the secession drama. Although his eruption on the referendum stage is somewhat unexpected, given his past as founding member of the PQ and for most of his life a die-hard supporter of independence, yet he stands as one of the stock characters of the tradition of civil liberties. Just for the record: he challenged Quebec's referendum laws in Quebec's Superior Court, on the eve of the referendum. He obtained a court judgment ruling that a unilateral declaration of independence would be unconstitutional and would violate citizens' rights and freedoms.²⁸ He cautioned Quebecers that they were being robbed of their rights and freedoms guaranteed under the *Charter*, mainly under sections 2 (fundamental freedoms), 3 (democratic rights), 6 (mobility rights), 7 (legal rights), 15 (equality rights), and 24 (1) (enforcement of rights). He argued that the Quebec government under Jacques Parizeau had misled the people, using them as hostages to further its option, and hijacking the powers of the National Assembly to carry out a constitutional *coup d'état*. He warned that a UDI was a revolutionary act, that it would create a constitutional void, producing a situation of chaos leading to possible violence. A *coup d'état* of this nature, he cautioned, would not only violate the territorial integrity of Canada making it akin

²⁴ D. Macpherson, "Parizeau, Premier and Minister of this and that" *The [Montreal] Gazette* (2 February 1995).

²⁵ P. Authier, "Shaping Public Opinion. PQ Strategists say commissions are designed to transform sovereignty from a party's scheme into a cause for all" *The [Montreal] Gazette* (4 February 1995).

²⁶ C. Arpin, "English, French Close Ranks to Blast PQ" *The [Montreal] Gazette* (16 February 1995). See also L. Gagnon, "Le ton monte" *La Presse* (16 février 1995).

²⁷ M. Fontaine, "L'avance du NON s'accroît" *La Presse* (26 octobre 1995). D. Lessard, "Forte remontée du NON" *La Presse* (7 décembre 1996).

²⁸ *Bertrand v. Quebec (A.G.)* (1996), 138 D.L.R. (4th) 481 (Que. S.C.).

to an act of war, but it also would jeopardize the territorial integrity of the province of Quebec. Aboriginal territories as well as majority federalist regions such as the Outaouais and the city of Montreal might go so far as to take up arms in order to remain in Canada. How would the National Assembly control the territory of the province in such circumstances?

Threats of "partition" by federalist regions of the province confirmed his warnings. He is currently asking the courts to issue a permanent injunction banning any referendum that would result in a future unilateral declaration of independence, and he has founded a movement called *Citizens for a Democratic Nation* to press for the inclusion within the constitution of clear rules for secession. His legal actions have pressured the federal government to intervene in the case, and to ask the Supreme Court to decide on the legality of secession.²⁹ The protest groups that are sympathetic to the cause he defends invoke civil disobedience. Such an action, they assert, is the only weapon they have at their disposal when faced with a government that places itself above the rule of law, as the PQ government indicated it would do in the Bertrand case. They consider their own unlawful public conduct as designed to change the law without rejecting the rule of law.

The events that have unfolded since the referendum are proof of the interaction of the three forces of nationalism, multiculturalism and the affirmation of the primacy of rights. They are a reflection of the very fabric of Quebec society itself. In a context in which several nationalisms — francophone, anglophone, Aboriginal — and other group ethnocentrism coexist in the same place at the same time, a clear majority for secession is unattainable. It is also clear that a narrow majority would make secession a very messy affair. By definition, any secessionist group is a minority which seeks to become a majority on the territory it claims to control. Yet we often seem to overlook the fact that in Quebec the ethnic secessionist group is not tightly concentrated in the same area, but is distributed across several regions that are historically, economically, culturally, and linguistically distinct from each other. In this context a referendum on secession by ethnic Quebec nationalists is bound to trigger a number of competing nationalisms. The Inuits, the Crees, the Mohawks, Quebecers in the Outaouais, and Quebecers in Montreal, the melting pot of the province, all want to control their own territories. It is a classic situation of

²⁹ See questions referred to the Supreme Court of Canada, P.C. 1996-1497, 30 September 1996.

one secessionism triggering a series of copy-cat secessionist reactions.

In the weeks following the referendum the idea of Montreal splitting from Quebec began to take shape. However dangerous this idea may have appeared initially (one thinks of Belfast), it has steadily been gaining credibility. Twenty municipalities of the Pontiac region have already voted for resolutions to hold their own referendums on remaining in Canada in the event of a province-wide separation vote. The two municipalities of Côte-St-Luc and Hampstead followed suit in October and November 1996. Beaconsfield and other Montreal island municipalities seem poised to join the movement.³⁰ Some observers have suggested that even if Quebec does not separate from Canada, Montreal should still seek special status within the province as a distinct society. Others have urged that it should become a city-state like Singapore.³¹ Groups have sprouted in order to claim more clout for the city. One of them called *Option Montréal* is a council of urbanists, historians, economists, political scientists from UQAM, McGill, Concordia, as well as lawyers, journalists, publishers, translators, and other professionals who have come together to examine options for the revitalization of the city.³² The group held its first conference on 10 November 1996.

As we can see, a type of Montreal patriotism, borne out of an exasperation with endless referenda, anger at the PQ's hostility towards the English language and its aversion to bilingualism, and anxiety about the future of the city has been growing steadily. These protest groups share the general feeling that the political elites are either, as in the case of the PQ, inimical to the cosmopolitan and federalist character of the city or, as in the case of the QLP, indifferent to its woes because it takes its electoral base for granted. The various initiatives taken by concerned Montrealers to pull their city out of the post-referendum depression indicate that they have come to consider politicians as somehow irrelevant. These citizens seem to have discovered a kind of spontaneous capacity to take matters into their own hands, and such a feeling is tremendously empowering. The post-referendum

³⁰ See W. Johnson, "The Power of the Cities. Votes On Secession Would Have Clout" *The [Montreal] Gazette* (8 November 1996).

³¹ "Should Montreal Split From Quebec?," and Sarah Scott, "Montreal. A Separate Reality" *The [Montreal] Gazette* (9 December 1995).

³² See B. Cooper and R. Lalonde, "The City-State Option. Montreal's Best Course Would Be to Reject Both the Canadian And the Quebec Options to Become a Self-Governing State" *The [Montreal] Gazette* (8 November 1996).

anxiety thus has been replaced by a type of cocky assertiveness which has caught the political class unawares. What was first denounced as the work of extremists is now being seriously taken into consideration by even the sovereignist *Le Devoir*, as an editorial titled "*Des votes partitionnistes*" by Michel Venne on 14 November, 1996 seems to point out.

The question of whether we should keep talking implies another question: who are the speakers and who are the receivers? For a long time nationalists took for granted that they could limit the debate to a one-to-one dialogue between them as the self-appointed spokesmen of the whole of Quebec and "English Canada." The Crees, the Mohawks and other Aboriginals rose to defy forcefully this belief. Over the past twelve months an important number of other players who believe that they are equally legitimate interlocutors have joined in the debate over the future of the country. They will not tolerate being reduced to mere bystanders. There lies the real challenge for the nationalists, who now have to face these other Quebec Canadians and their spokesmen: Aboriginal leaders, so-called partitionists, anglo-activists, Montreal separatists, Superior Court and Supreme Court judges. Will the nationalists be capable of holding a dialogue with all these newcomers, or will they further isolate themselves from both the rest of Quebec and the rest of Canada? That is indeed the question. The events that have unfolded since the referendum have opened a fascinating new chapter in our history. At long last the debate has been brought down from utopia to reality.

Afterword: Since this paper was delivered on November 22, 1996, events have accelerated. By the end of August 1997, when the final version of this paper was submitted, forty Quebec municipalities have adopted *unity resolutions* — a term that federalists who wish to remain in Canada in the event of Quebec independence favour over the term *partition*. The cities of Verdun, Saint-Leonard, Brossard and Saint-Lambert seem poised to follow suit as petitions are being circulated to garner as many signatures as possible from residents. As it presently stands, the goal of unity activists is to obtain a resolution from the City of Montreal itself. Lawyer Guy Bertrand has agreed to include these unity resolutions in his factum to the Supreme Court. On July 16, 1997 Southam News reported in the Montreal *Gazette* that it had obtained papers under the *Access to Information Act* that include detailed (though heavily edited) memos from the federal government revealing that Ottawa is closely monitoring unity groups in Quebec, that four provincial governments have privately told Ottawa what they think the rules of secession should be, and that a senior official in unity minister Stéphane Dion's department raised the possibility of making Quebec's partition a condition of its independence. It is not clear what the outcome of this unity movement will be. What we are witnessing increasingly is the emergence of a new set of initiatives and rules for participation in the democratic process brought about by citizens whom Professor Alan Cairns identified as *Charter Canadians*. □

Nadia Khouri

Department of Humanities, Dawson College.

SHOULD WE SIMPLY TALK, OR TALK FOR REAL? DISCURSIVE PLEASURES AT THE END OF THE CANADIAN CENTURY

Daniel Latouche

If you remember well, Canada was never going to be the same again, or so we were told in the last weeks of the 1996 referendum campaign. The federal Prime Minister even confirmed it in the days following the vote. Since then, many Provincial Premiers have echoed this statement, although Brian Tobin certainly has his own vision of what a different Canada would look like. A few bank presidents, commentators and at least one professional hockey player made similar references to the inevitability of change. The leader of the Reform Party even went to the trouble of listing twenty specific changes which could be implemented without having to touch the constitution.

Most of the changes proposed are purely cosmetic — like having the House of Commons officially recognize that Quebec is a distinct society — others are clearly unworkable — giving the Quebec population a veto right in contrast to giving it to the Quebec National Assembly — and a few others are probably dangerous, like transforming Canada into a collection of decentralized units each with its own manpower training policy and its set of health care rules. The idea, of course, has been to give the impression of fundamental changes in the country's political framework while preserving the status quo and hoping that Canadians and Quebecers alike will be satisfied, although for different reasons. In short, this is to be a repeat performance of the 1993 Liberal promises to take a second look at NAFTA and abolish the GST.

In the meantime, groups of well-intentioned people — well, most of the time — organize meetings and come up with a list of propositions set-up in such a way as to satisfy the minimum aspirations of Quebecers. Colloquies are being held, although one has the impression that the sense of urgency is no longer there. Few of these meetings have proceeded under the *problématique* that the Canadian Federation is in need of radical re-engineering. We have been through the first anniversary of the referendum — only Canadians and Quebecers would mark anniversaries where

nobody won — and slowly the Canadian way of doing things is coming back: wait for the fever to go down and count the signs indicating that Quebecers are getting tired of the whole thing; that Bouchard is slipping in the polls or that the Bloc is about to walk into electoral oblivion.

Maybe, it was just a bad dream after all.

IT WON'T WORK

With regard to Quebec, these changes are not only of the too little, too late variety, but probably will add to the problem rather than be part of the solution. This is not to say that Quebecers or the Quebec Government, for that matter, will refuse these changes — who is against a face-lift? — but having realized the value of the “knife-on-the-throat” strategy, they are bound to come back for some more. If, indeed, anglo-Canada gets a thrill from being blackmailed — not to mention a few free trips to Montreal — who are we to deny them this simple pleasure.

However ironic and sweet, this way of solving our problems not only spells disaster for Canada but, in the long term, it can only work to undermine the foundations of the Quebec project. One does not build a society on blackmail. We both lose if we take the road of “destroying” one another in order to achieve our respective objectives. In the end, nobody will even be around to turn off the proverbial last light-switch.

That Jean Chretien would, once more, miss the point altogether is no great surprise. Like Pierre Trudeau, his mentor, the man seems absolutely incapable of understanding what makes Quebecers run. That the provincial Premiers would envisage approving a number of constitutional changes over the head of the Quebec National Assembly is no surprise either. This is precisely what they did in 1982, prompting the re-emergence of the drive toward Quebec sovereignty. You can always count on Frank McKenna to further

compound an already complex issue. While Canadians were marching in the streets of Montreal trying to show their support for Quebec, Frank McKenna was busy trying to convince a few select firms to move their operations to New Brunswick. From what we know, he is still at it.

What is more surprising is this mythical belief that “decentralization” will solve the so-called Quebec-issue, and all other pending Canadian issues for that matter. Many suspect Ottawa has no real intention of decentralizing anything, except social problems, and even less a desire to provide the new decentralized “authorities,” should they be provinces, boards, manpower training offices or First Nations’ administration, with the financial as well as legislative resources to do anything about them. To “push” problems upstairs or to move them downstairs, presumably closer to the people, is no panacea either way. But once more, if this is the way the rest of the country wants to run itself, who are we, the separatists, the quasi-separatists and the future separatists, to question this great wisdom. In short, you can have your country and eat it too.

But then, if decentralization is a recipe for disaster for both Quebec and Canada, why are Manning, Chretien, Klein, Johnson and Harris so intent on it? In fact, what unites this disparate bunch — and a few others across the country — is the belief that government and state can do no right. The invisible hand of the market has to be liberated so that Canadians are made to realize that they have no other choice but to “adapt” to their new conditions. During the referendum campaign, Mr. Chretien has reiterated the theme that Canada is the most tolerant country of the world and has to remain that way. What he meant was for Canadians to learn to tolerate increased disparities between rich and poor, between small-scale farmers and large agro-businesses, between east-coast and west-coast fisheries, between Montreal and Toronto. As we could see, he was willing to go very far to protect this market vision of Canada.

In doing so, he may be showing Canadians and Quebecers a way out of their familiar labyrinth, unless we have fully integrated the neo-conservative credo and its beliefs that politics do not count, that the State is irrelevant, and that all governments are intellectually corrupt. Maybe there is a way out. What is evil for Paul Martin can not be all that bad. In any case, the question is worth asking: can Canada be reconstructed on a set of different principles than those of market dominance?

THE PREREQUISITES

We are not there yet and anybody who believes in a quick-fix solution, be it progressive and well-intentioned, will bound to be disappointed. Of course, a willingness to talk and to act are minimal prerequisites for any successful political or personal negotiation. One can argue about the shape of the table, the sincerity of the other side, its ulterior motives, but if the two sides are not even willing to acknowledge their own existence as well as the legitimacy of their respective positions, then there is little reason to embark on a serious process of negotiation.

In our case, this basic prerequisite requires from both sides a degree of self-abnegation and openness which are difficult to imagine. In fact, if such an openness existed, one wonders why we would have a Canada-Quebec problem. What complicates matters further is that the required openness is not equally distributed between Canada and Quebec. As usual, more is asked of the side in the “strongest” position, in this case Canada (or the “Rest of Canada” if you prefer). If Canada requires that the Quebec Government, notably the Parti Québécois, formally abandons its sovereignty objective, officially recognizes the illegality of sovereignty as well as the equality of all provinces, while insisting that English-Canada and the Rest of Canada does not exist as such, all this before negotiations even begin, then we might as well forget about the whole thing.

On the other side, if the Quebec Government insists on negotiating the end of Canada while acting as if it had indeed won the referendum, there is even less likelihood that we will get to a debate about the shape of the negotiating table.

The only way out is for both sides to recognize that the *raison d'être* of their sitting together is neither to achieve a sovereign Quebec nor to prevent Quebec from ever becoming a sovereign country, but to reorganize the political relationships existing between the two. In return for obtaining what it has sought for decades, that is to sit down and negotiate on an equal-to-equal basis, Quebec should recognize that this recognition will not lead to the full realization of all its other negotiating objectives. In other words, Quebec should be willing to trade a recognition that it indeed has a political partnership with Canada for the acceptance that one of the consequences of this partnership — a very hard pill to swallow for the rest of Canada — will be to make sure that Quebec never

reaches the status of a fully sovereign country along with the Bolivia, Germany or China model.

How to make Quebec a country within the Canadian Confederation, this is, indeed, what it is all about.

If you want to talk for real, this is what we should talk about. Otherwise, we can go on pretending.

THE SECRET WEAPON

There is little chance that Canadian and Quebec politicians, left on their own, will ever reach the stage of prerequisites and pre-conditions. The list of reasons why Jean Chretien, Brian Tobin or Mike Harris will never get there is so depressingly long that it is probably better to skip the subject altogether.

On the Quebec side there is more openness, not so much because Quebecers are traditionally more flexible than Canadians, but simply that, having lost the referendum, some of them cannot help but wonder if there is indeed light at the end of the tunnel. If hanging is said to concentrate the mind, defeat is clearly a great eye-opener. Quebecers, especially the intellectuals, social activists, trade-unionists, and cultural workers are more at ease with concepts such as nation and society. But over the years, we have come to realize how fragile these collective constructions are. We simply cannot risk it all for the sake of perfection. Whoever said that dreams, including those of nationhood, can only exist in an abstract and immaculate form was right.

On the Canadian side, support for a paradigm shift is more tenuous. It always appears after a "victory," however tenuous. Seen from Quebec, it is difficult to realize to what extent those Canadians who still cling to the dream of a more egalitarian society, one where solidarity, self-help, and social justice are still held up as ideals, have realized that if Quebec moves on to different constitutional pastures, these ideals will be more difficult to achieve. Throughout the referendum campaign, I have not read a single opinion to that effect. Well, that's not exactly true. Jan Miller, the current President of the Canadian Conference of the Arts is said to have declared that without the Bloc Québécois in Ottawa, it will be more difficult to defend the arts in this country. She is also reported to have said that with a "No" referendum vote, it is likely that

Quebec will have to cut its own support for the arts.¹ To my knowledge, this was the only statement expressing the view that sovereignists did not have the plague. If there had been more opinions similar to this one during the campaign, the result would not have been that close. In fact, with more opinions of this nature, there would have been no need for a referendum in the first place.

Because it is such a comforting thought, I will assume that there are indeed thousands of Canadians "out there" who want Quebec to "stay in," not so much because the Québécois bring out a touch of cultural difference and allows Canada to maintain its own "separateness" vis-à-vis the United States (one of the most insulting arguments to be heard and one which is often translated into the most horrendous slogan: "My Canada includes Quebec"), but because without Quebec, Canada will lose on the solidarity front. Without Quebec, there is a good chance that Canada will move further to the right and eventually will capitulate to the dominance of the markets. One of the reasons of the success of the "Yes" side lies in the realization by many Quebecers that if the "No" wins, Quebec will have no choice but to join in the Gingrich-Klein-Harris revolution. This realization was a more important factor than any mysterious tribalistic appeal by Lucien Bouchard.

To a large extent, Quebec is Canada's last hope for social democracy. Most "progressive" Canadians have yet to accommodate themselves to this idea. Similarly, very few sovereignists have realized that if Canada moves to the extreme right, the chances of establishing a new relationship, within or outside the federal framework, with this Canada are almost nil. If they are not convinced, they should simply look at the quasi-unanimous reaction to Prime Minister Chretien's statement that there simply will be no further referendum in Quebec ("I will use all of my constitutional powers to prevent it") and that he would simply have refused to recognize a "Yes" vote. Many of us were expecting such a reaction from the man from Shawinigan, but what we did not expect was the fact that no one in Canada stood up to protest such horrendous statements. In Quebec at least, when a politician, should he be a Premier, goes too far, we show him the door. Ask Mr. Parizeau about it. But again, this is another question. Canadians and Quebecers however, should reflect on the thinness of their respective democratic veneer. If you think Guy

¹ *Le Devoir* (10 October 1995).

Bertrand is a Canadian hero, our conversation will stop there. This man and all the partitionists who support him are one of the greatest dangers to Quebec and Canadian democracy. Like the *Front National* of Monsieur LePen in France and the White Supremacists in North Dakota they should be condemned for what they are.

It goes without saying that if you share in the belief that partition is the best way to bring Quebec to its knees or that the issue should not be raised less it brings comfort to the separatists, then our conversation will probably not proceed very far. This is not to say that I believe the Quebec territory to be “sacred” and above all suspicion. No territory is. In fact, one of the reasons why I support both the idea of sovereignty for Quebec and of a new partnership with Canada is that I am convinced that this “New Deal” will greatly profit the First Nations living in Quebec, including access to a territory of their own if they wish.

THE RE-CONFEDERATION OF CANADA

If Quebecers have to abandon their “knife-to-the-throat” approach to constitutional bargaining that is holding the rest of Canada hostage until the next referendum, Canada also must abandon its fixation with finding the minimal amount of change, constitutional or not, which will accommodate the maximum number of so-called “normal” Quebecers. There is no such thing as a core of 20 per cent or 30 per cent radical extremist separatists with the rest of the “Yes” supporters being either a bunch of twits who didn’t know what they were voting for or federalists hoping to get better deal by voting “Yes”. During the course of an ordinary week or even a day, a large percentage of francophone Quebecers, and I would assume a sizable proportion of the non-francophone also, stop and think that sovereignty indeed would be the best course for Quebec. A federalist Quebec politician once said that every Québécois is separatist at least once a day, every day of the year.

