

# **Competing Nationalisms: Quebec-Canada Relations**

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Making sense of Canada's constitutional impasse for foreign audiences is a formidable challenge. It involves arcane terms such as "notwithstanding clause" and "opting out", as well as obscure geographical references, such as Meech Lake. But the real challenge is to explain the basic intractability of Canada's constitutional challenge. Throughout the rest of the world, governments change, empires collapse, the Berlin Wall falls, but Canada's constitutional impasse persists. Yet, the ostensible issues seem to be so trivial. Why should Canada be fundamentally divided over whether businesspeople in Quebec should be allowed to use languages other than French on their signs? Strictly speaking this does not constitute a major inconvenience for non-Francophones. Nor is it directly linked to the survival of the French language in Quebec, unlike such questions as the language of instruction in schools or the language of work.

My proposition is quite simple: the constitutional impasse continues because it has become the focus of a struggle between two competing nationalisms, both of which have long histories. In the past these two nationalisms could coexist in the same political system without challenging its very foundations. But in recent decades they have taken forms that are increasingly competitive -even mutually exclusive. Each has reinforced the other, and become more and more intolerant of each other. Yet, neither is able to totally displace the other.

Simply put, in recent decades the majority of Quebec Francophones have been converted to an explicitly Québécois identity. In effect, French-Canadian nationalism, which can be traced back to the period of New France, has been transformed from an ethnic to a territorial form. This in turn has fuelled demands for constitutional change to recognize new identity. Yet, the emergence of this new Quebec identity, and the nationalism it supports has led to the construction of a counter-identity a Canadian identity, also territorial in nature, and explicitly designed to negate it. It, in turn, has become the basis for a new Canadian nationalism, but one that has functioned primarily in English Canada.

## **CHANGES IN QUEBEC DURING THE 1960s**

The transformation of nationalist ideology in Quebec is a well known story. With the new conception of the nation as urban, industrial, and modern that became dominant in the 1960, old constitutional arrangements were no longer sufficient. The Quebec government needed additional powers if it were to meet its responsibilities as the only government in Canada controlled by a Francophone majority. By the same token, now that Francophones formed a modern society their status within Canada had to be redefined so as to be truly based on equality. Francophones had always believed that their relationship with the rest of the country must be based on equality, but English Canadians clearly did not; in fact few of them were even aware

that Francophones saw Canada as a compact.

In short, the 1960s saw growing demands for a formal revision of the Canadian constitution so as both to entrench a dualist vision of Canada and, especially, to secure needed powers for the government of Quebec.

## **INITIAL ATTEMPTS TO ACCOMMODATE NEW DEMANDS FROM QUEBEC**

During the 1960s, there were some serious attempts among political and intellectual leaders to grapple with these issues. First, the notion that Canada is composed of two founding peoples or nations was endorsed by all three federal parties. In 1963 the Liberal government of Lester B. Pearson created a Royal Commission on Bilingualism and Biculturalism whose mandate included recommending "what steps should be taken to develop the Canadian Confederation on the basis of an equal partnership between the two founding races, taking into account the contribution made by other ethnic groups to the cultural enrichment of Canada" (1).

For their part, the Conservatives struggled with the notion of "two nations". In 1967, a thinkers conference at Maison Montmorency in Quebec adopted the position that Canada is composed of "deux nations", which was rendered "two founding peoples" in English (2). The New Democratic Party had already confronted the issue at its founding convention in 1961. On prodding from the Quebec delegates, it agreed that its programme should include the statement that Canada was created by the association of two nations and that throughout the document the term "federal" should be used in place of "national" (3).

As for the status of Quebec itself, during the early 1960s Prime Minister Pearson openly recognized Quebec's distinctiveness with such statements as:

While Quebec is a province in the national confederation, it 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 (4).

Moreover, during this period the Pearson government allowed Quebec to exercise a de facto particular status by opting out of a large number of joint federal-provincial cost-shared programmes and even exclusively federal programmes.

With its commitment to state intervention, the New Democratic Party recognized that the federal government could not assume its proper role unless Quebec were to be excluded from its initiatives. Thus, it forthrightly adopted special status for Quebec at its 1967 convention. Drafted by Charles Taylor, the NDP position declared that:

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 programmes and policies in place of those designed and financed by the federal government. At the same time, the federal government must be able to play an increased role in these fields where this is desired by the people of other provinces (5).

For their part, the Progressive Conservatives apparently did not take an explicit position on the question of Quebec's status, although party leader Robert Stanfield evoked sufficient openness to the notion to receive the support of le Devoir editor, Claude Ryan, during the 1968 federal election -in opposition to Quebec's ostensible favourite son, Pierre Trudeau (6).

Probably, neither of these positions commanded clear majority support among English-Canadian political and intellectual elites. In all three parties, each was vigorously challenged (7). But at least the "two nations" thesis and special status for Quebec were viewed as legitimate positions for discussion, and had advocates in English Canada.

## **CONSTRUCTION OF A NEW CANADIAN COUNTER-IDENTITY-AND A NEW CANADIAN NATIONALISM**

By late 1960s, however, this effort to confront directly the new Quebec nationalism had been replaced with a new strategy: to deny outright Quebec nationalism, in fact to seek to undermine its underlying bases. In effect, the new Quebec identity was to be challenged with a new Canadian identity. The primary architect of this new strategy was, of course, Pierre Elliott Trudeau, a Montreal-based intellectual and political activist who became Prime Minister in 1968.

Within this new Canadian identity, there are at least five discrete components: official bilingualism; a charter of rights; multiculturalism; absolute equality of the provinces and reinforcement of national institutions. Each of these elements of Canadian political nationality can be directly traced to the fundamental objective of defeating the Quebec independence movement.

### **Official Bilingualism**

Through official bilingualism the Trudeau government sought to establish the myth that the French language, and French-speakers, was present throughout Canada. Demographically, this manifestly is not the case, and never has been. The use of French has always varied enormously from province to province. Only in Quebec does the majority (82%) use French; the next largest Francophone

proportion, New Brunswick's is only 31 %. Moreover, in all provinces but Quebec and New Brunswick assimilation has been very high. As a result, in most provinces the proportion of the population which uses primarily French at home is now below 3% (8). Nonetheless, official bilingualism gave French the same formal status as English throughout the country, at least for federal purposes, however marginal it might be to day-to-day life.

On this basis, official bilingualism promised to nullify Quebec's claim to distinctiveness on the basis of language by making all of Canada like Quebec. Canada as a whole, rather than just Quebec, would be the home of Francophones. As Pierre Trudeau declared in 1968 if minority language rights are entrenched throughout Canada then the French-Canadian nation would stretch from Maillardville in BC to the Acadian community on the Atlantic Coast:

Once you have done that, Quebec cannot say it alone speaks for French Canadians... Mr. Roberts will be speaking for French Canadians in Ontario, Mr. Robichaud will be speaking for French Canadians in New Brunswick, Mr. Thatcher will speak for French Canadians in Saskatchewan, and Mr. Pearson will be speaking for all French Canadians. Nobody will be able to say, "I need more power because I speak for the French-Canadian nation" (9).

## **The Charter of Rights and Freedoms**

Reinforcement of the status of French was, in turn, the central purpose of the second element of the Trudeau government's pan-Canadian counter identity to Quebec's: an entrenched bill of rights which was incorporated as part of 1982 constitutional revision. The Charter of Rights and Freedoms deals with many other rights than linguistic ones: political, legal, mobility, social, etc... But language rights clearly were its *raison d'être* (10). The provision for minority-language education rights is the only section of the Charter not to be subject to the notwithstanding clause, along with the mobility provision, and, thankfully, the requirement of elections every five years (along with the various interpretive clauses).