So the idea that it is possible to figure a cocktail of changes, some symbolic, others constitutional and others purely administrative, is a recipe for failure. Sure, it might buy some time, but Canadians should reflect on the following two pieces of information. First, in a period of no particular crisis in English-French relations — compare to, say, the Meech-Lake era — the sovereignty side came very close to an absolute majority. The idea that the sovereignists can win only by stirring up emotions or by getting English-

Canada to provoke Quebec has been proven wrong. Sovereignists can win even in the most boring of times. Second, preliminary figures indicate that the young voters of 1980, the most pro-sovereignty age cohort of all, have retained almost the same level of support for sovereignty even though they are now 15 years older. Canadians have to realize that the dream of having one’s country is very deeply engraved and does not depend on the economic conjuncture or the number of immersion schools in Alberta.

Let us spell it out clearly: unless Canada is re-confederated, there is little hope of making the Quebec malaise go away. The basics of this re-confederation are quite simple and involve the following principles:

1. the recognition that Quebec does not “belong” to Canada but shares in the creation and the functioning of a Confederation of two distinct and equal national identities;
2. this Confederation should make room for the provincial organization (and equality) of the rest of Canada as well as for the First Nations. The internal set-up as well as the terms of union of each of these three national communities in the Confederation should be left to the three groups;
3. Quebec (and the same reasoning applies to the two other national communities) should have all the legislative and fiscal powers which it feels necessary for development as well as its full participation in the new Confederation;
4. the purpose of the confederation would be to enhance the economic, social, democratic, and cultural development of the three communities as well as to ensure, through appropriate redistribution and solidarity mechanisms, the equality and the well-being of all individuals living in the federation;
5. the three national communities would have the obligation not to undertake any action which would limit this quest for well-being;
6. the task of the Confederal government would be to maintain an equilibrium between the various communities as well as to help each of them to further achieve its particular objectives;

Unless the dualistic nature of the country is given an official and practical recognition in the federation

(political equality) and unless the major objective of this new Confederation is to promote the individual and collective well-being of its members (social equality), there is little hope for the future of this "country" as a functioning, progressive, and challenging place to live.

A SHORT DIALOGUE

— But isn't this tantamount to making Quebec a sovereign country within the Federation?

— Yes, and this is precisely the point of the entire exercise?

— What about the Charter of Rights? The minorities? Equality between the Provinces? The First Nations? This means the end of Canada as we've known it since 1982.

— But isn't this what we are talking about?

— Do we really have to change that much?

— Look at it this way, the only way Canada will make this sovereignty thing go away is by integrating it; making it a fully-Canadian project. If you can't beat them, join them. Can't you?

— Perhaps, but there will then be two, and perhaps even three Canadas.

— What's wrong with having two Canadas. It surely beats having none?□

Daniel Latouche

Institut national de la recherche scientifique,
Montréal.

Just published by the University of Toronto Press in association with the Centre for Constitutional Studies

**CHARTING THE CONSEQUENCES:
THE IMPACT OF CHARTER RIGHTS ON CANADIAN LAW AND POLITICS**

edited by
David Schneiderman and Kate Sutherland

Contents:

The Impact (Real or Apprehended) of the Charter on the Legislative Authority of Quebec **Yves de Montigny**

Infertile Soil? Sowing the Charter in Alberta **Ian Urquhart**

Business, Economic Rights, and the Charter **Richard W. Bauman**

The Impact of the Charter on Income Tax Law and Policy **Kathleen A. Lahey**

Contemporary Traditional Equality: The Effect of the Charter on First Nations Politics **John Burrows**

The Good, the Bad, and the Smugly: Sexual Orientation and Perspectives on the Charter **Didi Herman**

Rights, Nationalism, and Social Movements in Canadian Constitutional Politics **Joel Bakan & Michael Smith**

The Impact of Charter Equality Principles on Private Law Decisions **Kate Sutherland**

The Charter and Access to Justice in Canada **Mary Jane Mossman**

The Charter and Mainstream Political Science **Alexandra Dobrowolsky**

Conclusion Towards an Understanding of the Impact of the Charter **David Schneiderman & Kate Sutherland**

COST*

Cloth: \$50.00 ISBN 0-8020-0811-9

Paper: \$22.50 ISBN 0-8020-7181-3

For further information, contact: The University of Toronto Press

Fax: (800)221-9985 / (416) 667-7832 Telephone: (800) 565-9523 / (416) 667-7791

ABORIGINAL NATIONALISM AND QUEBEC NATIONALISM: RECONCILIATION THROUGH FOURTH WORLD DECOLONIZATION

Peter H. Russell

These days in Canada and other new world democracies the news media bombard us with stories about Aboriginal peoples. Most of these stories have a hard edge. Be it the occupation of a park at Ipperwash, Maori demonstrations in Auckland, deadlocked negotiations over a zinc mine in northern Queensland or the extradition of a leader of the American Indian Movement to the United States — all are stories of conflict; conflict between the aspirations of indigenous minorities and concerns of the non-indigenous majority. Clearly something is going on here. “The natives are restless!” they tell us.

Governments tend to respond to these conflicts on a pretty *ad hoc* basis, looking for solutions that will keep the peace without costing too much money. Most of the public on the non-Aboriginal side simply wish the conflicts — the native peoples “problem” — would go away. They are tired of hearing about it. But the conflicts and problems are not about to disappear nor to be “solved” by quick-fix, cost efficient remedies. What is needed is a larger perspective based on an historical understanding of why, in the late twentieth century, Aboriginal nationalism has become a major political issue within a number of western democracies. It is only by adopting such a perspective that we can rise above treating conflicts with Aboriginal peoples as simply an unending series of bothersome bush fires and approach them, on both sides, as a profound challenge to our capacity for democratic constitutionalism.

The perspective that I believe holds the most promise, both for understanding the past and for guiding future action, is one that sees the present crisis in Aboriginal relations as a very special, very distinctive process of decolonization. This is a process in which indigenous peoples seek to change their status from that of subjugated and marginalized minorities within societies dominated by the descendants of European settlers to partners in multi-national political communities. It must be a very distinctive process of decolonization because the basic pattern of previous

decolonizations — withdrawal of the dominating society — in this case simply is not on. The dominating settlers are not about to pack their bags and go home — they are here to stay. So the changes resulting from this process of decolonization must make it possible for the decolonized and former colonizers not only to share the same territory but to share membership in a common political community.

My focus will be on the four countries in which Aboriginal peoples came to be dominated by English-speaking settler societies — namely, Australia, Canada, New Zealand and the United States. Now there are obvious problems in referring to these four as English-speaking settler societies. In Canada, of course, French settlers preceded the English and their descendants continue (I hope) to be a distinctive part of the Canadian political community. And in Australia, New Zealand and the USA (and in Canada as well) the flow of migrants, particularly in recent times, has included people from many parts of the world besides England. Still, the political institutions and political culture of these four countries basically derive from their English heritage.

This point of commonality is important. All four of these countries are themselves former British colonies. They have all gone through an earlier process of decolonization — in the American case a revolutionary process, in the other three a more evolutionary process — in which they gained their independence from the mother country. The Aboriginal peoples within these countries thus are exceptional colonies: they are colonies within former colonies.

The fact that indigenous peoples in these countries are now claiming rights of self-determination and self-government based on the very principles that animated these former colonies in their quest for national independence does not make it any easier to accommodate such demands. Quite to the contrary, precisely because these countries have completed their process of decolo-

nization and have established new self-governing democratic nations, the claims of native peoples for their right to govern themselves can cause deep resentment. These Aboriginal claims challenge the very legitimacy of nation-building and nationhood that is so central to these settler societies' sense of achievement and identity.

To understand how unprepared — psychologically and ideologically — these four new nation-states spawned by the expansion of England were for the challenging upsurge of indigenous peoples' nationalism, it is useful to remember how the English viewed this part of their Empire. They saw the lands and waters of North America and Australasia as being empty or at least empty enough to ensure that the colonies established in these spaces would be societies with the same language, culture and religion as the home country, Mother England.

There is no more eloquent statement of this view than the course of lectures given by Sir John Seeley, Regius Professor of History at the University of Cambridge, in 1883 on the *Expansion of England*. Seeley first contrasted the position of European settlements in Central and South America with North America, commenting that "whereas in New Spain the European, though supreme, yet lived in the midst of a population of native Indians, the European in North America supplanted the native race entirely, pushed it even farther back as he advanced, and did not blend with it at all."¹ Then casting his eye southwards to the antipodes he referred to "the Australian race" as being "so low in the ethnological scale that it can never give the least trouble." The situation in New Zealand, he acknowledged, was not so clear for there "the Maori tribes occupy the Northern Island in some force, much as in the last century the Highland clans gave us trouble in the northern part of our own island ..." But Sir John found consolation in observing that "the Maori is by no means a contemptible type of man." All of this was for Sir John a matter for some self-congratulation for it meant that "The English Empire is on the whole free from that weakness which has brought down most empires, the weakness of being mechanical forced unions of alien nationalities."²

As it turns out, Sir John got this wrong. The native peoples who dwelt in the nearly empty spaces of North America and Australasia, though ravaged by disease and dispossession and pushed to the margins of

advancing European settlement, have more than survived. They are now among the most rapidly growing sections of the population of these countries and have become, to use Sir John's phrase, downright troublesome. That Aboriginal people have proved Sir John wrong is due largely to their own inner resources and another great surge of decolonization that followed World War II.

In the decolonization that proceeded quite rapidly after World War II, the Western European powers were persuaded to apply the principle of self-determination to the empires they had established in the "third world." In a relatively short space of time European direct rule over Asian, African, and Caribbean peoples was dismantled and formally independent countries with indigenous governments were established throughout the Third World. At first this decolonization of the Third World had little effect on the position of indigenous peoples within First World countries, or for that matter, of indigenous minorities anywhere. The new third world nations, many of them resting precariously on arbitrary colonial borders, were no more willing than more established nation-states to recognize the claims of nations within. It has taken a very long time for the United Nations, constituted as it is predominantly by decolonized nations, to recognize the aspirations of indigenous peoples — within their boundaries — for a decolonized status.

Inevitably the ideological shift on which third world decolonization was based would come to be applied to indigenous peoples, particularly the so-called "fourth world" — the indigenous peoples with third world living conditions residing within first world countries.³ The ideological shift to which I refer was a falling away of support among western European people, if not an abandonment of the idea that had provided the moral justification for their empires — namely a belief in the fundamental superiority of their culture and civilization. The European empires had their economic and military rationales, but Edward Said is surely right when he writes that "over and above profit" the "commitment that allowed decent men and women to accept the notion that distant territories and their native peoples *should* be subjugated" was "the

¹ Sir J. R. Seeley, *The Expansion of England* (London: MacMillan, 1906) at 54.

² *Ibid.* at 55-56.

The term "Fourth World" comes from a book written by George Manuel. He was chief of the Neskonlith band in British Columbia, the first President of the National Indian Brotherhood of the National Indian Brotherhood, precursor of the Assembly of First Nations in Canada, and President of the National Indian Brotherhood. See G. Manuel, *The Fourth World* (Don Mills: Collier-Macmillan Canada Ltd, 1974).

almost metaphysical obligation to rule subordinate, inferior, less advanced peoples.”⁴

It was that same commitment — the conviction of the inherent superiority of their civilization — that served as the positive, moral justification for the English (and in Canada, the French) settlers’ and their descendants’ subjugation of the native populations they encountered in what turned out to be the not-so-empty spaces of North America and Australasia. And it is a wavering of belief in that superiority that now provides more fertile ground for a positive response to Aboriginal aspirations.

You will note that I say there is now a wavering of belief in western superiority, but by no means is there a complete abandonment of such a view. There are still plenty of Americans, Australians, Canadians and New Zealanders who believe that the indigenous peoples of their countries possess nothing collectively that merits survival or development and that their only salvation is total assimilation into the progressive mainstream culture of the non-Aboriginal majority. But the point is that on the non-Aboriginal side this point of view is sufficiently contested to allow a better hearing than ever before for Aboriginal peoples.

There has also been an important political change on the Aboriginal side. This change is essentially not one of aspiration or belief but of skills and technology. Indigenous peoples continue to find meaning and value in their own cultures, to resent the extent to which they have been treated as subject peoples by newcomers to their lands and to yearn for a recovery of control over their lives. What has changed is that now many members of these societies have become proficient in the political skills of the dominant society. Aboriginal leaders have learned how to run in elections, how to lobby government, how to build and work within bureaucracies, how to conduct media campaigns, how to network internationally, how to negotiate with multinational corporations, and how to achieve political ends through litigation.

In all of this we can see the deeply ironic side of decolonization: the colonizeds’ success in overcoming their subjugation is achieved through the colonizers’ political instruments. This is as true of the struggle of fourth world peoples as it was of third world peoples. The very vocabulary through which indigenous leaders have come to articulate their aspirations — referring to

their societies as “nations,” asserting an original “sovereignty” and claiming “title” to their lands and waters — is the vocabulary of the dominant society. The use of these terms reflects more than simply a change in the use of symbols. It reflects a significant degree of societal assimilation. Fourth world peoples like third world peoples will find themselves becoming less distinct from the dominant society as they adopt that society’s techniques to resist its domination. Such are the ironic wages of success in the decolonizing struggle.

There is one further circumstance that brings together these changes on both the indigenous and non-indigenous sides to produce what I believe to be an irresistible world-wide movement: the globalization of contemporary politics. Over the last quarter century, indigenous peoples around the world have been in touch with each other as never before. This is especially true of indigenous peoples who have become marginalized minorities in the advanced industrial democracies — the four English settler countries and Scandinavia. Learning about and from one another has fortified their leaders’ commitment and raised visions of what might be possible. No longer do Aboriginal peoples struggle as tiny isolated communities. The internationalization of their efforts to overcome the imperialism they have experienced has considerably augmented their political strength. Globalization has the effect of subjecting industrialized states to closer international scrutiny. Democracies that preached against white rule in South Africa find it difficult to maintain policies that deny racial equality in their own countries. The draft UN Convention of the Rights of Indigenous Peoples and the growing support for it indicate how far this second wave of post World War II decolonization has come.⁵

But while third world and fourth world decolonization have been nourished by the same ideological stream and have many similarities in their political dynamic, the parallel between the two breaks down when we turn to the consideration of responses and solutions. I have already stated the obvious reason for this: in these fourth world situations the simple solution of formal separation and withdrawal of the imperial power is not on. The descendants of the original occupants and the descendants of the settlers and others who have come later are fated to live together sharing not only a common territory but also, what is much

⁴ E. Said, *Culture and Imperialism* (New York: Vintage Books, 1994) at 10.

⁵ See D. Sanders, “Developing a Modern International Law on the Rights of Indigenous Peoples,” research paper prepared for Royal Commission on Aboriginal Peoples, Ottawa, 1994.

more important, a common citizenship. The challenge is to work out arrangements for this living together that are democratic rather than imperial, that are based on mutual consent rather than on the superior force of the non-indigenous majority.

How is this to be done? Broadly speaking two approaches are put forward. One, which I will call integrationist, is the offer to individuals of Aboriginal descent of full and equal access to the democratic rights and economic opportunities of the mainstream society. The other, which I will call autonomist, would recognize the collective right of Aboriginal peoples to function as self-governing communities in their traditional home-lands. The first approach, the integrationist offer of full and equal citizenship on an individual basis, is the preference of the *Pakeha*, the non-Aboriginal majority. The second, the accommodation of self-governing Aboriginal societies on traditional lands, is the preference of the indigenous peoples.

There is a tendency to treat these two approaches as mutually exclusive alternatives. This, I believe, is a serious mistake. Both have value; both have legitimacy. For a successful decolonization of the fourth world, both are needed.

The integrationist path has been the easiest path for dominant societies to follow precisely because it draws on their own philosophical traditions and poses no threat to their political unity or sense of identity. Even so, it was not embraced quickly nor, even yet, is it fully implemented. Progress along this path means removing one form of racial discrimination — discrimination against native people as individuals. Here New Zealand has been considerably ahead of the other three English-settler countries in that they included the Maori in the construction of their institutions of representative government in the 19th century. It was not until well into the 20th century, mainly after World War II, that Australia, Canada and the United States moved decisively to grant full rights of democratic citizenship to native persons. In Australia this move was dramatically expressed in the overwhelming support, the highest level ever secured in a constitutional referendum, for the 1967 amendment including Aborigines and Torres Strait Islanders among the sovereign people of that country. In Canada it was the essential promise of the Trudeau Government's 1969 White Paper on Indian Policy, and in the United States the inspiration of the Indian Bill of Rights enacted by Congress in 1968. It is no accident that efforts to consolidate the integrationist approach occurred in all three countries in the late 1960s when native peoples, with political tools acquired from the dominant society,

were beginning to recover their capacity for pursuing autonomist goals.

Full and equal citizenship, without discrimination, has much to offer indigenous peoples particularly when it extends beyond the removal of formal discrimination to positive programs designed to overcome enormous discrepancies between the material levels of well-being of indigenous and non-indigenous citizens. For some individual persons of native descent, particularly among those living in highly urbanized settings, such programs may be a sufficient remedy for their forebears' colonized condition.

Even for those Aboriginal people who seek to recover and maintain a more autonomous condition, a very high degree of political and economic integration is inescapable. For the autonomy they seek is, of necessity, limited and conditional. Aside from a handful of impractical radicals, Aboriginals of this persuasion are not separatists. The self-governing communities they seek, in order to satisfy material expectations transformed through cultural contact, will need large fiscal transfers from other orders of government especially in the early rebuilding stages. They cannot expect to receive this support and maintain a fruitful and mutually beneficial political association with the larger society unless they participate in the governing institutions of that society as active citizens rather than abrasive foreigners.

Still, if decolonization is to be achieved on a consensual basis, the integrationist approach — even if fully carried out with the removal of all forms of discrimination against individuals — will not be enough. The integrationist program, while in itself liberal and egalitarian, becomes illiberal and authoritarian when it is the only approach on offer. For then Aboriginal peoples are, in effect, being offered full membership in the dominant society on condition that they abandon their aboriginality — that they give up any effective means of continuing the historic societies from which they derive their own sense of identity and self-worth. The denial of any room for the autonomist option must be seen by Aboriginal people as an insistence by the dominant society on the fundamental "backwardness" and "inferiority" of their cultures — a denial of any long-term value to the collective experience, culture and wisdom of Aboriginal peoples. Overcoming this bias, the basic bias of imperialism, is the ideological barrier that must be removed for a genuine decolonization to be achieved. If there is to be a political community shared by the descendants of the colonizers and the colonized based on consent rather than force, it will have to be based on a reciprocity of

respect for one another's collective achievements and capacities. It is for this reason, above all, that the autonomist aspirations of Aboriginal peoples must be accommodated.

It would be foolish to look for a single institutional or constitutional formula for this accommodation. On both sides — the Aboriginal and non-Aboriginal — political traditions, objectives and capacities vary far too much for that.⁶

Consider first the non-Aboriginal side. All four of the English settler countries at different times, in different ways and to different degrees have acknowledged Aboriginal peoples as political societies. They have entered into relationships with these peoples that at least, in principle, were designed to be based on mutual agreement, leaving the native people in control of their own internal affairs.