## **Multiculturalism**

A third element of the Canadian identity is multiculturalism, which the Trudeau government proclaimed in 1971. Canada might have two official languages, but it was to be seen to have an infinite number of cultures. The federal government committed itself to "support all of Canada's cultures". Previously, much of the public discussion had linked bilingualism with biculturalism. It was in these terms that in 1963 the federal government under Lester B. Pearson had established its royal commission to examine

Canada's national unity crisis: the Royal Commission on Bilingualism and

## Biculturalism.

The Trudeau government's adoption of a policy of multiculturalism often is seen simply as a response to the demands of Canadians whose origins were neither British or French. Many of their leaders campaigned against the concept of biculturalism. Contending that it necessarily excluded their components of the population, they argued for a more inclusive term. But the Trudeau government dearly had an additional purpose in rejecting biculturalism for multiculturalism: by recognizing a multitude of cultures multiculturalism could rein in the notion of duality and nullify Quebec's claim to distinctiveness on the basis of culture.

From the moment the B&B Commission was created Trudeau and his fellow Quebec anti-nationalists had been deeply suspicious of the notion of biculturalism. Their reasoning can be seen in a Cité libre assessment of the B&B Commission's Preliminary Report

[the government and the Commission] voluntarily abandon the linguistic dimension (which provides some concepts which are nonetheless applicable) so as to slip into "biculturalism" and to talk of equality of citizens in as much as they participate in one of two cultures... And what is the meaning in practice of a Confederation which "develops according to the principle of equality between the two cultures?... the idea of equality between peoples underlines the concept of national sovereignty, and it would have been interesting to see how the Commission intends to interpret its mandate without being led necessarily to propose the division of Canada into two national states" (11).

## The Equality of the Provinces

The Trudeau government's fierce commitment to the principle of absolute equality among the provinces was clearly rooted in its determination to counter the claims of Quebec nationalists.

Insisting that "federalism cannot work unless all the provinces are in basically the same relation to the central government" (12), Trudeau declared on one occasion that, "I think particular status for Quebec is the biggest intellectual hoax ever foisted on the people of Quebec and the people of Canada" (13).

## Reinforcement of National Institutions

Finally, this insistence on a uniform federalism was coupled with a determination that the federal government play a significant role in the lives of all Canadians (Québécois included), whether it be through programmes of direct transfer payments, such as Family Allowances, or major national undertakings, such as the National Energy Program. From the late 1960s onwards Ottawa was greatly concerned that its actions be "visible" to Canadians (14).

## **CONTRADICTIONARY IMPACT OF NEW CANADIAN "COUNTER-IDENTITY"**

Not surprisingly, the new Canadian identity has not fared well in French Quebec, the population for which in fact it had been designed. Not only has the conception of Canada as a bilingual nation with a strong Francophone presence from coast to coast lacked credibility in Quebec, but the principle of formal equality between English and French increasingly has appeared as an obstacle to the types of intervention by the Quebec state needed to strengthen the role of French within the province. As for the Charter of Rights and Freedoms, studies show that Francophones are as supportive as are Anglophones of the rights contained in it -but the instance of Bill 178 demonstrated that they are not prepared to give it priority over a measure such as Bill 101 that they judge to be essential to their cultural survival. With respect to the notion of a multicultural society, French Quebec has become increasingly prepared to view itself as a society drawing upon a variety of cultural groups, but has shown no disposition to apply the concept of multiculturalism to its own status within Canada as a whole. Finally, Quebec Francophones have shown themselves to be more resistant than ever to the notion that Quebec constitutes a province exactly like the others and should have precisely the same constitutional status.

On the other hand, each of these elements of a new "pan-Canadian" identity has had a certain resonance in English Canada. Many English Canadians have embraced them as the basis of their own conception of Canada. In particular, the Charter of Rights and Freedoms has become a central element of the dominant notion of Canadian nationhood. Equally entrenched is the principle of absolute equality of the provinces: as we shall see, this was amply demonstrated in opposition to the Meech Lake Accord and support for Senate reform based on the "Triple E" model. Many English Canadians have come to see Canadian society as multicultural and to value the ideal of a bilingual Canada. Finally, the strength of English-Canadian attachment to Canadian national institutions has been revealed in a variety of ways, including opposition to the Free Trade Agreement and resistance to decentralization of powers to the provinces.

Trudeau's success in mobilizing the federal government, and a good number mainly of English-speaking Canadians, on behalf of this new Canadian identity presents some striking ironies. Whereas the strategy had been designed to transform the way in which Quebec Francophones saw Canada, instead its impact has been primarily upon another population: English Canadians. In fact, the new Canadian identity that Trudeau helped to formulate has become the basis for a new Canadian nationalism which enjoys strong support in much of English-speaking Canada, although not Quebec. Yet, Trudeau had always professed a deep opposition to all

forms of nationalism. This was the rationale for his fierce rejection of Quebec nationalism and his decision to enter federal politics in order to combat it.

Ultimately, this new Canadian nationalism has rendered virtually impossible any constitutional response to the new Quebec identity. As a consequence, rather than leading to national integration, federal dissemination of this new "pan-Canadian" identity has driven Canadians further apart.

Within the terms of the new Canadian identity it is virtually impossible to comprehend the claims of Quebec nationalists. After all, it was constructed precisely to counter and negate the new Quebec identity that they had fashioned in the early 1960s. Thus, the linguistic dimension of Quebec's identity is incomprehensible since thanks to official bilingualism French is seen as enjoying a privileged status throughout Canada, robbing Quebec of any distinctiveness. Thanks to multiculturalism, the cultural dimension of the Quebec identity loses its meaning: Canada is now seen as composed of a multiplicity of cultural groups. Neither French Canada nor Quebec can have any special claim. And, in light of both the principle of absolute equality of the provinces and the attachment to national political institutions there is no basis left for comprehending Quebec's claim that its distinctiveness requires the exercise of additional powers. The impact of these various principles in foreclosing any recognition of Quebec's distinctiveness is, of course, only reinforced by the Charter of Rights and Freedoms.

While Trudeau would indeed not want any such response to be made, and has been ready even in retirement to intervene publicly so as to ensure that it does not happen, there is surely some irony that his most powerful ally should be the "irrational forces" of nationalism.

## **CONSTITUTIONAL DEBATES AS PROTRACTED STRUGGLE BETWEEN TWO NATIONALISMS**

### **1982 Constitutional Repatriation**

The new Canadian nationalism was almost perfectly expressed in the 1982 constitutional revision. In fact, the terms of the revision follow precisely the agenda that Pierre Trudeau proclaimed in the late 1960s: the primary objective was to link patriation to entrenchment of a bill of rights. Only when this was accomplished might attention be given to the division of powers, and any expansion of Quebec's jurisdictions.

Indeed the 1982 constitutional revision dealt only marginally with the division of powers, and in a way that had little significance to the Quebec government.

Instead the focus was upon a Charter of Rights and Freedoms which would define for all Canadians both their rights in dealing with the state and services that the state was obliged to provide to them. Among these rights, as we have seen, language rights were a clear priority. By the same token, language rights are defined in purely individual terms. At the same time, the Charter clearly recognizes Canada's multicultural character.

As if to underline the point that the Constitution Act, 1982, was an embodiment of the new Canadian nationalism, it was rejected by not just the Quebec government, then occupied by the Parti québécois, but by most federalists within Quebec's provincial political elite. For its part, the Trudeau government was undeterred, contending that Parliament and only Parliament could speak for Canada as a whole -in effect for the Canadian nation. Thus, it was fully entitled to act over Quebec's objections, whether or not it had the support of the remaining provincial governments.