The United States was the first to do this as an independent country through the judicial leadership of its first great Chief Justice, John Marshall. In 1831 Marshall described the Cherokee Nation as "a state, a distinct political society ... capable of managing its own affairs," and recognized Indian tribes as "domestic dependent nations." Logically, Marshall's doctrine required that the United States regulate its relationship with Indian tribes through treaty-like agreements. Though treaties recognizing land and self-governance rights were entered into, throughout the nineteenth century the treaty relationship was more often subverted and ignored by the advancing frontier of western settlement. And in this century it has been thoroughly cabined by the imperialism of the American constitution's emphasis on individual rights.⁷ Nonetheless, over one hundred American Indian tribes have managed to maintain significant degrees of self-government; many of them, particularly in the west and south-west, on traditional lands and on the basis of nation-to-nation agreements.⁸

The foundational principles of Canada's relationship with its native peoples were expressed in the treaties that the French and British made with Indian nations and the consolidation of those principles in the

Proclamation of 1763.⁹ That Proclamation recognized the Indian tribes as Nations in possession of their lands and forbade any private acquisition of Indian lands that had not been ceded by treaty to the Crown. The dominant instrument of Aboriginal policy during the nation's first century was the imperialistic Indian Act, not nation-to-nation treaties. But in the 1970s, following Aboriginal rejection of the Trudeau Government's integration plan, the treaty process was revived. The Government of Canada committed itself to enter into comprehensive agreements with Aboriginal peoples still living on ancestral lands who had never made treaties with the Crown. The 1982 revisions to Canada's Constitution included, alongside a Charter of Rights and Freedoms, constitutional recognition of the "existing rights" of Canada's Aboriginal peoples. In contrast to American constitutionalism, guarantees of individual rights were not to derogate from the collective rights of Aboriginal peoples as recognized in the Proclamation of 1763 and subsequent treaties. The negotiation of comprehensive agreements between Aboriginal peoples, the federal government and provincial and territorial governments now under way across Canada includes provisions that incorporate a significant degree of Aboriginal self-government.

New Zealand is the only one of the four English-settler societies in which a single treaty, the 1840 Treaty of Waitangi, forms the foundational relationship with indigenous people. Though the Maori's understanding of key terms in the Treaty differed from the British and the Treaty served to camouflage massive dispossession of the Maori and the imposition of British rule over them, it nonetheless embodied the potential for a New Zealand founded on the partnership of two peoples. It is in that spirit that since 1975 the Treaty of Waitangi has been revived through the establishment of the Waitangi Tribunal, judicial decisions, and recognition in Acts of Parliament.¹⁰

In Australia we find the weakest basis for a relationship with indigenous people that recognizes their right to survive and develop as self-governing societies. Even so, there is at least a whiff of the possibility of consensual agreements between settlers and native people in the admonition to Governor Phillip in his 1787 Commission "to endeavour to use

⁶ Here my approach is very much in line with that taken by H.C. "Nugget" Coombs in his *Aboriginal Autonomy: Issues and Strategies* (Cambridge: Cambridge University Press, 1994).

⁷ See J.R. Wunder, *"Retained by The People": A History of American Indians and the Bill of Rights* (New York: Oxford University Press, 1994).

⁸ See S. O'Brien, *American Indian Tribal Government* (Norman: University of Oklahoma Press, 1989).

⁹ For an account of the Aboriginal peoples' position on Canadian-constitutionalism see Royal Commission on Aboriginal Peoples, *Partners in Confederation: Aboriginal Peoples, Self-Government and the Constitution* (Ottawa: Canada Communication Group, 1993).

¹⁰ See R. Mulgan, *Maori, Pakeha and Democracy* (Auckland: Oxford University Press, 1989).

every possible means to open an intercourse with the natives, and to conciliate their affections, enjoining all our subjects to live in amity and kindness with them." The embryo of a treaty relationship also can be seen in Governor King's agreement in 1804 with Aborigines to curtail settlement on the lower reaches of the Hawkesbury River as well as in the agreements negotiated by George Augustus Robinson with Tasmanian Aborigines in the 1830s.¹¹ But Australian policy quickly came to be dominated by the dogma of *terra nullius* which denied the very existence of Aborigines and Torres Strait Islanders as peoples whose communal organizations were worthy of recognition and respect. The dismantling of discrimination against individual Aborigines and Islanders in the twentieth century did not at first reverse this official rejection of the collective political rights of indigenous peoples. But slowly, very slowly, beginning with the establishment of Land Councils in South Australia and the Northern Territory in the 1970s there has been movement by Australian governments, through a process of legislative devolution, towards enabling Aboriginal and Island communities to regain some control over their lands and internal affairs. This trend accelerated in 1992 when the High Court's decision in the second *Mabo* case removed legal backing for the *terra nullius* doctrine.¹² A provision for "regional agreements" in the *Native Title Act*¹³ that followed *Mabo* now holds out the possibility of negotiating North-American style treaties with Aboriginal peoples. Though it must be conceded that the vocabulary of "nation-to-nation treaties" still sends shudders down the non-Aboriginal spine of Australia.

Political pluralism is at least as marked on the Aboriginal as on the non-Aboriginal side. Despite settler claims of political sovereignty, Aboriginal peoples in all four countries continued with varying degrees of success to carry on their distinctive forms of governance often without even being observed, let alone recognized, by outside authorities. This may have occurred for the longest time in some of the more remote areas of Australia, where political contact between the indigenous people and the state claiming authority over them did not occur until relatively late in this century.

¹¹ These and other traces of a treaty approach to Australian Aborigines are discussed in a number of Henry Reynolds' books, most recently, *Aboriginal Sovereignty: Three Nations, One Australia?* (City: Allen & Unwin, 1996) ch.7.

¹² For a penetrating analysis of the case, see N. Sharp, *No Ordinary Judgment* (Canberra: Aboriginal Studies Press, 1996).

¹³ No. 110 of 1993.

As with the peoples of the third world, what fourth world peoples have in common is neither race, nor culture, but their colonized political relationship with dominant first world societies. In engaging the dominant societies, Aboriginal leaders often find they are more effective when they adopt the political technology of their oppressors and enter into political formations which in scale and organizational hierarchy are alien to their own traditions. Nonetheless, in this process of decolonization there is room for plenty of diversity in both the relationships between Aboriginal communities and the larger nation-states of which they are a part, as well as in the mix of Aboriginal and non-Aboriginal practices in their own internal self-government arrangements.

Though there can be no single recipe for accommodating the autonomist aspirations of Aboriginal peoples, the kind of autonomy required for decolonization does have two, interconnected requirements; namely the indigenous people's collective possession of a substantial portion of their ancestral homeland and a substantial measure of self-government by them on that homeland.

Ownership of a substantial portion of a people's traditional lands and marine resources has both a spiritual and material rationale. On the spiritual dimension, we know how Aboriginal peoples' sense of identity and understanding of their place in creation depends so fundamentally on the relationships they have with traditional lands, waters, creatures and harvest of those lands and waters. We non-Aboriginal may not be willing to concede that indigenous peoples are unique in this respect. Many of us, though relative newcomers, have come to feel a spiritual bond with these magnificent lands of the "new world." Still we should be able to understand the crushing spiritual cost of near total dispossession.

From a material standpoint, it is only through effective recognition of native title that Aboriginal peoples have some prospect of overcoming their condition of welfare dependency. Handing out welfare is an unhealthy economic regime both for recipients and donors. Yet welfare dependency has come to be the dominant economic circumstance of Aboriginal peoples. The best prospect of overcoming that dependency and facilitating greater self-sufficiency is to ensure that Aboriginal peoples have a stake in the resources and development of their own territories. This may mean postponing, modifying or even cancelling economic projects on their lands favoured by the non-Aboriginal majority. Even those who measure justice by the greatest happiness of the greatest number should stop

to consider the economic costs of continuing with policies that promise nothing in the future but the welfare dependency of a growing Aboriginal minority.

Ownership of land will be of little value for the survival and development of Aboriginal peoples if they have no direct participation in the political decision-making that determines what happens on and to their lands. Often, given third-party interests and the interests of the larger society, Aboriginal peoples will have to share political power over traditional lands and resources with other authorities. Still, decolonization requires that Aboriginal participation in such co-management arrangements over land and resources be based on full partnership rather than subordination to a superior power.

Aside from this practical rationale for recognizing the political rights of native peoples, there is a more profound rationale that goes to the essential purpose of self-government. Aboriginal societies like all enduring human societies are fundamentally political in nature — political that is in the Aristotelian sense. They are communities in which the distinctive social genius of the people is expressed in the way they render justice to one another and order their internal affairs. To deny a people the opportunity to make laws for the internal ordering of their own society is to deny them the right to exist as enduring political societies. Such a denial is the very essence of imperialism.

Today the ideological barriers to abandoning an imperial relationship with native peoples tend to be more legal and conceptual than racial. And there is no greater conceptual barrier than the sovereign idea of sovereignty. The governments and majority peoples of the settler societies are just as insistent as the empires that preceded them on the sovereign authority of their states over the native peoples within their borders. The native peoples who had not heard of sovereignty until the Europeans arrived and claimed it over them are inclined to insist on their own sovereignty precisely because the non-Aboriginals deny that they have it. So long as sovereignty is treated as a zero-sum, all-or-nothing, constitutional commodity, there is no solution to this conceptual impasse. What is required — on both sides — is a willingness to share sovereignty. It is only by sharing sovereignty that the relationship of Aboriginal peoples to the nation-states in which they live can move to one that is fundamentally federal rather than imperial.

Moving from an imperial to a federal relationship requires difficult ideological adjustments on both sides. The governments of the settler states and ultimately the

majority of the citizenry to which they are accountable must acknowledge that the right of Aboriginal people to maintain themselves as political societies does not derive from the settlers but has its own independent source in the experience of the native peoples. This means that the Aboriginal right to self-government must be regarded as inherent and the process of accommodating that right must be through consensual agreements rather than devolution by a morally and politically superior power.

A difficult attitudinal adjustment is required on the part of Aboriginal peoples as well. They must accept the legitimacy of the states in which they find themselves. A truly federal relationship must be grounded in mutual respect of the societies that are to enjoy self-rule and shared-rule. Such a relationship cannot be established through what Edward Said calls the “politics of blame.” Decolonization of the fourth world is not to be accomplished through separation or withdrawal. Native autonomy and integration must be treated not as choices but as parallel and interacting paths. The path of integration cannot be followed by indigenous people without positive regard for the benefits of participating in the life of the larger and newer society.

Integration and autonomy, these seemingly contradictory trajectories, cannot be reconciled by any simple, logical constitutional formula. Indeed, their reconciliation calls for a constitutionalism that, instead of fitting the people to the constitution, fits the constitution to the peoples whose relationships it is to house. James Tully, in his book *Strange Multiplicity*, likens such a constitutionalism to Bill Reid’s sculpture of the Haida canoe in which the mythic characters jostle for position. As the canoe progresses the members change in various ways as do their associations and recognitions of one another. “This constitution,” he writes, “is more like an endless series of contracts and engagements, reached by intercultural dialogues, rather than an original contract ... or a mythic unity of the community in liberal and nationalist constitutionalism.”¹⁴

Ironically, James Tully proffered this constitutional metaphor last year in the very first of the Seeley lectures at Cambridge University, named after the same John Seeley whose lectures a century earlier celebrated the monocultural character of the societies being built by English settlers in the new world. Tully’s very different vision of “an endless series of intercultural

¹⁴ J. Tully, *Strange Multiplicity: Constitutionalism in an Age of Diversity* (Cambridge: Cambridge University Press, 1995) at 26.

dialogues," though apt for a process of decolonization, dashes the hopes of those of you who may yearn for a final solution to what may seem these days to be an endless series of native problems. Instead his vision bids us to treat native peoples not as a problem to be solved but as peoples with whom we can share sovereignty and our histories in building political communities that the world has not seen before.

ABORIGINAL NATIONALISM AND QUEBEC NATIONALISM

The preceding analysis was developed to help understand the aspirations of Aboriginal peoples in four "English-settler" countries. In passing I brushed over the fact that one of these four, Canada, though like the others dominated by English political institutions, has a French-English dualism in its settler heritage. I now want to return to that distinctive feature of the Canadian situation and reflect on its implications both for Aboriginal decolonization and the destiny of Canada.

Les Canadiens have had a very different colonial experience from that of Aboriginal peoples. Originally they were, of course a settler colony, not unlike the British colonies of North America. The French like the British asserted their sovereignty over native North Americans and considered them as savage infidels their cultural inferiors. But French, unlike British, imperial policy did not treat North America as a *terra nullius*. On the contrary, they recognized the indigenous peoples as organized and independent political communities with whom the Crown's agents were instructed to enter into treaties of peace and friendship.¹⁵ When New France was conquered and ceded to Britain in 1763 the community of French Catholic settlers was, at first, targeted for assimilation and extinction as a distinct society. But, as we know, the *Canadiens* effectively resisted this policy of forced assimilation and through that resistance developed a sense of themselves as a distinct people or nation. In 1867 they were partners with the English-speaking settlers in organizing a new federation with a province, Quebec, in which they would constitute the majority with power to shape their own distinct society. Thus unlike the Aboriginal peoples, the Québécois' integration into a Canadian political community was accompanied with a significant measure of autonomy.

¹⁵ See B. Slattery, *The Land Rights of Indigenous Peoples as Affected by The Crown's Acquisition of Their Territories* (Saskatoon: University of Saskatchewan Native Law Center, 979) c.5.

Over a century and a quarter that measure of autonomy — the experience of it and of its limitations — fostered a strong sense of national identity among French-speaking Quebecers. Throughout most of this period the focus of Quebec nationalism has been the survival and protection of the traditional culture of French Catholic Quebec. In the contemporary period, as Quebec shed its religiosity, the Québécois' sense of identity came to be based more narrowly on language and its nationalism has become more statist and less cultural in its aspirations. The intellectual leadership of the Quebec sovereignty movement, and some of its political leaders, look to the establishment of a pluralist, multi-national, Quebec state. In terms of language and culture, an independent Quebec, it is argued, can be open and tolerant precisely because of the security the French will enjoy by virtue of becoming the majority in a sovereign state. Nowadays, the very concept of "Quebec nationalism" tends to be repudiated by Quebec's sovereignists because it suggests that their "project" in a cultural and ethnic sense is exclusive rather than inclusive. Such a reconstruction of Quebec autonomists' objectives is clearly less-threatening to Aboriginal nations within Quebec. However, it remains to be seen how much the movement can be converted from ethnic to civic nationalism and whether that conversion threatens to destroy its grass-roots support.

In the recent past, Quebec nationalism has undoubtedly contributed to a political environment in Canada which makes it much easier for Aboriginal nationalism to get a hearing than in other "English-settler" countries. The French majority of Quebec's insistence that, at the very least, they must have the status of a "nation within" has encouraged Aboriginal nations to make similar claims. In that sense Aboriginal nationalism has been a beneficiary of Quebec nationalism.

Nonetheless, in this modern area, Aboriginal and Quebec nationalism have more often than not presented themselves as rival forces on a collision course. This conflictual relationship is fostered by the rhetoric of constitutional warfare. Quebec demands for recognition as the homeland of one of Canada's *two* founding peoples denies the legitimacy of similar claims of Aboriginal peoples, just as the Aboriginal rejection of the dualist conception of Canada undermines the claim of Quebecers' for the unique status of a distinct society. The claims of Aboriginal peoples to the right of self-determination are pitted against a similar claim of the Québécois, and English-Canadian federalists are not above using these Aboriginal claims as a strategy for blocking Quebec independence. All of which holds out

the tragic and ironic possibility of reverting to that earlier era over two centuries ago when the English and French treated the Aboriginal peoples as pawns in their imperial contest for power and territory.

But, I would argue, this need not be so. Aboriginal nationalism and Quebec nationalism can be accommodated if we Canadians can follow the defining genius of our constitutional culture. At the core of that genius is a capacity for building a political community — a political nationality, to use George Étienne Cartier's concept — that enriches itself through recognition and respect for the diverse peoples of which it is constituted. There are certainly signs that such a constitutional culture could be operative in accommodating the aspirations of Aboriginal peoples in Quebec.

Quebec was the first province to sign modern treaties with Aboriginal peoples — with the Cree, Naskapi, and Inuit of Northern Quebec — restoring to them some ownership and control of their traditional lands and some self-government rights.¹⁶ Quebec was not only the first — but thus far has been the only province — to formally commit itself through resolutions of its National Assembly to recognizing the rights of Aboriginal nations to self-government.¹⁷ The comprehensive offers made by the Quebec Government to the Atikamekw and Montagnais nations in December 1994 in terms of land and self-government are more generous than any other provincial government in Canada has been willing to make to any of the First Nations within its boundaries. Now none of these measures go nearly far enough in recognizing and implementing the Aboriginal peoples *inherent right* to self-government nor in restoring to them the control over land and resources they need to move from a colonized position of welfare dependency to greater economic self-sufficiency. Nonetheless, Quebec, under both Liberal and PQ administrations, has shown a much greater capacity than either the Government of Canada or any other province for working towards the decolonization of Aboriginal peoples.

Cynics will say that Quebec's policy towards Aboriginal peoples is strategic and based primarily on the need to facilitate major resource developments in the north and to soften opposition to the sovereignty

project. Certainly those considerations of political economy partly explain Quebec's Aboriginal policy. But the relative "generosity" of that policy also has a significant ideological component. Quebec's political culture has more room for a constitutionalism that attaches as much importance to the equality of peoples as to the equality of individuals. Quebec is less permeated by Trudeauism than is the rest of Canada. Quebecers who have seen themselves as a "nation within" are better prepared for the constitutionalism and citizenship of a multi-national society.

Though there are conditions in Quebec that have the potential to generate an accommodation between the nationalism of its French-speaking majority and the nationalism of the eleven Aboriginal peoples with homelands within its present borders,¹⁸ the sovereignists project still requires considerable readjustment if it is to go forward in a manner that is consistent with fourth world decolonization. Above all, the Quebec majority must be willing to have the government which they elect share sovereignty with Aboriginal governments. That will require a genuine treaty relationship with Aboriginal peoples. Only a genuine commitment to proceed in such a manner will allow a sovereign Quebec with its present territory to be based on the consent of all its peoples. In negotiating such arrangements between Quebec, Canada, and Aboriginal peoples, we might find that, through fourth world decolonization, Canadians are better able to work out the terms of our reconfederation. □

Peter H. Russell

University of Toronto. The first part of this paper is drawn from the 1996 Hugo Wolfsohn lecture sponsored by La Trobe University in co-operation with the University of Melbourne and Monash University. The latter part was prepared for the Pluralt Conference at McMaster University in November, 1996.

¹⁶ See Task Force to Review Comprehensive Land Claims Policy, *Lasting Treaties: Living Agreements* (Ottawa: Minister of Indian Affairs and Northern Development, 1985).

¹⁷ E. Gourdeau, "Quebec and Aboriginal Peoples" in J. Anthony Long and Menno Boldt, eds., *Governments in Conflict? Provinces and Indian Nations in Canada* (Toronto: University of Toronto Press, 1988) at 109.

¹⁸ These are the Abenaki, Algonquin, Atikamekw, Cree, Huron, Mikmaq, Mohawk, Montagnais, Naskapi, Malecite and the Inuit people of Nunavik. See O. Mercredi & M.E. Turpel, *In the Rapids: Navigating the Future of First Nations* (Penguin Books, 1994) at 165-85.

THE CANADA-QUEBEC CONUNDRUM: A TRINATIONAL PERSPECTIVE

Frank Cunningham

What if the Parti Québécois had won the 1995 referendum to begin negotiations with the federal government for sovereignty? There is no constitutional provision for secession. A very large portion of Quebec territory is claimed by First Nations who, shortly before the October 30 vote, had declared that in the event of a sovereigntist win they would not leave the Canadian confederation. Would the PQ have used police force? (The Quebec Provincial Police had, after all, engaged in armed combat with the Mohawks at Oka a short time before.) Would the federal government have responded to a native request for military assistance? (Let us not forget that Quebec had been put under federal military control in 1970 when Trudeau claimed to have discovered an apprehended insurrection.) Within Quebec, anglophones and allophones, who overwhelmingly voted negatively on the referendum, would have constituted a sizable (about 20 per cent) and highly disaffected minority within a sovereign Quebec.

Luckily the loss of the referendum by the sovereigntists staved off such a moment of truth, but it surely would be a grave error to think of this as more than buying time. Those watching the results come in from the rest of Canada (or "Canada outside of Quebec," depending on whether one prefers ROC or COQ as a politically accurate designation) might be relieved, but could hardly be sanguine. When the PQ acknowledgment of defeat was broadcast from Montreal one saw a hall full of young and evidently uncrushed people, who knew that 60 per cent of Quebec francophones had voted for the sovereigntist position. The assurances of Chrétien, that defeat in this referendum would put an end to future pressure for sovereignty, are believed by virtually no one.

Still, the loss of the "Oui" side in the referendum plus an apparent interruption of national preoccupations to address economic problems by the current PQ leadership, has purchased time which might profitably be used to seek ways out of our national conundrum. In

this intervention, I wish to make some suggestions with this goal in mind. The suggestions are made from within a theoretical orientation toward what I shall call the political "landscape" of Canada/Quebec. I shall summarize this landscape, begging patience on the part of those for whom its details are well known, because I believe it is useful to remind ourselves of some of these pertinent facts.