### **Meech Lake Accord**

The original purpose of the Accord was manifest. It was intended to resolve the deficiency of the 1982 constitutional revision: Canada had patriated its constitution but without Quebec signature. In fact, it grew out of a statement made by Quebec's minister of intergovernmental relations in 1985 in which he outlined five conditions for Quebec's adhesion to the constitution. Reflecting the Quebec government's desire to reach an agreement despite its weak bargaining position, the conditions were modest in scope. Combined with a sixth element, these conditions were the basis for an agreement among all ten provincial premiers and the prime minister reached on April 30th, 1987, at the prime minister's summer retreat near Meech Lake.

The Accord boiled down to six measures, all of which long had been under discussion in intergovernmental circles and some of which had actually been proposed by the federal government at one time or another: limitation of the federal government's use of its spending in exclusive provincial jurisdictions; designation by provincial governments of lists of nominees for the Supreme Court and the Senate; an addition of three items to the subjects of constitutional revision requiring unanimous consent by the provinces; constitutionalization of an agreement between Ottawa and Quebec with respect to immigration, with extension of the same procedure to any other matters requiring unanimous consent of the provinces; and simultaneous recognition of Canada's dualistic nature and Quebec's status as a "distinct society". By any standard, it was a modest package -and certainly a minimal response to the aspirations of Quebec nationalists.

Nonetheless, within English-Canadian public opinion there rapidly emerged strong opposition to the Accord. There were several bases of opposition. Many complained about the process through which the Accord was generated, claiming that it involved insufficient popular consultation. And there was widespread concern that such measures as the limitation of the spending power would seriously undermine the capacity of the federal government to pursue national objectives.

However, there is clear evidence that the primary bases of opposition had to deal with the provision declaring Quebec to be a distinct society. A survey taken in June, 1987, found that among all the provisions of the accord this one had the least support. *By the same token*, a study in late 1988 found that when English-Canadian respondents were informed that the accord contained such a clause, opposition to the accord increased by 28 percentage points (15).

In part, this opposition clearly reflected hostility to the very notion of constitutionally recognizing Quebec's specificity. Many objected to the idea that securing Quebec's accession to the constitution should be the essential purpose of constitutional revision. After all, they claimed, the Quebec question had been settled with the 1980 referendum and the 1982 constitutional revision.

In other cases, opposition to the "distinct society" clause was articulated in terms of overriding principles of the new Canadian nationalism. Opponents of the Accord would declare that they agree wholeheartedly with the objective of addressing Quebec's legitimate concerns but only if some superior principle is upheld whether it be: unimpeded preeminence of the Charter; absolute equality in the status of provinces; multiculturalism; or formal equality between English and French. In effect, thanks to these new principles of Canadian political life, there was no room left to address the Quebec question.

Finally, in June of 1990 time ran out for the Meech Lake Accord. Three years had elapsed since the Accord received its first ratification by a legislature, Quebec's Assemblée Nationale. It still had not been ratified by all the provincial legislatures: Newfoundland had rescinded its ratification and Manitoba had yet to ratify it. Accordingly, under the terms of the Constitution Act, 1982, the Accord had become a dead letter.

The collapse of the Accord triggered a deep reaction in Quebec. Not without reason, many Quebec Francophones interpreted English-Canadian rejection opposition to the Accord as stemming from rejection of their claims for recognition of Quebec's distinct status. Rejection of the Accord was seen as no less than rejection of Quebec itself. The resulting sense of resentment and humiliation caused support for Quebec sovereignty to reach unprecedented levels, going from 40% in September, 1989, to 56% in March, 1990 to 64% in the following November, with

only 30% opposed (16).

## **CHARLOTTETOWN ACCORD**

After a long hesitation, in the fall of 1991 the federal government sought to initiate discussions by presenting a comprehensive plan for constitutional revision. After a series of false starts the prime minister and all ten provincial premiers finally agreed in August 1992 on a document; the Charlottetown Accord.