THE LANDSCAPE

The current political landscape of Canada might be conceived of as comprising actors, on the one hand, and candidates for being objects of action on the other. Identification of each of the possible actors and "actees" is problematic, and debates about their characterization and significance are implicated in the political process itself. This has been especially evident regarding the claim of nearly all Quebec sovereigntists that the most important objects of action are nations. From the 1960s on Trudeau and all subsequent federal leaders have not only contested this claim, but have denied that Quebec constitutes a nation. This seems to have been derived from a fear that nationhood confers at least a presumption of statehood. They point out, in addition, that Quebec is not homogeneously French speaking. Moreover, there are concerns about whether there are any other national objects of action such that a nation-focused politics could make sense. For reasons discussed below, I am sympathetic to the idea that the land called Canada comprehends three national groupings: a franco nation, an anglo nation, and the ensemble of Aboriginal nations. Each designation, however, is problematic.

Quebec is ethnically and linguistically heterogeneous, and French-speaking people live in every region of the country, not all of whom identify with Quebec as a national homeland. Many English-speaking Canadians think of Quebec as integral to a Canadian identity and, accordingly, resist its separation

on this score. (This, and the fact that many in the economic or political elite of franco-Quebec are strong federalists, like Trudeau and Chrétien, make our situation more complex than some other countries, such as Czechoslovakia, that also have been struggling with national divisions.)

English-speaking Canada comprises many linguistic communities, some of them, such as the Dutch and German, dating to pre-confederation times and many more to the turn of the century (hence the awkward COQ and ROC designations). Also, nothing like the strong nationalist sentiment to be found in the United States or in Quebec exists in English-speaking Canada. Aboriginal peoples initially constituted a "community of fate" (to use an expression of Robert Michels) due to their terrible common treatment by European settlers and their descendants, and have worked since to construct a single community. But it must be recognized, as it is by native peoples themselves, that this is a community of many and diverse peoples.

Because the provinces and regions constitute two more objects of action on the Canadian political landscape, much of the history of Canadian politics may be seen as a tension between federalist centralism and regional/ provincial decentralization. However, there is also a tension between regions and provinces, as provincial boundaries do not exactly coincide with regional ones. Both provinces and regions are divided along southern/ northern lines, which typically coincide with urban/ rural divisions.

In addition to nations, provinces, and regions, there are the many ethnic groups, which, from the 1970s and especially since recognition of multiculturalism in the *Constitution Act, 1982*, have not been encouraged to follow the U.S. melting pot practice of assimilation into the majority culture. Finally, there are individuals. Never as militantly individualistic as U.S. political culture, Canadian attitudes have evolved nonetheless in a direction favouring individual rights most dramatically when the *Charter of Rights and Freedoms* was incorporated in the patriated 1982 Constitution. This surely marks a significant turn toward an emphasis on individual rights in Canadian political history, even though provisions of the Charter may under certain circumstances be overridden by a provincial legislature or by parliament.

The principal political actors on this landscape have been federal and provincial politicians: the Prime Minister and the provincial Premiers. Following

recommendations from a succession of commissions pertaining to matters of "renewed federalism," these elected leaders either have acted unilaterally or they have negotiated with one another to arrive at propositions to place before federal and provincial representative assemblies or to put to a popular vote. These efforts resulted in the "Meech Lake Accord" of 1987 and the "Charlottetown Accord" of 1992. It will be recalled that the first of these failed to receive the required endorsement of each of the provincial legislatures, when Manitoba and Newfoundland did not ratify it (I shall later return to the significance of the fact that Manitoba's Legislative Assembly was single-handedly blocked from endorsing the Accord by its sole Aboriginal member, Elijah Harper), and the Charlottetown Accord was defeated in a country-wide referendum.

Other actors are: business and labour organizations, political parties, social movements, leaders of the Aboriginal communities, and ordinary citizens. Typical of most other modern-day democracies, the last-mentioned group has had the indirect influence of electing provincial and federal governments and the further limited input of voting on referenda (though without a say on their timing or wording). Indeed, the campaign for a "Oui" vote on the Quebec sovereignty referendum was begun several weeks before its question had been formulated. The 10,000 person-strong demonstration for a "No" vote in Montreal on the eve of the October referendum by people from all over the country no doubt reflected strong popular sentiment against sovereignty, but its appearance of being a spontaneous outpouring of citizen sentiment was compromised by the fact that it was largely organized and financed by the federal Liberal Party.

An example of the fragile hold elected representatives and their establishment backers have on the constitutional process is seen in the fate of the 1992 Charlottetown Accord. Since I consider this a pivotal and instructive episode, let me recapitulate what happened. The provincial First Ministers (including Quebec's, then under a Liberal government) and Prime Minister Brian Mulroney put to a referendum a proposal which tried simultaneously to placate Quebec and the other provinces by devolving federal powers to all of the provinces. With the Ministers stood the three traditional political parties, the head of the Assembly of First Nations, business, labour, and the press. But, in what must be an anarchist's dream, this elite consortium's vigorous campaign was defeated massively at the polls.

SOME QUESTIONS OF METHODOLOGY

A brief review of how the Charlottetown Accord was discredited in the public mind will serve to introduce the recommendations below. The Accord already was in disrepute among franco-Quebecers who resented the fact that it did not acknowledge their nationhood, and instead reiterated the description of Quebec as a "distinct society." It also was in popular disrepute among those anglo-Canadians, especially in Newfoundland and the West, who resented even this measure of singling Quebec out from the other provinces. Further opposition was sparked by the Reform Party which correctly declared the process, whereby cloistered ministers played such a crucial role, democratically deficient. Reform's success in draping itself in the democratic mantle was, however, short lived when several social movements (environmental, anti-poverty, and especially the National Action Committee on the Status of Women) took up the "No" side of the referendum. Their concern, quite at variance with that of the Reform Party, was that devolution would weaken social services.

The final nail in the Accord's coffin was driven by the First Nations when they rejected its endorsement by the leader of their own Assembly. The Accord went further than any previous initiative in recognizing an "inherent right to self-government" for Aboriginal peoples. Still, First Nation leaders recommended to their members that they vote negatively. The reason for this rests not only with the fact that native leaders disagreed with some matters of content in the Accord, but also because they did not like the process whereby it and several provisions for making concrete and testing the extent of these rights were being entrenched. Individual voting on such monumental matters, after limited public debate, was out of keeping with an Aboriginal conception of democracy, which involves protracted discussion to achieve consensus. In addition, Aboriginal women wished to ensure that women's rights would be protected in the new arrangements. This was not the first time that people of European ancestry had made take-it-or-leave-it offers to Aboriginal peoples. There are insufficient numbers of Aboriginal peoples for their vote to have sunk the Accord, but their negative stance alienated many who might have voted for it out of support for Aboriginal aspirations.

I, myself, voted for the Accord chiefly because I considered entrenchment of the right to Aboriginal self-government a substantial gain in an otherwise flawed document and process, but I took a lot of flak from fellow left-academics as a result. Reflecting on both my motives and the motives of my colleagues who voted against the Accord it now seems clear that, despite the rhetoric we used in classrooms and academic conferences, we did not proceed in the deductive mode typical of political theorists in general and of political philosophers in particular. That is, we did not apply general ethical theory (utilitarianism, contractarianism, etc.) to the case at hand, nor did we devise a stand on the general question of the right of nations to self determination and then ask whether Quebec had such a right and whether it was adequately recognized in the Accord or justifiably overridden.

Rather, I have the impression that the theorists thought through the merits or otherwise of voting for the Accord from positions initially anchored in some favoured concern: to protect social services, to advance Quebec national interests, to resist elite decision-making, to support Aboriginal peoples, and so on. These "anchors" meld normative intuitions, assessments of fact, and predictions about alternative futures. No doubt the normative dimensions of the resulting attitudes are themselves partly shaped by the earlier attention of political theorists to basic tenets of political philosophy, but so are the theoretical commitments affected in an interactive way by common-sense intuitions and consideration of empirical facts.¹

Since most people had several concerns differentially affected by the Accord, and since the critical dimension of political theory mandates that at least those trained in it be prepared to question even their most cherished values and prioritizations, the anchors themselves stand in need of interrogation and defence. More traditional political philosophy can surely play a role in helping one in such an endeavor. However, I doubt that appeal to such abstract theory alone is sufficient, and in any case what contribution it can make depends on the contexts within which appeals are made to it. The landscape sketched above is one

¹ This interactive approach is called "wide reflective equilibrium" by some neo-Rawlsian political philosophers. See N. Daniels, "Reflective Equilibrium and Archimedean Points" (1980) 10 *Canadian Journal of Philosophy* 81.

such context. But appropriate prescriptions for policies or actions do not directly spring forth from the description of a context. What is required is an orientation within which solutions might be most fruitfully sought and appropriate modes of intervention identified.

IN DEFENCE OF A NATIONAL ORIENTATION

Two political philosophers who have been active intervenors in the recent debates are Charles Taylor and Will Kymlicka.² Each has endorsed some version of group, and more specifically national, rights: Kymlicka from a liberal-individualist perspective and Taylor from a position closer to contemporary communitarians. What is striking about these interventions is that their differences at the level of social and political philosophy do not preclude agreement both on the importance of community membership and on that of protecting individual rights. Kymlicka illustrates some often overlooked strengths of approaching the communal aspects of Canadian confederation from an orientation putting individuals at its centre, while Taylor defends liberal-democratic values from within a perspective focusing on nations. This is one of the useful contributions I believe political philosophers can make to debates over nationalism. Kymlicka and Taylor particularly are good examples, because each challenges an assumed view that community- and individual-based orientations must be diametrically opposed.

If their theories are regarded as definitions of perspectives, rather than as necessarily opposed sets of prescriptions, then one can evaluate the relative advantages of the perspectives without being hostile to

or dismissive of the uses to which each is put. Viewed this way and with reference to the current situation of Canada/Quebec, I believe that the national orientation has more to recommend it than an orientation centred on individual citizens or one that takes as its departure point the other objects of action (ethnic groups, provinces, or regions) described above.

Kymlicka's argument shows how someone, who is not him or herself a nationalist but who favours the liberal pluralist view that individuals should be able as far as possible to pursue their own goods in their own ways, can at least presumptively respect the aspirations of those whose good is participation in shared national projects. Its weakness is that it does not sanction a sufficiently robust notion of national identification to extend this respect in the areas most important to a nationalist. Such a person is not concerned just to be able individually to enjoy the benefits of national group membership, but to see his or her nation survive through future generations. This is why franco-Quebecers have taken such extraordinary measures to preserve the French language in Quebec, even for a time making public advertising in other languages illegal. Aboriginal peoples have certainly pressed for measures to ameliorate their current conditions, for example, Aboriginal women have leveled just charges of sexism against some practices of Aboriginal men. However, both Aboriginal men and women also have made it clear that they want to avoid cultural assimilation or the loss of the means of transmitting their ways of life to subsequent generations.

Taylor's nation-centred approach does not lack the requisite robustness, but it — and Taylor has recognized and wrestled with this — has the burden of showing how nationalism can also be pluralistic. In the face of all-too-many examples of intolerant and fanatical nationalism, no one could argue that all forms of nationalistic sentiment are respectful of individual rights and differences. However, Taylor's argument does not require a general defence of nationalism. He only sets out to show that franco-Quebec nationalism includes liberal and democratic principles, some of which are identical to those found in the rest of Canada. Others are subject to alternate interpretations, but they can have the same desired effect. Nor does Taylor need to claim — what would, alas, be false — that Quebec nationalism is void of intolerance. He need only show

² The theoretical views informing Taylor's several public interventions are collected in his *Reconciling the Solitudes* (Montreal: Queen's-McGill Universities Press, 1993), see c. 7, 8, and 9. One of these, "Shared and Divergent Values," is also reproduced in the Watts/Brown collection cited in note 7 below. Kymlicka has published several commentaries on specific issues of the constitutional debate in *Network Analysis*, an Ottawa-based publication dedicated to this topic. His liberal individualistic defense of nationalism is in *Liberalism, Community, and Culture* (Oxford: Clarendon Press, 1989) c. 8.

A paper going a bit further than Kymlicka in giving a liberal justification for secession is by G. Laforest, "Le Québec et l'éthique libérale de la sécession" (1992) 19 *Philosophiques*, Numéro Spécial: *Une nation peut-elle se donner la constitution de son choix?*, Michel Seymour, dir., 199-214.

that there are resources within Quebec political culture for a tolerant form of nationalism.³

One ground for preferring a nation-centred to an individual-centred orientation in the Canadian context is that there is more room within the former for active politics, including cultural politics, to nurture liberal and democratic national sentiments — not only in Quebec but among English-speaking Canadians and Aboriginal peoples as well — than is there an analogous potential in the case of individualism. One reason for this is that “nationhood” is flexible, subject not only to different interpretations as a concept but to alternative constructions in actual life. Among the conditions for some collectivity to claim nationhood are: (a) that the people making it up have the will and the ability collectively to carry on large-scale trans-generational projects to preserve and promote that about their nation with which they identify (in the case of Quebec predominantly, but not exclusively, its French language) and (b) the realistic ability, if not always the will, to be an independent state, where, aside from a shared territory, the requirements for this ability are probably too context-sensitive for universal specification.⁴

³ An example is in Taylor's alternative to what he takes as Parizeau's stance toward minority communities in Quebec: “Les ethnies dans une société ‘normale’” *La Presse* (21-22 November 1995).

⁴ This partial definition agrees with a point of Wayne Norman's that nationhood is more a matter of people's identities than of shared values, with the caveat that those harbouring a national identity probably must share some values and no doubt assume that the nationals with whom they identify share certain values. See “The Ideology of Shared Values: A Myopic Vision of Unity in the Multi-nation State” in Joseph H. Carens, ed., *Is Quebec Nationalism Just?: Perspectives from anglophone Canada* (Montreal: McGill-Queen's University Press, 1995) at 137-159.

David Copp, in an earlier and largely compatible intervention, usefully cites as indices of such identification that one feels pride or shame in actions or events considered central to one's nation (as opposed to simply approving or disapproving of them as one might toward actions of another nation). See “Do Nations Have the Right of Self-determination?” in Stanley French, ed., *Philosophers Look at Canadian Confederation* (Montreal: The Canadian Philosophical Association, 1979) at 71-96. His complex definition, like Norman's, is largely backward looking, appealing in part to nationals' identification with a history and tradition. The characterization I employ concurs, but adds the proactive dimension of a will to carry national projects into the future.

David Miller, *On Nationality* (Oxford: Clarendon Press, 1995) writes in terms of shared values in a way that Norman rightly resists, but adds the useful notion

The Catholic Church and the United Church possess some measure of the first of these conditions, but not the second. The province of Ontario or the region of Atlantic Canada could each form a separate state, but lack the popular will to do so. To be sure, each region and province possesses historically inherited cultural, political, and economic traits distinguishing it from the others, but (with the possible exception of Newfoundland) none except Quebec seem to have a unique trait or cluster of traits with which a significant number of people identify or identify strongly enough to make their preservation an overriding collective priority.

Given the cultural heterogeneity of Quebec referred to above, the prospects for a tolerant nationalism would be doomed if franco-Quebecers regarded people of non-French origin or culture as unworthy of Quebec nationality. There can be no doubt that there are some franco-Quebecers who think this way: recall the charge against Jacques Parizeau for his comment blaming the failed referendum in part on Quebec's allophone communities. However, the issue here is deeper than a question of intolerant attitudes on the part of some leaders. Tensions between francophones and allophones verging on mutual hostility are exacerbated by a siege mentality which seems to constitute part of the national identity of franco-Quebecers.

Beginning with the British military conquest of French forces in Quebec in 1759 and continuing through the 1960s when Quebec industry and many of its commercial enterprises were owned by anglophones and English was the unofficial language of work, franco-Quebecers have seen themselves as dominated by English-speaking Canadians thus putting their language and culture at risk. The “quiet revolution” beginning in the 1960s and leading to the first election of the Parti Québécois in 1976, represented resistance

that one way nations are thought of by their members as active is through national representatives. While Copp requires that those making up a nation must aspire to statehood, Miller refers just to an aspiration to be self-determining (19). In my view this correctly distinguishes between national self-determination and separate statehood. I take it that an aspiration to a high degree of self-determination must exist for something to be a nation, as must the (objective) ability to be a state and the (subjective) will to become one if this is required to satisfy the aspiration to protect and preserve that about the nation which is taken as important.

In general, I think that enough theorists have thought about the notion of nationhood long enough that we are very close to having an adequate and full-blown definition.

to this erosion. However, during this period immigration to Quebec included people from Southern Europe whose languages were neither French nor English and who wished their children to function in English to maximize their options in an English-speaking continent. Many Quebecers accordingly came to see these allophones as allies of the "enemy" anglophones.

Quebec is no longer monolithically dominated by anglo capital, and vigorous efforts by the PQ and also by the provincial Liberal Party have arrested the erosion of French language and culture. This does not mean that the siege mentality and its concomitant suspicion of allophones has been exorcized from Quebec nationalism: national identities, like the subconscious phenomena Freud addressed, seem to function within their own time frame. But not everyone who shares Quebec national aspirations sees them as threatened by the allophone presence. Parizeau resigned as head of the PQ not just because the referendum was lost, but because his comments were resented, by among others, francophone sovereignists in his own party.

This latter group — including many church, labour, and social activists as well as important ranks of nationalist intellectuals — participate with all other Quebec nationalists in wishing to preserve the French language and to support key Quebec political and legal institutions, such as parliamentary democracy and Napoleonic law. They do not require that in addition somebody's native culture be foregone or that elements of a variety of cultures not be incorporated, through time, into franco-Quebec traditions. Thus there is a contest among Quebec nationalists between what might be called pluralist and anti-pluralist forces.⁵

⁵ In 1994 a coalition of social movements, community, and labour groups published a Charter after several years of hearings across the Province and endorsed by over 300 secular and religious organizations, many of them large and mainstream. Section 19 calls for recognition and preservation of Quebec's "multi-ethnic and multicultural" nature which is seen as compatible with the affirmation of a common national identity characterized by "the French language, democratic values, and distinct social and political institutions," *La Charte d'un Québec Populaire* (Montreal: Solidarité populaire Québec, 1994). A similar sentiment is expressed in a declaration issued just before the October, 1995 referendum by a group calling itself "Intellectuels pour la souveraineté" *La Presse* (15 December 1995).

The history just alluded to helps to explain why I do not favour an orientation focussed on ethnic diversity, which in the Canadian context means multiculturalism. Trudeau set himself vigorously against any form of Quebec nationalism. He also initiated the successful effort to constitutionalize individual rights and freedoms and was the key force in making bilingualism and multiculturalism official Canadian policies. These initiatives have been regarded by Quebec nationalists, not without reason, as efforts to diffuse their project: French was to be one of the country-wide languages, thus muting its special place in Quebec culture; individuals were to be protected from group-based intrusions; franco-Quebec culture was to be one of many (indeed hundreds) in the Canadian multicultural mosaic. There are, of course, other motives for promoting multiculturalism, and in agreement with the Quebec "pluralist" nationalists referred to above, I consider it most unfortunate that these things have been pitted against one another.

Still, to single out from the Canadian landscape its ethnic diversity and to prescribe that multiculturalism be the orienting perspective from which to address current problems would be to adopt the viewpoint that franco-Quebec, like English-speaking Canada and Aboriginal peoples, are no more than large ethnic groups. In addition to creating hostility in Quebec, it is inaccurate. For according to the characterization of nationhood given above, a strong case can be made that Quebec — unlike, for instance, the East-Asian communities in Vancouver, the Italian- or West-Indian communities in Toronto, or the Ukrainian communities in Winnipeg or Edmonton — qualifies as a nation.

It is true that Aboriginal peoples are geographically dispersed, some residing on reservation lands others off reservation, and that they comprise a large number of different nations: Dene, Mi'kmaq, Ojibwa, Cree, Mohawk, Seneca, N'sgha, and so on. Also, the nature of "statehood" likely would be different for Aboriginal groups granted full self-governance than it would be for people with European political traditions. It could involve confederations, for instance, of originating linguistic groupings, such as among the Iroquois or Algonquin. Nonetheless some sensible plans for Aboriginal self-government have been proposed by the Aboriginal peoples themselves. This suggests both will and feasibility; the national identification and aspiration of Aboriginal peoples for preservation is truly heroic.

Summarizing how, in my view, Canada outside of Quebec constitutes a nation will help sharpen the notion of nationhood being employed and direct the paper toward its major conclusion. One can safely say that, at least into the 1960s, Canada outside Quebec commanded national loyalties which were primarily British in heritage. Combined with a ritual attachment to the Crown, the political culture of "peace, order, and good government" was inherited from Britain in generations prior to mine. These associations were adumbrated with a frontier spirit, not of the rugged individualist variety but rather of a special fondness for the natural beauty and expanse of the land together with a comparative dimension differentiating Canada from the U.S. for being non-chauvinistic, less violence prone, and more egalitarian.

With the exception of monarchist attachments, I believe that strong traces of these loyalties persist. Under pressure from neoconservative politics and U.S. mass entertainment media, some of these things (for instance, egalitarianism and nonviolence) considered as motivating values are lamentably threatened. To the extent that shared values and national identifications are not identical it is possible for the latter to persist in the face of diverse values and even in the face of values that contradict the defining identities. This is how national mythologies are possible. To the extent, however, that values and identifications affect one another, we may see a contest wherein either Canadian national identifications prompt rebellion against these threats or give way to them leading to a situation (often, but I think erroneously, claimed by foreign visitors to Canada to exist already) where Canadian and U.S. national identities are largely indistinguishable.⁶

A different and more conceptually complex problem concerns non-anglophone originated communities. In this situation two questions are pertinent: What stance toward them is implicated in Canadian national identity and what, if any, Canadian identifications do they, themselves, harbour? Full answers to these questions would take enormous space, and in any case extend beyond my limited sociological expertise. One need only read the histories or listen to the stories of almost any Canadian of non-anglophone origin to

conclude that there has been and still is a strong stream of anglo-, indeed, anglo-Protestant chauvinism, not excluding racism and anti-semitism, by virtue of which large and long-standing parts of the population are not considered "true Canadians."

Against this unfortunate stance are attitudes ranging from toleration to inclusive adaptation of people from a diversity of linguistic, religious, and cultural backgrounds, where toleration or inclusion are themselves defining characteristics of Canadian identity. (Such attitudes are reflected both by those who favour multiculturalism for advocating the protection of a variety of cultures and among critics who fear what they see as a ghettoizing tendency of multiculturalism.) As one approaches the inclusive pole of this range of attitudes, anglophone culture is not given pride of place *per se*, though certain political institutions and values that historically accompanied it are retained, and the English language is seen instrumentally as the *lingua franca*. Unlike the chauvinistic sentiment, this one is compatible with people of non-anglophone origins sharing a Canadian national identity.

The relation of Quebec to anglo-Canadian national identity is problematic in yet another way. A common bumper sticker that began appearing after the 1994 election of the PQ reads: "My Canada Includes Quebec." In some cases this slogan is no more than a mean-spirited threat, which, whether intended or not, could only fuel the siege mentality in Quebec referred to earlier. Indeed, hostility to Quebec nationalism has itself taken on the character of an analogous siege mentality on the part of many in English-speaking Canada, to the extent that anti-Quebec sentiment is part of their own national identity. Such sentiment, however, is not hegemonic. The bumper slogan no doubt also expresses the wide-spread sentiment of many Canadians who think division of the country would be an end not only to a state but also to a nation: the English-speaking Canadian nation for which cohabitation with Quebec is an important symbol.

Some federalist franco-Quebecers seem to harbour a reciprocal sentiment. However, it is my impression (gained largely from interaction with franco-Quebec colleagues and students when I taught there for a term a few years ago and reinforced by the strength of the "Oui" side in the referendum) that the reciprocal attitude is not shared by a majority of franco-Quebecers. Separation from the rest of Canada would be accomplished without the slightest diminution of

⁶ A treatment of this topic which runs deeper than debates over whether, after the *Charter of Rights and Freedoms*, Canada is becoming "juridified" is by Michael Atkinson, who sees a contest between an older "integrative" democratic culture and a newer, "aggregative" one. See "What Kind of Democracy Do Canadians Want?" (1994) 27 *Canadian Journal of Political Science* 717.

their sense of Quebec nationhood. This makes for the unfortunate situation where Canadian national identity partly demands a forced marriage. Moreover, the dominant alternative attitude, especially prominent among supporters of the Reform Party, that favours "letting the buggers go" is even worse because it articulates the open hostility that many Quebecers fear.

"TRI" NATIONALISM

One function of an orientation is to suggest criteria that legal and political institutional solutions must satisfy. The national orientation endorsed here invites one to seek solutions within which the national projects of Quebec and Canada outside of it can simultaneously be pursued. This means that Quebec requires a high degree of autonomy over cultural matters and over those economic and foreign policy matters which have a significant bearing on the preservation of its language and culture. But this autonomy must not be purchased at the expense of such provincial or regional balkanization of the rest of Canada that it loses the ability to maintain its own national identity. Sovereignists claim that this condition can only be met by separation. An alternative, mainly advanced by different groups of academics over the last several years, is for some form of "asymmetrical federalism," whereby a single state is composed of national units, as coherent within themselves as they wish, but with differential political powers and legal entitlements.⁷

Of these options, asymmetrical federalism has two advantages: it would preserve that aspect of each nation's identity which includes state partnership with the other nation (stronger, as mentioned, in anglo-Canada than in Quebec); and it would facilitate cooperation in the face of continental and global economic threats. Asymmetrical federalism, however, is not entirely at odds with the sovereignist option. In order for it to function well, such federalism would not only have to be entered into but also maintained voluntarily; hence it would have to include the right of secession. Also, the separatist option proposed in the recent referendum was probably realistic in not exactly calling for complete separation. Rather, it would have empowered the provincial government of a sovereign Quebec to negotiate a new form of association with the rest of Canada in some ways modeled after plans for

⁷ An example is A. C. Cairns, "Constitutional Change and the Three Equalities" in R.L. Watts and D.M. Brown, eds., *Options for a New Canada* (Toronto: University of Toronto Press, 1991) at 77-102.

the European Union. (That asymmetrical federalism and nuanced sovereignty, though surely different options, are not entirely antithetical is evidenced by the similarity of each to the earlier proposal of the Parti Québécois for "sovereignty association" which, like a reversible figure, could be seen from either of these two directions.)

As the first ministers who drafted the Charlottetown Accord learned, it is easier to draw up institutional plans than to secure public support for them. The same surely is true of any plan for asymmetrical federalism or for qualified separation. General public acceptance is needed as a prerequisite for any such plan. From the national orientation endorsed in this paper, this means that two aspects of anglo-Canadian and franco-Quebec national identities must be overcome: the dimensions in which the national identity of each is constructed in part by seeing the other as an enemy and those aspects which inhibit full participation of allophone communities in the national life of Quebec and of anglo-Canada. How might these attitudes be at least marginalized in the relevant national communities?

Of course, as in the case of any effort to transform values, there is no easy answer to this question. In general, those with some access to means of cultural production — writers, teachers, journalists, religious leaders, and so on — need to nurture whatever charitable sentiments already exist in their communities.⁸ I would, however, like to urge that one part of the solution, and it is an essential part, is to insist upon a "tri-" national and not just a bi-national approach (where the scare quotes are to register recognition of the multi-national nature of Aboriginal peoples). Some academics were urging this prior to the Charlottetown Accord.⁹ Even though the Accord resisted reference to nations, it did, as indicated earlier, highlight Aboriginal concerns in a new and positive way. More recently, the impressive report of the Royal Commission on Aboriginal Peoples has made detailed recommendations in favour of Aboriginal self-government and documented

⁸ I defend the feasibility of such internal "nurturing" in my *The Real World of Democracy Revisited* (Atlantic Highlands, N.J.: Humanities Press, 1994) c.6.

⁹ One such intervention was a statement composed by a group of Toronto-based political theorists, "Three Nations in a Delicate State" and published among other places in *The Toronto Star* (4 February 1992). See, too, a post mortem of the Charlottetown vote by members of this group, including a contribution by myself, in (1992) 71 *Canadian Forum*.

a case for its justice and feasibility. These initiatives should be pressed.

There can be no doubt that anti-Aboriginal values and concomitant activities exist in each of the other nations. However, these negative values do not, or at least do not yet, form part of their respective national identities in the way, for example, that they have in societies which pursued genocidal policies toward Aboriginal populations more proudly and overtly than in Canada/Quebec. Moreover, historically provincial governments have been more dismissive of Aboriginal needs than the federal government, which has, at least sometimes and in some ways been protective of them¹⁰ (though its current reluctance to address the Royal Commission's recommendations is discouraging). This is another reason to resist a provincial orientation in addressing the national question in Canada, and it suggests that Canadians *qua* Canadian citizens are more sympathetic toward Aboriginal peoples than they are *qua* provincial citizens.

Native claims for redress of past wrongs, for land rights, and for humane treatment remain alive on the political agenda everywhere in Canada despite the fact that Aboriginal people account for only about three per cent of the total population. The main reason for this is that they enjoy sufficient popular moral support that citizens will not allow the issue to fade away. This support is reinforced by a growing international awareness of Aboriginal issues and the sometimes successful appeal by Aboriginal peoples to international bodies such as the World Court.

With the exception of the Charlottetown Accord's recognition of an "inherent right to native self-government," stances toward Aboriginal peoples in constitutional debates so far have been less than constructive. To date, the Royal Commission has been largely ignored by all levels of government. In Quebec, despite some relatively generous legislation regarding native entitlements of that province,¹¹ the announced

refusal of native people to leave Confederation has been met with hostility on the part of separatists; while federalist political leaders have cynically and ominously played "the Indian card" to intimidate Quebec. A tri-national perspective, as envisaged here, would tap popular sympathy for native peoples, attempt to reinforce it by highlighting the way that Aboriginal people have legitimate, if largely thwarted national aspirations, and try to effect a union of Quebecers and Canadians from the rest of the country to address, along with the Inuit and First Nations, the moral and territorial problems they face in common.

The claim that such common efforts would help to break down attitudes of mutual animosity among Canada's nations is based on the assumption that people who work together toward a common goal and with some shared values grow together as a result. Here we enter deeper historical/psychodynamic waters than I am accustomed to tread, but I speculate that the abysmal treatment of indigenous peoples of the Americas by our European ancestors fueled a pernicious disposition that persists as a source of racism and intolerance generally — perhaps comparable in terms of its tenacity and depth of grasp to sexism. The suggested project would directly confront this source of intolerance and, in striving finally to put an end to it, have desired cultural effects beyond the attitudes of anglo- and franco- Canadians/Quebecers toward Aboriginal peoples and each other to include more tolerant attitudes toward people from other ethnic origins as well.

Addressing the Aboriginal question is not just a matter for anglophones and francophones, but concerns people from all of the country's ethnic groups, who should be no less engaged in this project than those of British and French origin. In this connection it is worth noting that while nations, races, and ethnic groups are importantly different from one another, national chauvinism, racism, and ethnic chauvinism are, if not identical in origin or character, kindred phenomena. Thus, it is no surprise to find the right wing in Canada opposed to Aboriginal rights, multiculturalism, Quebec self-determination and, through their economic policies, to Canadian self-determination as well.

Not to count entirely on altruism, two further motivations for a joint approach to the situation of Aboriginal peoples suggest themselves. One of these is

¹⁰ On this topic see T. Hall, "Aboriginal Issues and the New Political Map of Canada" in J.L. Granatstein and Kenneth McNaught, eds., *"English Canada" Speaks Out* (Toronto: Doubleday Canada, 1991) at 122-140.

¹¹ A useful summary of Quebec governmental stances toward Aboriginal peoples in its territory is by É. Gourdeau, "Le Québec et la question autochtone" in Alain-G. Gagnon, ed., *Québec: état et société* (Montreal: Éditions Québec/Amérique, 1994) at 329-355. Also pertinent is a sovereigntist intervention by Michel Seymour, "Le nationalisme Québécois et la question autochtone," in Michel Sarra-Bouret, ed., *Manifeste des*

intellectuels pour la souveraineté (Montréal: Fides, 1995) at 75-99.

that, given the high level of organization and the militancy of Aboriginal peoples, this problem *must* be addressed. Moreover, it must be addressed in a way acceptable to the Aboriginal peoples themselves. Unacceptable alternatives would not only create more painful and (as in recent years) armed conflict, but would attract justified international censure. Regarding Confederation-related problems, in particular, it should not be forgotten that on two occasions Aboriginal interventions have had major impacts and upset the plans of white politicians: first when Elijah Harper blocked the Meech Lake Accord and then when Aboriginal people declared themselves unprepared to support the Charlottetown Accord.

Yet another motivation concerns land claims. At first sight, final resolution of these claims appears to be an impossibility to non-Aboriginals, thanks to their location and extent. However, solving this problem may well be easier from an Aboriginal perspective than from a European one. The reason for this is that sovereignty is regarded differently in Aboriginal traditions. Whereas European tradition sees sovereignty as exclusive, Aboriginals view it as something to be simultaneously retained and shared. Perhaps solutions to problems affecting the land claim issue, drawing upon these alternative conceptions of sovereignty, can be transposed for use in confronting problems of sovereignty between the remaining two nations.

THE ACTORS

I wish now to conclude by returning to the actor-side of the Canadian landscape. *Who* from Anglo Canada and Quebec are to work together and with Aboriginal peoples to seek *rapprochement* among the land's national groupings? As rejection of the Charlottetown Accord shows, there exists among the citizenry a strong democratic impulse. According to polls taken at the time, a major source of resistance to the Accord was anger not just at the top-down way it was prepared and presented, but at the democratic unresponsiveness of federal and provincial political leaders generally. In Canada, as in too many other places in the world proclaiming themselves democratic, people are frustrated at their lack of power to decide their own fates even within institutions designed to facilitate this. Hence, popular democratic expression typically takes the form of negative voting to punish unresponsive politicians and governments.

The alternatives to this sort of democratic activity — which obviously is inadequate to the task here being

addressed — divide into two categories: to seek undemocratic solutions or to deepen democratic ones. When politicians in Canada have been the primary actors, they have sometimes acted as representatives of provincial interests (and regarding federal politicians, power brokers among them), or they have attempted, as in the Charlottetown meetings, to stand above such politics and to act as a sort of tribunal making judgments about what is in the best interests of the country. In neither role have solutions been sought democratically.

When provinces act as if they were interest groups, with narrowly-defined and usually exclusively economic interests, entering into power-political negotiation, we have a sort of political market. As in the case of an economic market, the result is often unpredictable and seldom optimal even when the players' narrowly-defined interests are individually considered, let alone regarding the larger body politic. The Charlottetown attempt was unable to subdue the provincial political market, to which excessive power was devolved. More significantly, popular rejection of the Accord showed that this approach can only work if it is combined with effective democratic input (thus vitiating its necessity) or achieved dictatorially.

This leaves democratic alternatives — the citizens themselves. But simply calling on the citizenry to address problems of national reconciliation is a strategy unlikely to succeed. In fact, some such strategy has been tried in Canada when, shortly after the Meech Lake episode, the federal government struck the commission headed by Keith Spicer charged with initiating local discussions in living rooms and workplaces throughout the country. While some interesting sociological information concerning various Canadian values was acquired by these means, no convergence of views about solutions to the problems of Confederation were discovered. Moreover, neither provincial nor federal government leaders seem to have heeded one of the concerns on which there was strong consensus, namely, that country-wide social services not be diminished.

Just as referenda, majority voting, direct participation, or other ways that democracy might be exercised are sometimes efficient for this purpose and sometimes not (depending on the context), so are such attempts at local consensus building. The problems of national reconciliation are at once too multi-faceted and too grand in scope for such a direct appeal to citizen input to be effective. One possible alternative would be for

citizens to participate in selecting and mandating delegates to a constitutional convention. Such an admittedly large undertaking could take one of several forms and its legal force could be more or less dramatic. But in any case, for it to be a truly democratic exercise, such a convention would have to be preceded by widespread and informed debate and discussion about such matters as the designation of constituencies and options that might be put before such a convention. Similar considerations pertain to any analogous new effort at constitutional reform.

One locus for democratic input is by citizen activity in and through non-governmental organizations. This sort of activity was especially evident around the time of the Charlottetown Accord in the mobilization of the large number of popularly-based groups referred to earlier. (Not only were the groups individually active to this end, but they also conjoined their efforts through a coordinating organization, the Ottawa-based Action Canada Network.)

Citizen participation in the task addressed here is initially best pursued through such groups. Each of the labour, women's, environmental, municipal, anti-poverty, and other such groups in Canada outside Quebec have analogues within Quebec, with whom they already share some common interests. To these might be added such things as educational or religious institutions, which, while not specifically issue oriented, are important organized sites of citizen participation. In anglo-Canada and in Quebec such organizations, individually or in coalition, might well make contact with their counterparts in the other nation for the purpose of projecting models and working out strategies starting from matters on which they can agree. Since the groups all have organizational structures and are independent of government they could act unilaterally to initiate such interchanges.

One hopes that among such groups' shared concerns is that anglo- and franco-Canada finally discharge their obligation to right the historic wrongs committed against native populations. If so, then jointly sponsored initiatives — centrally including Aboriginal peoples themselves — to address the Canada/Quebec question specifically from the point of view of restoring dignity to and equal partnership with Aboriginal peoples would have several advantages. At the very least, these would provide forums for self-education, an undertaking for which the six volumes of the Royal Commission on Aboriginal Peoples provide invaluable resources. They would also strengthen the ability of nongovernmental groups to articulate political preferences and to apply pressure to politicians and political parties. They might even provide the impetus and some crucial advance thinking for another run at constitutional reform. This time discussion and reform must start from the bottom up. □

Frank Cunningham

Department of Philosophy, University of Toronto.

An earlier version of this paper was presented at a session of Pluralt, McMaster University, January 22, 1996, and its principal ideas were again advanced at the Pluralt round table on Canada/Quebec, November 22, 1996. I have profited from discussions at these events and from comments on a draft of the paper by Shin Imai and Mel Watkins.

A RESPONSE TO McROBERTS AND LATOUCHE

Eric Montpetit

If McRoberts represented English Canada and Latouche represented Quebec, I think that we would have a real discussion.

(1) Latouche assumes that the discussion should be between Quebec and English Canada. McRoberts brilliantly demonstrates that this makes a lot of sense. (2) McRoberts suggests that what Québécois want is not the break-up of Canada. Latouche suggests that, indeed, we should not be talking about breaking up the country but about how to renew it to make it legitimate for both of its main nations. (3) McRoberts says that to talk, parties have to use the same language. I think they both use the same language. (4) Latouche suggests that the main precondition for a discussion is mutual respect. Both speakers have shown they respect the other side.

Let me talk for a moment more specifically about the McRoberts' presentation. He began by addressing the question, who is "we?" If only there were more English Canadians answering the question as McRoberts answered it.

Let me, however, raise a question that I am convinced came to the mind of many English Canadians after hearing McRoberts' definition of "we." Isn't it a very Québécois thing to define "we" in linguistic terms? Maybe people in ROC would prefer identifying with something else than a language and this, of course, opens up on the possibility that there may be more than one English Canada. How often have we heard that Westerners do not like to be put in the same boat than Ontarians?

This may be an unusual response to a paper, but I will defend McRoberts' position on this matter. I have come to agree strongly with McRoberts following some observations I made as a Québécois who moved to English Canada a few years ago. English Canadians, no matter where they are from, share much more than they

will ever share with Québécois. And they share much more than a language. They share an artistic community that they are proud of (I had no idea of this before I moved here); they share symbols (the flag, the Charter, multiculturalism) which Québécois do not identify with as much; they share heroes as well as a history different from Quebec.

For those of you who heard Frank Cunningham, you will recognize what follows. When Canada does something great English Canadians are proud and when Canada does something not so great English Canadians are united in shame, just like Québécois are proud when Quebec does great things and ashamed when Quebec does things that are less than great.

Despite what George Grant said, I found an English-Canadian nationalism. Or, if nationalism does not exist in English Canada as Grant suggests, it does not exist in Quebec either. Westerners, I think, should note that the main characteristic of a nation is not harmony. Actually, the Rest of Quebec tend to dislike Montreal. Does this make some Québécois less Québécois? No.

Who should talk for English Canada in a discussion with Quebec is a much more difficult question, as McRoberts points out.