In order to understand the dynamics that led to this Accord it is important to refer to a document that preceded and largely determined it: the July 7th accord that was signed by the federal government, representatives of Aboriginal peoples and the premiers of all provinces but Quebec. After the collapse of the Meech Lake Accord, the Quebec government had declared that it would no longer participate in constitutional discussions; instead it would wait for the rest of the country to formulate a proposal for a "renewed federalism" to which Quebec would then react. The Rest of the Country did precisely that. But in doing so it drew up a scheme that was fully consistent with the constitutional vision prevailing in the rest of Canada, largely shaped by the new Canadian nationalism, and which for the very same reason was unacceptable to Quebec.

A central tenet of the new Canadian nationalism, and basis of objection to the Meech Lake Accord, is of course the principle of formal equality among the provinces. Thus, with respect to Quebec's claims for recognition the Charlottetown Accord did contain a "distinct society" interpretative clause patterned after that of the Meech Lake Accord. However the significance of the clause was attenuated by the fact that it now was carefully inserted within a "Canada Clause", in which it stood as one of eight principal characteristics of Canada (17). (At the same time, it also was to be inserted in the Charter as an interpretative provision).

Second, out of deference to the new Canadian nationalism's commitment to strengthen national institutions, the July 7th agreement contained no major attenuation of federal powers. By and large, any reinforcement of provincial power was in areas already under provincial jurisdiction.

Perhaps the clearest instance of enhancement of provincial power was in the "six sisters": urban affairs, tourism, recreation, housing, mining and forestry. There, provinces could force a total federal withdrawal. Nonetheless, not only are these all areas of exclusive provincial jurisdiction, but they are areas in which federal activity (based upon the spending power) is in any event minimal.

With respect to labour market development and training, provincial

governments were granted the right to oblige federal withdrawal from training and labour market development activities. However, the federal government could continue to play an important role through its responsibility for setting national objectives which the provinces would be bound to respect (18).

Similar in the case of cultural affairs, the agreement declared that there should be a constitutional amendment specifying that "Provinces should have exclusive jurisdiction over cultural matters within the provinces" but stipulated that the proposed amendment would also recognize "the continuing responsibility of the federal government in Canadian cultural matters. The federal government should retain responsibility for national cultural institutions, including grants and contributions delivered by these institutions" (19).

To be sure, the accord did incorporate the spending power provisions of the Meech Lake Accord, setting up conditions under which provinces would have the right to establish their own programs with compensation. But these constraints apply only to cost-shared programs within exclusively provincial jurisdictions. By the same token, as many Quebec jurists have noted, the provision has the effect of giving the federal spending power a much clearer constitutional sanction than ever before. Similarly, it incorporated the Meech Lake provisions regarding immigration - a concurrent jurisdiction in which the federal government remains paramount.

Finally, the July 7th agreement contained the project of constitutional reform that was most strongly favoured in much of English-speaking Canada outside Ontario: to make central institutions more responsive to Western Canada and Atlantic Canada (or Outer Canada). This project, which had become known as the "Triple E" Senate, found much of its legitimacy within the new Canadian nationalism. Representation was to be based upon equality of the provinces. And rather than weakening national institutions, defenders argued, the reform would strengthen them by allowing Outer Canada to participate more fully in national political life.

Thus, under the July 7th Accord, the Senate was to be composed of an equal number of elected representatives (eight) from each province, plus two from each territory and an undetermined number of aboriginal representatives. Moreover, it had a clear promise of being "effective": a simple majority could veto bills "that involve fundamental tax policy changes directly related to natural resources"; on most other bills 60% could force reconciliation and, if needed, a joint sitting of the House and Senate; 70% could veto a bill outright (20).