In trying to answer the questions of whether we should talk and what we should talk about, McRoberts comes to the obvious conclusion that we really are not talking. What is more interesting than the conclusion itself is the attempt to explain why we are not talking. This is done by going back to history, at a time when we indeed were talking, to identify the conditions under which talking was made possible. This method allows McRoberts to suggest that we are not talking for real, because we do not share the same language anymore: Quebec talks about compacts, English Canada talks about individual rights.

The words express two different ideologies. On the one side, Quebec would talk the language of nationalism and, on the other side, English Canada would talk the language of liberalism. So the question is, can liberalism accommodate nationalism or can nationalism accommodate liberalism?

In the past few months Janet Ajzenstat and I have been holding a written discussion on the Quebec question. I think that we have demonstrated that a nationalist and a liberal can talk for real. How liberal Janet Ajzenstat is, is well known. Some may know how nationalist I am. So if both of us were able to talk for real, I do not see how any two people could not.

First, as a nationalist, believe it or not, I agreed that such things as the right to a fair trial or freedom of speech are sacred. Second, given the fact that Janet Ajzenstat thinks that these are the things that are important in life and that she believes that these things are also important for Québécois, she does not fear recognizing a special status for Quebec within Canada. Even the compact idea does not go against her liberal view.

Yet her view is far more liberal than the view of many English Canadians (at least in my opinion). The NDP still governs in two anglophone provinces. English Canadians were against the very liberal idea of free trade as far as I can remember. They are mostly happy with the CRTC Canadian content norms on TV and radio, which are not the most liberal things. Again, I found a nationalism as strong as Quebec nationalism in English Canada.

So this reflection led me to wonder what, other than language, distinguishes the present time from the 1960s (McRoberts argued that at that time we were talking). Sadly, I think that one serious candidate, other than the sharing of a language, is actually English-Canadian resentment toward Quebec. All English Canadians hear and read about Quebec these days in the media fuels resentment. Let me give you some examples: *The Globe and Mail*, supposedly one of the most serious news papers in English Canada, has not said one positive thing about Quebec for at least the two and one half years that I have been living here. In an editorial a few weeks ago the paper questioned the relevance of attacking Galganov on the ground that he called sovereigntists bastards. After all, it is not a capital crime to call "separatists" bastards, wrote the *Globe's* editors. I was struck to find out that Diane Francis's book was number four last weekend on the

list of best sellers in English Canada. In this book she suggests that separation is a conspiracy. Clearly, Guy Bertrand is pictured by most of the media as a hero. English-Canadian media use the word "separation" to describe the Yes side as if this term had an objective connotation. How can one expect anyone in Canada to be sympathetic to separation when everywhere in the world the term is associated with groups of terrorists? "Partnership": the English Canadian media suggest that it is a concept invented by "separatists" to fool the Quebec electorate. I will stop here, but my list of examples of how Quebec is pictured in the anglophone press is not limited to these few examples.

Under these conditions, it is not entirely surprising that we are not really talking. Who would want to have a serious chat with the devil? If I am right about the reason why we do not talk for real, my conclusion is, in a sense, even bleaker than McRoberts'. It is not hopeless, however. All that is needed is that those who disagree with the English-Canadian media come out of their silence.

Let me move on to Latouche's presentation. I will begin by questioning one of his suggestions. Is Quebec really building its society on blackmail? I personally do not think that blackmail has been part of the PQ strategy since the referendum, despite what the English Canadian press would like people to believe.

As Latouche points out, Québécois were promised important changes by the No side during and even after the referendum. I think Bouchard took those promises seriously as many Québécois obviously did. So his strategy, in my opinion, is to wait for the No side to deliver. As McRoberts points out, Daniel Johnson actually tried to get English Canada and the federal government to deliver, but his efforts were largely ignored. Bouchard likely has no great faith that the delivery will take place. But I am convinced that if the type of changes Latouche and McRoberts talk about are proposed to Quebec, Bouchard will abandon without hesitation the idea of another referendum.

At each intergovernmental meeting in which the Bouchard government has participated, careful attention was paid to make sure the agenda would not be a Quebec one. He wants to show that Quebec is not begging for anything. I think that a recent meeting of environmental ministers was another demonstration of this. Quebec did not get much but never asked for more. The Bouchard government, in my view, simply

is waiting and ready to give the No side some time to deliver on its promises.

I agree, however, that Chrétien is missing the point. For Chrétien any kind of delivery is worthless; the “separatist” would veto it, so the argument goes.

But more interesting than the Quebec government strategy is the idea that English Canadians want Quebec to stay for all the wrong reasons. Latouche argues that if English Canadians could only think of Quebec as playing a more positive role in the federation, the result of the referendum would have given the “No” side a much clearer victory.

Let me say first that I agree with the proposition that the reasons English Canada provides for Quebec staying are not helpful to the No side. But the argument Latouche makes implies that what Quebec really wants is to play a more positive role in the federation. Well, let’s just say that if English Canadians would have clearly said before the referendum that Québécois should vote No because they are Canada’s last hope for social democracy, I would have voted yes anyway. What I want first is new institutions; a legitimate federation or confederation. Once I have that, I will be happy to spread the seeds of social democracy.

Latouche suggests that if English Canada perceived Quebec’s role as spreading the seeds of social democracy it would have been enough to forget about the referendum. It is interesting to note that Trudeau proposed a variation of this idea sometime ago. In Trudeau’s mind, however, spreading the seeds of social democracy was the job of Saskatchewan. But does Quebec really have a greater capacity than other provinces to spread the seeds of social democracy? Even more important than this, we have learned over the years that all kind of seeds can be sown and that social democratic seeds may not be the most resistant in a federal environment. In an environment where capital and people are highly mobile, neo-liberal seeds may be more hearty. Indeed, I think that neo-liberal seeds have taken or are taking root in Quebec.

How much longer will Quebec be able to maintain taxes higher than other provinces? Does Quebec really have higher taxes in the first place? Bosses complain about payroll taxes in Quebec. Michel Morin, a Radio Canada journalist, revealed a couple weeks ago that Quebec actually has lower payroll taxes than other provinces. So much for social democracy in Quebec.

In order to be able to maintain tuition at much lower levels than in other provinces, the Quebec government was forced to adopt a policy that will limit students’ mobility from English Canada to Quebec. Is this a sustainable policy in a federal context? Pressure on the Quebec government will come soon enough with the likely result that student tuition in Quebec will equal the Canadian average. Again, so much for social democracy.

I am not convinced that Québécois voted Yes to avoid the Gingrich-Klein-Harris revolution. Although I consider myself a social democrat, my Yes vote last referendum was not a vote for social democracy. I know many neo-liberals who voted Yes. Actually the ADQ sounds kind of neo-liberal. Because Canada was not able to shield itself from Gingrich, how would Quebec be able to do that even as a sovereign country? I think the referendum was simply to make this country more legitimate for the Québécois.

Let me summarize briefly what I have said above. McRoberts thinks that we are not talking for real either because of language or ideological reasons. Latouche suggests that we are not talking for real because of English-Canada’s right-wing orientation. I agree with both that we are not talking for real. I would, however, say this stems from English Canadian resentment toward Quebec as fostered by the media.□

Eric Montpetit

Doctoral Candidate, Department of Political Science,
McMaster University.

VIOLENCE, BORDERS, AND LIBERAL TOLERATION

Joe Murray

The first part of my comment challenges Professor Couture's contention that talking about the possibility of violence is tantamount to threatening it, while the latter part explores Professor Russell's claim that the challenges to sharing sovereignty and common citizenship with Aborigines in Canada include non-Aboriginal ideologies. Couture claims that those who mention the possibility of civil war thereby implicitly threaten one, and help to induce it by talking about it. Yet talking now about whether there are any dynamics at work in our reasonable disagreements that might lead to political violence may improve our chances of minimizing it later. I support this view by discussing the interrelation of justifications for secession and post-secession borders. I argue that reasonable disagreements in these areas, especially disagreements over process, are eroding our capacity for public reason and thus threatening civil peace.

Before explaining my thesis, I should note that these comments assume a political context in which there is little prospect for substantial accommodation of the constitutional demands of Quebec in the near future, and a good prospect that a sovereignty referendum in Quebec may succeed according to the standards set by a sovereigntist government of Quebec.

While I am primarily concerned with possible state violence, the possibility of spontaneous street violence should not be overlooked, as many telling Canadian examples may be found.¹ If specialists propose ways of

preventing and minimizing it and, when and as appropriate for the purposes of public peace and democratic accountability, make public the plans they have adopted, then the probability, extent, and consequences of any such violence may be reduced. After all, the perception that everything is in hand often helps it to be the case. So raising and discussing the possibility of violence can be a reasonable exercise that is the opposite of a threat. A claim that *anyone* who raises the possibility of a civil war believes "that the *only* way to resolve a disagreement is by force or coercion,"² is inaccurate and may silence the attempts of well-intentioned people to reduce the likelihood of violence.³

Granted, federalist statements about the possibility of violence in the event of Quebec secession are often intended to convince Quebecers to vote against sovereignty. And granted, some of these statements may be coercive: they may be intended to sway Quebecers' votes using a threat of violence, veiled or open, that is perceived to be under the control of those making the statements to carry out, whether or not an intent to carry through on the threat is present. But my worry is that Couture's manner of phrasing her concern, similar to that of the separatist government in Quebec, itself raises the level of invective, tension, and animosity in a way that increases the likelihood of eventual violence. It responds to federal moves that raise the stakes by further raising the stakes.

I do not want to ascribe motives for making such a claim, but I will make some observations. First, after the generations of battles between separatists and federalists, there may be a complete lack of trust, which

¹ These examples include riots in Canadian cities in response to perceived racist court judgements half a continent away (the Rodney King verdict) and the deployment of provincial riot police in Inuit communities because of their response to Quebec's Bill 101 language law. The probability of riots on a successful referendum night are likely greater than riots in Toronto if the Blue Jays win another World Series. And the consequences could be greater and longer-lasting if waves of reaction and counter-reaction start.

² J. Couture, "Some Ways of Talking" (1997) 8 Const. Forum 89 at 94.

³ Violence by terrorist groups opens up too many questions to be adequately addressed here, though it may be important in engendering or exacerbating either spontaneous or intergovernmental violence.

would bode ill for a non-violent future. Second, there may be feelings of outrage that there is some possibility of violence that would affect Quebec. Third, such a claim may be an attempt to push federalists away from using an effective but not necessarily coercive argument against voting for separation. Fourth, it may be part of an ongoing negative campaign against federalists, attempting to demonize them in order to win the referendum. And fifth, as a wedge issue it may be an attempt to create an 'us-versus-them' atmosphere. Even my analysis is precluded from being allowed to pass as well-intentioned.

This is a high-risk discourse attempting to wear the mantle of public reason and tolerance. I don't mean that Couture's opponents — variously, federalists, the federal government, the rest of Canada — are less complicit than her side, which she sees variously as sovereignists, Quebecers, and intellectuals opposed to the federal government or violence. I see it rather as exemplifying how a process gains momentum as one side after another raises the stakes rather than concede an advantage and whose cumulative effects are undesired by all.

Turning from this disagreement to some disagreements underlying it that Couture mentions allows one to see the same process of the escalation of reasonable disputes leading to an unreasonable result: possible violence. It seems that the most serious threats to civil peace through government action in the event of a Quebec secession likely will arise with respect to the determination of the proper borders of a state of Quebec, and with respect to the legitimacy of the procedure leading to secession. Yet whatever ground is chosen to legitimate secession — whether democratic referendums, the will of a cultural people, or *de jure* or *de facto* standards of international law — these same grounds can reasonably justify the partition of Quebec. Consider each of the four possible grounds.

First, it is evident that a plurality vote in favour of separation in a Quebec referendum, as a democratic expression of the will of Quebecers, would ground the legitimacy of secession for Couture and the PQ and BQ, even if the act itself was accomplished through a unilateral declaration of independence. However, additional premises are required to show, first, that the decision is one that is properly made by all and only the Quebec electorate and, second, that a plurality vote is sufficient, rather than some super-majority of the electorate, or majorities of different classes of voters.

If democratic referendums are the only criterion for legitimacy, then a referendum by Canadians on whether Quebec should be allowed to separate is equally valid. If this is rejected because one group of people should not be allowed to decide for another what form of governance they want, then consistency requires that municipalities within Quebec, such as Westmount or Hampstead, be allowed to vote to stay in Canada. If an additional premise of territorial viability is added, this still does not rule out municipalities that are contiguous with the Rest of Canada, such as Hull, from voting to stay with Canada. These points show that the rationale used to legitimate self-determination also has an effect on the justifiable borders of a new state.

Second, international law has tended to define a "people" as the inhabitants of a state partly in order to avoid more situations like Bosnia. Ignoring for the moment that Canada might be a people, let us focus on Quebec, after granting the claim of some cultural sovereignists that a people is constituted by something like a linguistic and cultural group, perhaps with some historical roots, self-consciousness as a distinct people, and intention to act as a community in the future. Leaving aside the problem of predominantly anglophone or allophone municipalities within Quebec, any moral or political arguments that can be made on behalf of a francophone Quebec as a people on these grounds can be made at least as well if not better on behalf of Aboriginal cultures within Quebec. Many of these peoples have clearly indicated through referenda and other means that they are opposed to the sovereignists' plans to unilaterally declare Quebec independent within its present borders.⁴ So reasonable talk about the partition of Quebec arises, not only from coercive threats or resentful desires by federalists, but from the very grounds that Quebec separatists use to advocate the partition of Canada.

Third, the basis of any legal claim of Quebec to a right to self-determination and to an *ex ante* right to

⁴ See M.E. Turpel-Lafond, "Oui The People? Conflicting Visions of Self-Determination in Quebec" (1994) 14 Public 118 at 120-121 quoting *The Globe and Mail* (14 December 1994) A6; Grand Chief Matthew Coon Come, "Energy, the Environment, Politics and Native Rights" *Address to the Conference of the American Council of Quebec Studies*, Washington, DC, 18 Nov. 1994; and Resolution of the Nunavik Leaders Conference, Montreal, Quebec [unpublished]. See also Grand Council of the Crees, *Sovereign Injustice: Forcible Inclusion of the James Bay Crees and Cree Territory into a Sovereign Quebec* (October, 1995).

unilaterally secede seems to provide at least as strong an argument for the same rights for Aboriginal peoples within Quebec, whether on the basis of being a colonized people or from being subject to foreign occupation. The Quebec government's own study by a team of five eminent experts in international law indicated that Quebec's international recognition could not be based on a prior existing legal right to secede, but only on its ability to, amongst other things, effectively control a territory with defined borders, through the use of force if necessary.⁵ (Aboriginal peoples within Quebec, by contrast, do have a *de jure* right to self-determination within Canada.) Once again, this argument about secession is at least as valid for Aboriginal peoples. And if Quebec is relying on effective control as the basis for its claim to international recognition, its borders can also be determined by this standard, with force the ultimate arbiter.

Fourth, Quebec's readiness to assert its independence *de facto* means that the federal government's fiduciary responsibilities to act in the best interests of Aboriginals take on immense importance. Quebec's claim to particular territories, and even recognition as a state, would be undermined if it was unable to effectively control the territory it claimed, whether through the actions of Aboriginals or the federal government.⁶ Federal fiduciary obligations and the preceding arguments provide not only legal and moral reasons for the federal government to contest Quebec's effective control over Aboriginal lands, but also a publicly acceptable rationale for less elevated intentions towards

a government in Quebec attempting to secede, such as bargaining advantages, or as a response to popular sentiments seeking to frustrate the sovereignty project.

Showing that arguments for partition are at least as reasonable as similar arguments for secession is insufficient to show that the secessionist position is unreasonable overall. Our traditions and institutions of domestic politics normally ensure such reasonable disputes are settled without violence. This is part of the point of Rawls' notion of public reason, to which Couture refers approvingly. One aspect she does not mention is that "it is vital that the structure of government be changed only as experience shows it to be required by political justice or the general good, and not as prompted by the political advantage of one party or group that may at the moment have the upper hand."⁷ Letting a fundamental question such as the continued existence of the polity be decided by a mere plurality in a referendum, especially one that will be repeated *ad infinitum* until one side wins once, is in direct contravention of this aspect of Rawls' public reason.

Some of the contemplated measures of the federal response also violate Rawls' public reason. One involves requiring more than a plurality vote in a referendum,⁸ which would amount to unilaterally imposing changes to their own side's advantage on procedures accepted twice before, as would possible moves to a Canada-wide referendum.⁹ This clearly "raises the stakes of politics and may lead to distrust and turmoil that undermines constitutional government."¹⁰ In this context, a tense future is presaged by sovereignists' insistence on the legitimacy of the secession of Quebec with its current borders following a mere plurality vote in favour of it in a Quebec-wide referendum. Federal moves to insist that the Supreme Court, which it appoints, determine the legality of a unilateral declaration of independence, and

⁵ See T. Franck, R. Higgins, A. Pellet, M. Shaw, and C. Tomuschat, "L'intégrité territoriale du Québec dans l'hypothèse de l'accession à la souveraineté" in Commission d'étude des questions afférentes à l'accession du Québec à la souveraineté, *Les Attributs d'un Québec souverain* (Quebec: Bibliothèque nationale du Québec, 1992), Exposés et études, vol. 1 at 425, 443 as quoted in *Sovereign Injustice* at 105, 139. See also Turpel-Lafond, "Oui the People?," *supra* note 4 at 122, quoting Ovide Mercredi, testimony, Assemblée nationale, *Journal des débats*, Commission d'étude des questions afférentes à l'accession du Québec à la souveraineté, No. 27 (11 February 1992) 816.

⁶ If Quebec attempted to use the international law doctrine of *uti possidetis* to argue that its borders as an independent state following a unilateral declaration of independence should be based on its prior internal administrative borders as a province, Aboriginal groups or Canada could argue that the Canadian constitution also recognizes administrative borders around their treaty and other lands. See, for example, ss. 2.11 and 2.12 of the James Bay and Northern Quebec Agreement, and *Sovereign Injustice*, *supra* note 5 at 167-68.

⁷ J. Rawls, *Political Liberalism* (New York: Columbia University Press, 1993) at 228.

⁸ *The Globe and Mail* (21 January 1996) A1. As a post-script, it is interesting to note that the Liberals became much more specific about this issue late in the 1997 election campaign, which firmed up Parti Québécois support at the expense of Conservatives in Quebec, and prevented some seepage of Liberal support to Reform outside Quebec.

⁹ *The Globe and Mail* (28 February 1996) A1. The throne speech stated that "... the government ... will ensure ... that Canadians, no matter where they live, will have their say in the future of their country."

¹⁰ Rawls, *supra* note 7 at 228.

Quebec's refusal to recognize its authority, are merely another round of raising of the stakes.

That these disagreements are all in some sense reasonable does not lessen the threat they pose to civil peace in Canada and Quebec. When partisan disputes at one level spill into disputes over the proper means of decision making, then into the legitimacy of the arbiters of these means of decision-making, and finally into the legitimacy of the current state to continue to retain the exclusive right to the use of force within part of its territory, then the various sides to the dispute may come to believe that principles such as justice legitimate the escalation of their own actions to the use of force but not those of the other side. Not only is the normally solid ground being contested for partisan advantage, these contests are used as fodder in the public battle for the hearts and minds of voters. They spawn divisions in the body politic over the fundamentals of life in common. This sets the stage for populist campaigns in the future that today's leaders may find appalling, as Couture notes with respect to federalists. Thus the preconditions of violent conflict are met.

I do not want to claim that there is an inevitable slippery slope to every conflict, nor that a slippery slope is in fact present in Canada today. I merely wish to indicate how it is a possibility not to be dismissed out of hand. By beginning to diagnose how certain positions and moves of each side may increase this likelihood, a result that none want may be prevented more effectively than passing over the topic in silence. Were effective means available for generating sufficient popular consensus for constitutional reform, perhaps through new ways of engaging Quebecers and other Canadians in deliberation with each other, my assumptions about the current context could be called into question. Given those assumptions, it now seems more advisable to talk about how to realize our common interest in avoiding political violence than to talk about constitutional reforms less likely to resolve our current stalemate than at any time in recent decades. Talking in this way may also reacquaint Canadians with reasons for their traditions of civility and compromise.

In the second part of my comments, I would like to pick up on Professor Russell's point about decent

people believing in imperialism.¹¹ A century or a century and half ago, this was expressed in the form of beliefs in civilization and progress that justified a 'white man's burden,' and a quarter century ago it was expressed in terms of a moral imperative for development aid of a sort that now is less and less accepted. Today the expression that one commonly finds on the tongues of morally decent and well-intentioned people of the rich and dominant cultures of our world is 'human rights.' The meaning of this term is hotly contested.

Certain forms of liberalism have a notion of human rights that opposes human rights to what others see as a right of Aboriginal peoples to self-determination with respect to culture and forms of government. In Canadian politics this is represented by the insistence on Trudeau's vision of a homogenous citizenship with a fairly wide ranging set of individual rights that are guaranteed to be the same for all through judicial review under the *Charter*. This constitutionalizes a number of issues, such as specific forms of criminal procedure, that conflict with legitimate alternative Aboriginal cultural practices. Were the political force of Trudeau's vision to recede, sections 35 and 25 of the *Constitution Act, 1982* could be used to allow fuller Aboriginal cultural self-determination, though some legal difficulties would remain. Rather than discuss such jurisprudential technicalities, however, this comment focuses on an ideological challenge facing non-Aboriginals who believe in this sort of equal individual rights based liberalism: sharing a common citizenship with Aboriginals under autonomous but not separate self-rule may require an altered view of human rights. In the remainder of this comment I sketch the presence of such a conflict in an intellectual variant of this type of liberalism: the influential thought of John Rawls.

Rawls grants more leeway for cultural difference in the international setting than in the domestic affairs of liberal regimes. Yet even were a liberal like Rawls to grant that Aboriginals are self-governing peoples within the state of Canada, he would not grant the form of sovereignty that is required to maintain and promote certain Aboriginal cultures. In "The Law of Peoples," Rawls presents a detailed articulation of a liberal relationship to non-liberal societies. I believe that this liberalism's willingness to use force against societies it

¹¹ P. Russell, "Aboriginal Nationalism and Quebec Nationalism: Reconciliation Through Fourth World Decolonization" (1997) 8 *Const. Forum* 110 at 111-112, 116.

perceives as non-liberal in order to uphold political and civil human rights and its lack of appreciation for cultural or social human rights¹² is indicative of just the sort of troublesome doctrine it tries to stigmatize as characteristic of "outlaw regimes." These are regimes:

whose rules affirm comprehensive doctrines that recognize no geographic limits to the legitimate authority of their established religious or philosophical views. Spain, France, and the Hapsburgs all tried at some time to subject much of Europe and the world to their will. They hoped to spread true religion and culture, sought dominion and glory, not to mention wealth and territory (72-73).

Rawls fails to appreciate that political questions about how people should arrange the basic structures and institutions of society are as contested as philosophical, religious and moral matters. They are as likely in our day to lead to strife and warfare as religion was in England a few centuries ago. Trudeau brought in the sort of individual rights liberalism Rawls advocates in a somewhat mitigated manner in the *Charter*. It is the possible cause not only of a partition of Canada through the separation of Quebec, but also of escalating political violence on the part of Aboriginals whose full cultural self-determination as separate peoples it seeks to deny.

Rawls recognizes a legitimate right of liberal regimes to war against regimes that offend the "liberal law of peoples," (79) and more specifically its concept of human rights (73). While this legitimate right to use military force and economic sanctions exists only "in grave cases" (55, 56, 71, 73, 80), Rawls' moral law of peoples also takes as its long-run aim "to bring all societies eventually to honor that law and to be full and self-standing members of the society of well-ordered peoples, and so secure human rights everywhere" (73). While criticism is somewhat useful in attaining this end, liberal regimes "must" also deny economic and other assistance and admittance into the mutually beneficial cooperative practices of well-ordered regimes to regimes that refuse to acknowledge Rawls' law of peoples, including its concept of human rights (74, 72).

¹² J. Rawls, "The Law of Peoples" in S. Shute and S. Hurley, eds., *On Human Rights: The Oxford Amnesty Lectures* 1993 (New York: BasicBooks, 1993) 41 at 68. Page numbers in the text refer to this work.

Rawls' minimum human rights include two rights that conflict with some Aboriginal cultures in Canada: a right to religious freedom that means that "no religions are ... denied civic and social conditions that permit their practice in peace and without fear" (63), and a right to (personal) property.¹³ Rawls advocates a religious toleration in the form of freedom of individual conscience in the context of a separation of church and state that is arguably inconsistent with the non-separation of politics and religion in "the traditions of the Ojibwa peoples and the Midewin spirituality." Quoting Ovide Mercredi, "They incorporate both those ideas as part of their way of dealing with the needs of their people and their society."¹⁴

Rawls' notion of a human right to personal property conflicts with many Aboriginal cultures. The whole notion of a property system with personal property rights is foreign to a number of Aboriginal cultures in Canada. Traditional Iroquois culture, for example, was duty-based, the allocation of the work of agricultural lands was generally determined by clan matriarchs often by consensus. Food stores were communal, individual plots, when they existed in the 19th century, were worked only after work on clan and nation plots was complete, and duties to the Creator and the animals, plants, waterways, earth and rocks in an area were at the basis of a non-instrumental relationship with the land. Liberal notions of property including the right of an individual to exclusive possession, use, consumption and alienation conflict with Iroquois and other Aboriginal cultures in myriad ways, regardless of the extent of private ownership of the means of production allowed by the liberalism. Whether Rawls would take these two inconsistencies between his minimum human rights and Aboriginal cultures to justify only withholding economic assistance otherwise due, or the stronger measures of economic sanctions and military force appropriate for grave cases is unclear. What is clear is that Rawls would hold it to be unjust to allow such cultural practices to continue.

Rawls fully realizes that instituting his law of peoples may involve significant cultural disruption; indeed he believes that the cultures of non-liberal

¹³ See also, R. Dworkin, "Liberalism" in *A Matter of Principle* (Cambridge: Harvard University Press, 1985) 181 at 200.

¹⁴ O. Mercredi and M.E. Turpel, *In the Rapids: Navigating the Future of First Nations* (Toronto: Penguin, 1994) at 100.

societies are in many important cases the root problem of their unacceptable non-liberal practices:

The fault in those [non-compliant] societies lay in their political traditions and the background institutions of law, property, and class structure, with their sustaining beliefs and culture. These things must be changed before a reasonable law of peoples can be accepted and supported.

We must ask the parallel question: What is the goal specified by non-ideal theory for the case of unfavorable conditions? The answer is clear. Eventually each society now burdened by unfavorable conditions should be raised to, or assisted toward, conditions that make a well-ordered society possible. (74-75)

One of Rawls' necessary conditions for a well-ordered regime is that it not be expansionist in the sense of seeking to influence other peoples to accept its doctrines through means that do not respect the independence and integrity of other societies, for example, through war or aggression (56, 64). A main point of Rawls' theory of the law of peoples, however, is to further the expansion of a particular political form, in some cases through force. That some non-liberal societies might also believe in such a law does not mitigate its expansionary and imperialistic character. Further, this conviction in the inherent superiority of one aspect of politics in non-Aboriginal cultures results in an unwillingness to accept a sovereignty that would allow certain aspects of Aboriginal cultures to continue. It is a limited denial of Aboriginals of "the opportunity to make laws for the internal ordering of their own society" that interferes with central aspects of their "distinctive social genius." This lack of respect is a major ideological challenge to Russell's idea of a common citizenship "based on mutual consent rather than on the superior force of the non-indigenous majority."¹⁵

¹⁵ Russell, *supra* note 11 at 116, 113.

I would like to close by suggesting we may not have progressed much past the thought of that great progressive liberal, J. S. Mill. He said his treatise on liberty did not apply either to children or to races that had not passed their nonage.¹⁶ And in *Representative Government* he wrote that "Nothing but foreign force would induce a tribe of North American Indians to submit to the restraints of a regular and civilized government."¹⁷ Whether the recommendations of the Royal Commission on Aboriginal Peoples are acted upon may provide some indication of whether we still think that such a foreign force represents a civilized government.□

Joe Murray

Doctoral Candidate, Department of Philosophy, McMaster University. I would like to thank participants in the panel discussion for their comments, as well as Prof. Evan Simpson and Lisa Austin for comments on drafts.

¹⁶ J. S. Mill, *On Liberty* (Arlington Heights, IL: Harlan Davidson, 1947) at 10.

¹⁷ J. S. Mill, "Considerations on Representative Government" in *Utilitarianism, Liberty, Representative Government*, intro. by A. D. Lindsay (London: Dent, 1957) 145 at 148.

ROUND TABLE:

SHOULD WE KEEP TALKING?

The Participants:

Janet Ajzenstat, Caroline Bayard, Joyce Bellous, William Coleman, Jocelyne Couture, Frank Cunningham, Rhoda Howard, Nadia Khouri, Daniel Latouche, Kenneth McRoberts, Joe Murray, Ed Navarro, Kai Nielsen, Peter Russell, Michael Stein.

Peter Russell: I think we should keep talking, but to really have useful talk you have to be, in my view, very inclusive and that means including people in your discussions who you think have got the wrong concepts and misunderstood you completely. So, for Ken McRoberts, you have to have the Trudeautes and the Reform people in there. They are part of the reality. There are also our friends from the sovereigntist side and the partitionists. Then I certainly want aboriginal people involved in the discussion. So I am for an inclusive discussion that does not define a position as so evil and out of whack that it is beyond repair. If you say other people are evil, that they're pointing the way to violence, in a way you're expressing the violent point of view yourself. I see the biggest danger in violence between sovereigntists and partitionists who, I think, are going to break from the great Canadian tradition of accommodation.

Janet Ajzenstat: For years I've been pessimistic about talk in the constitutional arena. But I've perhaps had a change of heart reading the papers for this conference. I see a new phase of constitutional debate emerging. One in which perhaps Quebec will be a country within Confederation. Aboriginal peoples will be sovereign within Confederation. At any rate, we are no longer fiddling with the little details about the division of legislative powers, or the wording of a Canada clause. Something new is happening. Something surprising, something very bold.

Daniel Latouche: As I get older, I take the civility of talking very seriously. Really, what defines a political

community is the way you can talk and I mean this, even at a personal level. Intellectuals and university professors ought to have a personal code of conduct on the way they engage in public argumentation. My code is never to engage in a debate where I will come out of it with a weakened, not a stronger, intellectual position. That is my way of engaging in this kind of a debate. This explains why I never debate with Stéphane Dion. I was surprised during the 1995 referendum campaign to find dozens of fascinating "federalists" with whom I have had incredibly interesting debates in the past. My problem is that my traditional peer group for these debates are "English-Canadian intellectuals." Maybe they simply have gone from the scene, but this sort of exchange has disappeared.

Kenneth McRoberts: I have trouble answering this question, partly because I have been dealing with this kind of talking for the last thirty years. To some extent, I suppose I have run out of material. Talking has been useful for us and people around us but certainly it does not change the course of political events. Quite the opposite. So I find myself thinking, surely no more talking, we've done enough of it. The difficulty is as this morning showed, all the alternatives seem to be far worse than talking. This may be an argument for continuing. The situation, I believe, is quite serious. I would have thought in fact that all parts of Canada had something to talk about. It also gravitates around the issue of a distinct society. Everybody is spooked by the outcome of the referendum, not just outside of Quebec, but within Quebec as well. Suddenly, people began to realize the actual use of talking. However, I have great

difficulty seeing how worthwhile talking can occur within formal political institutions. One only has to look at the kind of talks which have taken place over the last few months to document this. The trick is to find an alternative forum. I am a bit dubious about ordinary Canadians coming together and somehow finding a resolution. Other countries don't really seem to solve this problem either. So, by default I come back to the group I have been talking to for the last thirty years — fellow academics. And that may be the best place to start. At the same time I am quite aware of the practical and political question.

Joe Murray: I just wanted to pick up on the point about the ability of people to understand each other. When I was working with the Rae Government in 1992 or 1993, we had focus groups where people would say "yeah I want better services, lower taxes, get rid of the deficit, and you can do all that." If you got them talking for half an hour or so, they realized they could not have it all. If you keep having these constitutional conferences bringing people together for a week-end, they would understand each other. But when one has people just watching their televisions one does not have that meeting of the minds. That's why I am relatively pessimistic right now about the opportunity of renewing Canada.

William Coleman: I would add that talking is one thing, but the conversation today has not really mentioned the word "interest." What I found common in Daniel Latouche's paper and Kenneth McRobert's was the idea that we are now beginning to talk about partnership seriously, in a way we had not before. I think that once we begin doing this again, we might run up against very different interests throughout the country. As we begin to think about reconfiguring the Canadian political union on the basis of partnership, we may find that, as you move from Western Canada to Newfoundland, the perception of Canada differs, but more importantly, that the perception of the interests involved in partnership also differ. There are underlying economic interests. For instance when you talk to people in BC about partnership they will say, "why would I want to have a partnership with Quebec, when it could be with Washington, or maybe Japan, or whoever?" So that perception of partnership will confront fundamentally different economic interests in different parts of the country. What strikes me is that if we look at the period Ken McRoberts talked about, in the '60s, the dialogue going on then was very interesting. There was a gradual recognition by what we might call the corporate elite in Canada that bilingualism probably was not such a bad idea. Now there seems to be a total lack of interest in the

partnership idea among the corporate elite. If I take Matthew Barrett, the President of the Bank of Montreal, or the Business Council on National Issues, the framework in which they pursue their discussion has not really moved toward that concept. They seem to have a lot of interest in plan B, and I think that is important. But although ideas are important we have to remember that ideas come face to face with interests. Another point which is different today from the 1960s is that I do not think the West was energized as part of the dialogue in the Quebec-Canada discussion of the '60s. It is a much more complicated political game today and partnership is not going to get us anywhere.

Michael Stein: There is a general view that we need to keep talking, but things have deteriorated so much that, for instance, the Globe publishes statistics illustrating how the gap between English and French Canadians has widened as a result of Plan B. I am convinced that at the elite level there is room for compromise, as we saw at the Charlottetown Accord. However, at both the mass and at the intermediary levels the gap is widening. One should look at ways of bringing mass citizenry together. Kathy Brock in some of her group studies on the constitutional reform process, and David Cameron and Richard Simeon, are beginning a mass project on the group structure with respect to French-English relations. My wife, Janice Stein, is writing a paper for the C.D. Howe Institute on the role of non-governmental organizations in resolving international conflicts; applying it to the Canada-Quebec situation. What has emerged is an emphasis on this question of citizen engagement. To use non-governmental associations is comparable to relying on foundations such as the Gordon Foundation or the Council on Canadian Unity; comparable to relying on existing group structures, both citizen groups and organized interest group structures. To try somehow to use them to narrow the gap. It is an expensive and complex proposition which involves using techniques which international relations specialists have described as having been effective with respect to the Palestinian-Israeli problem, complementing the Oslo accord. They convince people to adopt the points of view of a more moderate elite group in order to resolve conflict. This approach has substantial potential, but one has to ensure that it is properly funded. This is why citizen groups are not sufficient. Established interest groups, such as the ones Kathy Brock brought in, are using non-governmental funds. To me this is how we should keep talking.

Caroline Bayard: Are we talking about ordinary Canadians?

Stein: We are talking about the mass citizenry which is involved in local citizen groups. They exist all over Canada, and also organized interest groups. I would start with the local citizen groups.

Russell: I would go about this very carefully. I would rule out quite a few organizations, for instance, the Council on Canadian Unity because the latter already defines the project as not including sovereignists. I do not see it as a very expensive proposition, as you do. To bring together in Montreal both sovereignist and partitionist citizens in order to talk about the possibility of the conflict ending in violence — this should be possible to organize. No established institution should do it. For instance, the Canadian Bar Association is too anti-sovereignist. I think there are groups in Quebec and in Toronto who might be able to organize something, but it is very difficult. Are they ordinary Canadians? Do I know what an ordinary Canadian is?

Ajzenstat: Let me ask Peter if there are recommendations in the Royal Commission on Aboriginal Peoples for gaining mass approval?

Russell: There are. The first main work to be done in the next five to ten years is to focus on the educational system (primary, secondary and university) and knowledge of Aboriginal peoples. Just the questions I was asked today by lots of friends show just how little is known about our six hundred First Nations, what they have been doing, what they are trying to do, and what their history in Canada is. In Quebec, for instance, the Algonquin people have eight of their nine communities. There is part of the Micmac nation in the Gaspésie. As for the Mohawks, we know little about two of their communities in Quebec. I urge you to know more about Aboriginal cultures. We are all very tired of this Canadian debate, but I can assure you that if you start reading about the Blackfoot Confederacy in the Plains, about the four major Inuit communities, you are not going to be bored. You are going to learn things you have never heard about. There is something honestly refreshing about such experiences. I find it makes me young again. It is pure learning. These are people with whom I share a citizenship and a country. The first volume of the Royal Commission is about 600 pages and would be a wonderful school text. It is written in a manner which could almost allow it to be used in primary schools, certainly in secondary schools. In undergraduate classes at the university level one could focus on the overview. Then you can decide first of all, whom do you want to talk to, whom are you most interested in. I think this can help us in Canada now. Remember this is right across the country, in

every province, everywhere! It can be something new for us.

Nadia Khouri: The reason why we have been talking about the constitution over the past fifteen years is because it is here now. When it was over there in Britain, we forgot about it. The reason we are talking about it so intensely, and I would not be pessimistic about this, quite the contrary, is that, democracy is not an easy thing. You have a multiplicity of voices and people who are bound to disagree with one another. This is healthy and we should keep it this way. I am not sure that Canada needs fixing. We should think about this very seriously and determine what it is exactly that needs fixing. Is it really disintegrating? Self-destroying? Definitely, a Pandora's box was opened with Meech Lake. I wish we could roll back time, I wish we could talk to Mulroney and say, Mulroney, we do not think you know what you are doing. We are going to have a very hard time from now on trying to mend things. In the process, what we are doing is making things worse by talking about them. How did we come to this, first of all? By the time we arrived where we are now, we had constructed a memory of grievances. My concern is this. How did we construct this memory? Is this reality? After all, I do not see any of my fellow citizens in Montreal, or in Quebec City, spontaneously go into the streets and say, let's separate, let's separate, let's go, let's break up the country! No, I do not see this. I am sorry, I do not see it. I see political parties bickering, trying to manipulate the electorate by all kinds of means. And other political parties making regrettable decisions, such as Meech Lake.

Jocelyne Couture: I would just like to talk about what was said about the difficulty and the possibility of going to a forum wide enough to include ordinary people. I think there is a kind of laziness on the part of intellectuals, or academics. I mean we love to talk to each other, we are happy to have conferences where this can take place. But the context of our discussion is not the university, it is the Canadian political system. There is a reflex among academics to say, oh let's just do this and such an effort might suffice! It may not be the case. Our debates should be more inclusive, and more accessible to people who are neither academics nor politicians. The other thing I want to say concerns discouragement. Some among us seem to believe that we may well continue to talk for another thirty years and nothing would come of it. There has been a lot of talking in this country for the last two decades, a lot of conferences, meetings, consultations. They have done absolutely nothing. We were talking about Charlottetown earlier on. I recall that the conference in Charlottetown was precisely there to replace the

referendum, originally planned to be held in Quebec that year? This was not exactly the best context for success. Of course it failed. Before too easily concluding that our efforts cannot help but be pointless, we should try harder to find solutions.

Frank Cunningham: I want to pursue the remarks that Peter Russell made just now. I think it is certainly true, the publication of the Royal Commission will provide an opening for us to right some wrongs as well as to educate ourselves. It also provides an opening with respect to the topic of this round table: do we talk? I am not recommending an "ah, yes and then there are the Aboriginals" approach. The Aboriginal question should be the very point that everyone should focus on. We should address this question first and foremost for several reasons.

First, this is a topic in which clearly there is a shared interest between Quebecers and all Canadians. At the most mundane level, the native question will not go away. There won't be constitutional accords without engaging native peoples. The land claims are there. The lands do not know provincial boundaries. Then there is the question of social services. We have to realize that both in Quebec and in the rest of Canada polls show that Canadians do not want the neoliberal assault on our social services, and implicitly this is a concern we also share with native peoples. Mercredi hit it on the head when he said that the man we need to worry about is Paul Martin.

Another category of concern is the moral category. I have the impression that both in Quebec and in the rest of Canada there is strong moral support for the Aboriginal issues. Putting this question front and centre would enable us to confront our common demons. The demon that has never been exorcised is the demon of original colonization, racist settlements. I do not think we have ever come to grips with that. I just came back from a conference in the United States it was said that unless Americans confront their race question they are not going to be able adequately to confront any other question. It started with their colonization, and I think this also is true of us.