In short, the July 7th agreement fell squarely within the parameters of the new Canadian nationalism. It contained scarcely a nod toward Quebec nationalism, with its concern with the status and powers of the Quebec government. The primary reference to Quebec's specificity, the "distinct society" clause, was devoid of any

such notion. It respected the clearly stated desire of most English Canadians that the roles of the federal government not be weakened in any fundamental manner. At the same time, it offered a Senate reform which clearly met the "Triple E" criteria.

Of course, the process giving rise to the July 7th agreement had virtually guaranteed such a result: Quebec was not formally a party to negotiations. Nonetheless, even when Quebec Premier Bourassa finally joined the negotiations Quebec's project was not seriously incorporated. Apparently most negotiators presumed that Quebec's project was necessarily in conflict with English Canada's.

Instead of adding elements desired by Quebec, centering upon the division of powers, the framers of the Charlottetown Accord sought to accommodate Quebec through modifications in an entirely different area: Canada's national institutions.

First, they substantially diluted a major element of what was already there, the Senate reform so coveted by Outer Canada (21). Not surprisingly, this had the effect of undermining support for the package in Outer Canada.

Second, and partly as compensation for the latter, they introduced measures reinforcing Quebec's representation within the House of Commons -further alienating Outer Canadians. First, Quebec (and Ontario) were given additional seats in the House. Quebec went from 75 to 93 seats. Even more dramatically, Quebec was to be guaranteed 25 % of the seats of the House, in perpetuity. Finally, for good measure the new Senate was to require a majority of Francophone Senators on any matter which "materially affects the French language or culture in Canada". (To be sure, the Senators would not necessarily come from Quebec alone). In addition, Charlottetown incorporated the Meech Lake Accord's provision constitutionalizing Quebec's right to three of nine positions on the Supreme Court (22).

These changes represent, moreover, perhaps the most substantial of all alterations of the July 7th agreement. Yet, representation in central institutions had not been a priority of the Quebec government. In fact, reduced representation might have been acceptable. The Quebec government had not even proposed the guarantee of 25% seats in the House of Commons. Apparently, it was proposed by Saskatchewan premier Roy Romanow. Not only did the measure fail to respond to Quebec's aspirations but it had the added effect of producing a backlash in the rest of the country.

In sum, the framers of the Charlottetown Accord desperately sought to remain faithful to the constitutional vision contained within the new Canadian nationalism that has come to dominate English Canada. As a consequence, they attempted to accommodate Quebec's not by responding to its constitutional aspirations but by adopting measures that Quebec political leaders had not even

called for. Yet, as it happened, these measures directly undermined the primary project for constitutional reform coming out of English Canada and sanctified by the new Canadian nationalism: improved representation for Western and Atlantic Canada in central institutions.

As a result, the Charlottetown Accord managed to offend both Quebec nationalism and the new Canadian nationalism. It did not offer the significant expansion of Quebec jurisdictions that was the indispensable benchmark for Quebec nationalists. Yet, in reinforcing the Quebec presence in national institutions it profoundly offended the new Canadian nationalism's commitment to the equality of the provinces, in the process frustrating Outer Canada's desire for more equitable representation. In short, neither Quebec nor English Canada (especially outside Ontario) was left with a clear reason to support the project. And, indeed, in the subsequent referendum the Accord was resoundingly defeated both in French Quebec and in much of Outer Canada. Within Quebec, 56.7% voted "No", with 43.3% in favour; outside Quebec 54.3% voted "No", with 45.7% in favour. In only four provinces did the "Yes" side prevail: Newfoundland, Prince Edward Island, New Brunswick and Ontario -and the Ontario vote was a virtual dead heat (23).