Finally, there's the fact that we have something to learn from Aboriginal peoples. These constitutional problems finally all come down to questions of territoriality and sovereignty. I am sceptical about our inheritance of European concepts. Aboriginal conceptions of territoriality and sovereignty, as Peter Russell said, are different. The notion that you can have territory which is shared and share sovereignty, these are natural to Aboriginal modes of life, whereas such

modes of thinking are foreign to us. We have this idea of exclusion, where to have territory is to exclude other people from it.

I think we should resist the way that people will talk about Canada, about the French and English problem and say, "of course solutions must be acceptable to the native peoples." It should not be: "and of course." That is not going to do it. The question of the Aboriginal peoples has to be front and centre. It should be the first task we collectively address.

Rhoda Howard: First of all, the question of to whom you talk has to include, whether you like it or not, the Richlers and the Galganovs of the world. My own view of Richler is that the old curmudgeon should learn French. But he is also a man who said that Quebec was anti-semitic in the '30s. He is not saying that Quebec and Quebec culture are anti-semitic now. I think it is important to recognize that. Galganov also represents something that has to be addressed. I have a specific question for Jocelyne Couture. You said at one point, that the nationalism of sovereignists is not *ethnic* at all. I simply do not believe you. I do not believe you because I have not seen anywhere where such a statement could be true. Secondly, you yourself later said we are in danger of becoming a minority in our own country. So, I want to know first of all, who is we? And more importantly, why not, instead of making such a statement, get some statistical data, tell us what percentage of nationalists who vote appear to be ethnic, tell us how numerically strong this kind of "*nous les Québécois*" really is, tell us how a civic-minded PQ, a civic-minded anti-nationalist independent government would confront this problem.

Couture: We do not want to see French disappear, this is the core problem. There is also a demographic problem; there is the question of ethnic and civic nationalism. Which one would you like me to focus on?

Howard: I would prefer it if I did not hear such a statement as, there is no such thing as ethnic nationalism. I would prefer if I heard, instead, how strong that nationalism is.

Couture: I said that Quebec nationalism — what supports the Quebec sovereignist project, if you will — is not ethnic nationalism. But unfortunately, the only alternative you consider to ethnic nationalism is civic nationalism. I do not believe in civic nationalism at all. Civic nationalism? What could it be? The mere attachment to political institutions?

Howard: I'm talking about a nationalism, which does not include only "*nous les Québécois*," and does not exclude those who are not several generation Québécois, people born in foreign countries.

Ajzenstat: With all due respect, Professor Howard, can't we just agree that Quebec is a successful multicultural country. French is the language of that multicultural country, but it is a multicultural society. I think we should start with that. I think that approach will give us a better picture of the society. You do not want to focus on the intolerant things that have happened.

Khouri: I would even add multilingual.

Ajzenstat: But French is the public language of that multicultural society.

Khouri: Multilingual, absolutely and that is the reason why Montreal polarizes the debate because there are competing languages there.

Couture: They are not necessarily competing.

Ajzenstat: I don't think a country is anti-liberal because it endorses one language for public discourse. The rest of Canada is English, with French as a second public language. And in Quebec it is French with some English. I do not think language laws are illiberal.

Russell: Professor Howard is raising more of a political science question. If I misinterpret you Rhoda, tell me. Here is what I think you are saying. Nationalist movements have often been fundamentally ethnic in the sense that they feel their culture is being repressed and not given the chance to flourish. That is one part but not the only part of nationalism. Most nationalisms we know around the world have some of that in them. Aboriginal nationalism at this stage is pretty thoroughly ethnic in that sense. They feel their culture is targeted for extinguishment by the dominant society. There is a struggle for their culture to survive. My understanding of your question is that it is rather bad for reasons of propaganda to deny that today there is ethnic nationalism in the sovereignist movement. Rhoda, you think there is some. It could be a somewhat illiberal influence on an independent Quebec's policy. Have I misinterpreted you? Is that what you are saying?

Howard: I would like to find out how big you think this trend is, how an independent Quebec would manage or control it, and how you would discuss this topic.

Couture: The way you, Peter, describe nationalism, the preservation of one's culture and language, that of course is Quebec nationalism. But that is not how I would describe ethnic nationalism. Ethnic nationalism is a system which wants to create a society exclusively for ethnic people, that is, for people of one stock or descent and that is certainly not the case in Quebec.

Howard: I'm not saying that the sovereignist movement is an ethnic nationalist movement. I am asking now what percentage of sovereignist votes might be on the ethnic side rather than the cosmopolitan one.

Couture: How do we discover that?

Howard: I don't know. That is what I am asking.

Couture: If you look at the program of the sovereignist parties you will see that it is not ethnic nationalist.

Russell: Data has been collected by the political science community in exit polls showing that language is a concern. The reason most often expressed by Yes voters for voting Yes, was concern about language survival.

Khouri: I think there may be a confusion when we ask if we are a pluralistic society in Quebec, if we can speak a variety of languages, then why do we want to separate? Is it that Quebec is not an open and democratic society? Of course it is an open and democratic society, that is the biggest problem for nationalists and separatists. The problem is if it is a civic and open society and Canada is a civic and open society, then in order to separate you have to invoke a justification based upon identity. This is where we begin to debate the idea of identity, civility and culture. Because identity and language can be as ethnocentric as anything else. The justification for separation from a country which is already civic, open, democratic, multicultural and bilingual is based on the construction of a discourse in terms of identity.

Couture: It seems to me that a discourse in terms of cultural identity in a society which is open, democratic and inclusive of other languages and cultures, as you admit Quebec society is, does not amount to ethnocentrism. Following your argument, open and democratic societies would never have any good reason to become, or remain, sovereign.

Khouri: What you are coping with is the ambiguity in the need to separate in a context which is already civic.

Russell: The "project" as it is now called, seems to be Canada upside-down. Quebec is a multinational society. The main difference from Canada is that the tolerant majority would be French rather than English. It is a second Canada, with all the beauty of Canada. If one Canada is good, why not two? The rationale is this idea of two Canadas with all the tolerant accommodations that Canadians have. Seriously — in Daniel's terms — if one Canada is terrific, and I think it is, then two must be really terrific.

Stein: And the answer is: then three would be terrific.

Latouche: If you don't give us the "second" Canada, when we leave we will take the name with us and you will have to find yourself another name.

In the sense you are addressing this issue, Rhoda, civic nationalism is being defined as non-exclusive. That is to say that the benefits from the project will go to everybody in this society, disregarding race. Everybody who lives in that territory. I think Quebec nationalism right now is incredibly civic. But I don't think civic nationalism is in any way close to representing a majority. There is no point denying that Mr. Bouchard or Mr. Bourrassa are saying we "*les Québécois*," have something very peculiar, very exclusive in mind. I think to ask for a minority nationalism to identify itself as all-inclusive is impossible. You are probably right. The non-ethnic discourse in Quebec nationalism is probably a minority. I do not know what percentage it represents, fifteen per cent, twenty per cent. But I know that I have never seen a minority nationalism in the world that is absolutely not group oriented. I think it is sort of a contradiction in terms. What is interesting though is that the idea of a civic versus an ethnic nationalism is now a question of debate in Quebec. Your question is pertinent and it would not have been so fifteen or twenty years ago. The percentage [of civic nationalists] has increased considerably over the last ten or fifteen years. I wrote recently that one of the reasons for Quebec to become sovereign was to convince non-francophones to join in. The world does not need a new ethnic group in the UN. The world may need another kind of non-ethnic nationalism. I would not have written that twenty years ago. But I think this kind of civic discourse to promote one's project is now in jeopardy. It is not in jeopardy because of Mr. Parizeau. The system ejected him pretty rapidly even though he has not admitted that to himself. I think the drive toward civic nationalism — as you and I would define it — is in danger. There is the temptation of thinking, we only need three more per cent of francophone votes and we will be over the mark. Ethnic nationalism in this sense, in a party, sells

more votes than civic nationalism. So I'm really worried that whatever percentage it is, it is now going down. Do not forget that in a province, people are provincialists. That is why they live in there. You can only be universalist, cosmopolitan, if you do not live in a province and Quebec is a province. The nationalism that would emerge from a province will have a strong tendency to be provincialist and ethnocentric.

Kai Nielsen: Ethnic and civic nationalisms are misnomers here. I think in Quebec there is cultural nationalism. One should not confuse ethnic and cultural nationalism. Ethnic nationalism excludes. Any nationalism is going to be "groupist." It is a nationalism of the people. What makes a nationalism bad is that it becomes ethnic. Cultural nationalism need not do that. I am sure some Québécois are ethnic nationalists. In the past a lot of them were. But now anybody who learns French, learns about the culture, can enter into it. People are not excluded. At the level of government, there is absolutely no exclusion. To talk about a Québécois ethnic nationalism is naive in the extreme.

Murray: I want to address the question of the conference: should we keep talking? Everyone so far seems to be quite positive that not just us intellectuals but also the country ought to keep talking. I think a good fifteen-year break might not be such a bad idea. Let me just say, regarding the Aboriginal people, we should move on everything we can outside the constitution because we have put that off for far too long. But to deal with the Quebec and Rest of Canada question, I think there is a big problem. Dr. Stein suggests that we need to get the mass citizenry involved and I am a bit leery about whether this is going to work. We could not do it with Meech Lake, and when we expanded a bit more with Charlottetown, we actually got agreement which surprised me, considering how many people were at the table, but we could not get the people on side. I think we have to go back to some of the lessons on consociational democracy, which suggest that you need elites to get together and negotiate. There are two problems that I see. First, there is not right now a willingness for the elites to get together. And there are too many old players at the table. The second point, a more important point, picking up from Dr. McRobert's paper, is that there is no institutional representation right now for Canada. We probably need to come up with some mechanism so that we do not deal with eleven people at the table. The final point I want to make is that even if the sovereignty vote was successful I do not see fruitful negotiations taking place. I see lots of hostility going nowhere. So my answer to the question is maybe we ought to stop talking.

Joyce Bellous: A quick comment. We have been talking about democracy and it is hard for me to see the connection between conversation and democracy because it seems that what we have is the opportunity every four years to vote. It is not easy for me to see how the political process actually supports conversation by the masses. But I think we should continue to converse, and I think there are some rules we should abide by. And one of them is that there are some things that cannot be said in a group that wants to talk together. I think each group that comes to the conversation should say, o.k., this is what you cannot say because if you say it, I will never believe you take me seriously or that I have any value in this conversation. And I would say that any trivialization of Quebec's desire to be a distinct society should be something that is never said. That should not form part of the conversation. I think there are things that native peoples would not want said about themselves. People cannot be humiliated or violated in terms of their most important values and have any faith in a conversation that is supposed to be about the security of those interests in a political process.

Murray: The last comment — I love it in theory, but I worry that the most important interests or things people want to say are those that the people on the other side find impossible to listen to. I just want to pick up on something Frank Cunningham had said about territoriality and sovereignty. I think the exclusivity in standard European nations is causing us a lot of problems. There are other older traditions, which are not exclusive, from the Hapsburg Empire and also a different type of consociationalism in the Ottoman Empire that are perhaps worth looking into.

Khouri: I just wanted to respond to the idea of people speaking the language and necessarily entering into the culture of that language. I see a very strong distinction between language and culture.

Nielsen: I did not imply it. I said they were linked and I did not say they were not distinct.

Khouri: Well, even linked. I am not sure if they are that linked if you think in terms of an Algerian Muslim girl speaking French insisting on wearing her hijab and having a totally different code of values than the rest of Quebec. I think Quebecers, specifically Quebec nationalists, are beginning to realize that it is not that simple. They have much more in common with the anglophones in terms of culture and politics even though they do not speak the same language. Language, culture and identity do not necessarily go together. The next thing I would like to point out is that

an inclusive culture is not necessarily civic. That is exactly what I was trying to say in my talk. I think a citizen is a citizen, whichever culture he or she belongs to.

Nielsen: I never said that, you just did not understand.

Khouri: No, I think I did understand.

Nielsen: I was not making a remark about citizenship.

Khouri: That is why we come back to the ambiguity about ethnic nationalism.

Stein: I want to respond to Joe's remarks. He called for a fifteen-year moratorium on dialogue. We do not have the privilege of waiting fifteen years. The gap is growing in terms of perceptions of Canada or definition of a national community. I agree that at the elite level, within a consociational framework there is room for compromise. Elites look for compromise. I have a paper that offers an explanation in terms of utility theory. Elites tend to be utility-satisfying rather than utility-maximizing, for the betterment of the national goal or political goal. The mass citizenry, often interest groups, look for ways to optimize their utility satisfaction. They are not so concerned about making compromises at a national level. In Meech Lake and particularly in Charlottetown they were simply consulted. They did not generally deliberate and therefore there was no attempt to compromise. My point is that it is not enough to achieve a consensus at the elite level. You need some support for it at the mass citizenry level. That was what the Israelis and the Arabs found with respect to the whole Middle East issue. It is surely something that we discovered in the Charlottetown negotiations. My proposal is to attempt to generate support for a shared attitude, like the attitude Ken McRoberts describes in the '60s. You cannot go back to the '60s; you have to add in the development of the 70s and 80s and then find a shared attitude, which the mass can support at least to a degree.

Latouche: On the point of silence: I think it is a very important point. Some arguments or areas are sacred, and should not be put on the table, like commodities to be traded. But interest groups getting together between the mass citizenry and the elite? I do not think it is going to work. Frankly, I am amazed at the amount of energy spent in this country trying to avoid discussing one of the fundamental issues, which is bi-national organization of political space. I think that before looking at the rules of engagement in the dialogue, we should agree on what we are going to talk about. Until

this thing is put on the table as was suggested by the B & B Commission, until it is looked at as seriously as plan B, or plan C, we will never exorcise the demon. And I do not know how to convince English Canadians to just try us, to agree to discuss it for twenty minutes in good faith. I think people would be surprised. It is the only thing that has not been discussed. We have discussed about thirty kinds of federalism and I am worried that we are headed towards neo-corporatist federalism. I think we should, at one point, talk about it. You have to understand that what I want to talk about for fifteen minutes is this bi-national organization of space. It is unbelievable the energy that Quebecers have exerted to get this on the agenda. It is almost as if Canada is of no interest to English Canadians but fascinating to Quebecers. We reinvent it all the time. We figured out deals and associate status.

Bayard: Daniel, if you had to define the "it," it would be the bi-national organization of the space?

Latouche: Of political space. It has been an issue for a long time.

McRoberts: It does seem to me that in the 1960s, people did talk about the bi-national organization of Canada very seriously and the problem is that another Quebecer came along and said, well, you do not have to talk about it, you do not have to deal with it. In fact, if you are going to talk about it, it will make things worse. So do not talk about it and talk about bilingualism from sea to sea and a variety of other measures. And people latched on to this alternative. It is very hard to undo that now. I was intrigued by this argument about the importance of dealing with the Aboriginal question, partly for the obvious moral reasons, because there is the Report, and partly because of the strategic argument that I picked up today. If the aboriginal question is dealt with seriously, this would in a sense lead English Canada to recognize Quebec as a national collectivity as well. That is not the way the issue has been working in English Canada. Quite clearly English Canada has seen the Aboriginal issue as a way to avoid the Quebec issue. So this is a process whereby English Canadians, having come to terms with the Aboriginal question, will then be more open to look at the Quebec question. Beyond the recognition of national collectivities within Canada, confronting the Aboriginal question would mean accepting greater asymmetry in our political institutions, as the Charlottetown Accord so clearly envisaged. This could in turn induce recognition of the need for asymmetry in terms of relations between Quebec and all the other provinces, which I believe is essential. That is what I see as the way to address questions about the West.

Some versions of asymmetry would mean that with respect to some powers Quebec MPs would not play the role they would otherwise play. This increases the weight of the West within the House of Commons. It is conceivable that this might help. So, it is possible that in dealing with the Aboriginal question English Canadians might be led to deal differently with the Quebec question. But it must be recognized that to date there has been very little movement on the first, let alone the second.

Russell: I would hope so and I would encourage Jocelyne and Daniel to perhaps be willing to enter into a dialogue that does not simply raise the possibility of a bi-national country, but a multi-national political community. Maybe this could get us back to the way Ken would like it to be: not all wrapped up in individual rights. Frank's suggestion is a very positive one. It is not to exclude bi-nationalism. I'd like to conclude by thanking personally Caroline Bayard and Pluralit for inviting us here. I know it is a lot of work organizing conferences. There is one fellow dying to speak and I would love to hear what he might have to say.

Ed Navarro: I have been trying to speak but I have also been very interested in listening since I happen to belong to a fourth angle in this triangle. I see two ideas floating around today. As Professor Russell was saying the aboriginal approach is a good idea because it will be a common subject to everyone, to every province. The other idea that is floating is the need to change the speakers and the need to approach from a different angle. My idea is to change the process to bring as many of the fractions that have a need to say what will become of Canada. Whether it is bi-national, multi-national or whatever shape we give it, there are more constituencies that should be brought to the table and that will have a different view of the matter. As was said in the *Globe and Mail* some time ago: Canada has a unique opportunity to shape a model country, a model of association or a model of institutions that could respond to diversity. Today we do not have much time. I think the academic discussion has to extend to the public to be effective. It has to be consequential and we should target the "mass" as it is called. □

Published by UBC PRESS
in association with the
Centre for Constitutional Studies

Aboriginal and Treaty Rights in Canada

Essays on Law, Equality and Respect for Difference

Edited by Michael Asch

In this interdisciplinary collection, the authors state that although Canadian law has historically served to impose the values and institutions of the dominant cultures upon indigenous peoples, legal venues have also facilitated successful challenges to those institutions. Aboriginal treaty rights were acknowledged and affirmed in the Constitution Act of 1982, but courts and legislatures are increasingly relying on a mode of understanding that is grounded in the legacy of the British colonial system.

The book begins by discussing the theoretical models involved in the negotiation of treaty rights. While one essay argues for the need to use a historical approach to understand the concept of distinct societies another proposes a modern paradigm based on autonomy and equality. The book then examines current practices in contemporary aboriginal society and suggests that these do not necessarily represent authentic aboriginal traditions and may not help to foster the development of viable self-governing societies. The final chapter speculates on the ramifications of progressive policy implementation to the political relationship between indigenous peoples and the rest of the country.

Throughout the book, the authors illustrate their arguments with examples of legal issues relating to the treaties. They consider the legality of voluntary secession of land by First Nations to the province, the flexibility of the legal concept of aboriginal title, and the full consequences of the Royal Proclamation in regards to native self-government.

Aboriginal and Treaty Rights in Canada shows that, although the constitution has recognized existing aboriginal and treaty rights, changes to the way these rights are interpreted are urgently needed.

Michael Asch is a professor in the Department of Anthropology at the University of Alberta and the author of *Home and Native Land: Aboriginal Rights and the Canadian Constitution* (1984).

CONTENTS:

INTRODUCTION (Michael Asch); 1. CULTURE AND ANARCHY IN INDIAN COUNTRY (J. Edward Chamberlin); 2. CHALLENGING ASSUMPTIONS: THE IMPACT OF PRECEDENT IN ABORIGINAL RIGHTS LITIGATION (Catherine Bell and Michael Asch); 3. RE-EXAMINING CULTURALLY APPROPRIATE MODELS IN CRIMINAL JUSTICE APPLICATIONS (Emma LaRocque); 4. THE IMPACT OF TREATY 9 ON NATURAL RESOURCES DEVELOPMENT IN NORTHERN ONTARIO (Patrick Macklem); 5. THE MEANING OF ABORIGINAL TITLE (Kent McNeil); 6. WAMPUM AT NIAGARA: THE ROYAL PROCLAMATION, CANADIAN LEGAL HISTORY, AND SELF-GOVERNMENT (John Borrows); 7. UNDERSTANDING TREATY 6: AN INDIGENOUS PERSPECTIVE (Sharon Venne) 8. AFFIRMING ABORIGINAL TITLE: A NEW BASIS FOR COMPREHENSIVE CLAIMS NEGOTIATIONS (Michael Asch and Norman Zlotkin).

288 pages, January 1997
ISBN 0-7748-0580-3, hc \$65

Enquiries: Tel: (604) 822-4546
Tel. Orders: (604) 822-5959
Fax: 1-800-668-0821
E-mail: orders@ubcpres.ubc.ca

Order to: UBC Press
University of British Columbia
6344 Memorial Road
Vancouver, BC V6T 1Z2