## **THE FUTURE FOR CANADA AND QUEBEC**

At the moment the most likely scenario seems to be a playing out yet again of the same fired debate borne of this competition between nationalisms. The Parti québécois wins the upcoming provincial election. English-Canadian opinion is not prepared to consider new approaches to the constitutional question, and will not even tolerate discussion of it. For its part the federal government is loathe to initiate constitutional discussions partly from an understandable fear of failure, given the record to date, but also from fear that with Jean Chrétien at the helm any federal constitutional initiative will only stir up memories in Quebec of the Trudeau constitutional revision, and Chrétien's role in it. In the end, however, a majority of Quebec voters vote against sovereignty -not through any hope that Canadian federalism might be renewed but through fear of the costs, primarily economic, of Quebec independence. With such a result English Canada will conclude that the national unity question has been resolved once and for all. Quebec nationalists will abandon politics only to return when inevitably the push and pull of Canadian politics brings questions of identity and national honour to the fore once again.

Of course, there is always the possibility that this time a majority may simply decide that the risks of independence are worth taking and vote "yes". Indeed, Quebec independence is a viable option and the costs of securing it might turn out to be less than many have presumed. But this all depends on how independence is secured: how quickly Canada and Quebec can agree on the terms; what the terms

are; how the process is perceived in financial circles, and so on. At this point, no one knows. There is no reason to believe that the process would be anything like what is occurring in present day Yugoslavia, to cite the most dramatic example. But it could be much trickier than Czechoslovakia's recent partition. The readiness of Quebec Aboriginals and much of English-Canadian opinion to question the borders of a sovereign Quebec is sufficient to guarantee that.

In short, whether the scenario is continued constitutional stalemate or a difficult transition to Quebec independence it is not an attractive one. Thus, there is a lot to be said for breaking out of the sterile debate which seems to make inevitable one or the other. To do this means somehow to go beyond the individualistic conception of Canada now so firmly rooted in Canadian political life to one that will allow for and accommodate the presence of distinct collectivities. How can this be done?

## **A CANADA COMPOSED OF DISTINCT COLLECTIVITIES**

In part, the answers may be found by looking back to the 1960s when these issues were first seriously discussed at the national level and before the Trudeau vision of Canada had preempted the exploration of alternatives. A good place to start would be some of the writings of the Royal Commission on Bilingualism and Biculturalism which Prime Minister Lester Pearson had mandated:

to recommend what steps should be taken to develop the Canadian Confederation on the basis of **an equal partnership between the two founding races**, taking into account the contribution made by the other ethnic groups to the cultural enrichment of Canada and the measures that should be taken to safeguard that contribution (24);

In its early deliberations, the Commission had interpreted its operative concepts expansively, in collective rather than individual terms. Treating culture as "a way of being, thinking and feeling", the Commission saw Canada as containing "two dominant cultures... embodied in distinct societies" (25). On this basis, it was Canada as a whole, rather than individual Canadians, that was bicultural: individuals who live by two cultures would be schizophrenic. For that matter, few Canadians could ever be truly bilingual: "complete bilingualism -the equal command of two languages- is rare and perhaps impossible". A bilingual country is one in which institutions provide services in two languages, "not one where all inhabitants necessarily speak two languages" (26). In short, Canada's dualism was one of two collectivities, not only speaking different languages but living according to different cultures within distinct societies.

Defined in such sweeping terms, cultural difference is bound to have implications for political institutions, including the structures of federalism, especially

when the objective is to create an equal partnership between cultures. Apparently, the B&B Commission had intended to draw the broad outlines of a constitutional order that would be compatible with its vision of a bicultural Canada. For a variety of reasons, this never happened.

As we have seen, it is in part because of these implications that the Trudeau government abandoned the concept of biculturalism and was careful to drain the concept of bilingualism of any collective overtones, just as it avoided any talk of equal partnership among collectivities, as opposed to individual Canadians.

Nonetheless, even now these notions could provide some direction out of the present dialogue des sourds. The primary difficulty with the B&B Commission's formulation of Canada is that it excluded Aboriginal peoples. (Certainly, the phrase "equal partnership between the two founding races" sounds strange to contemporary ears -even if one accepts that in 1960s English Canada "race" did not necessarily imply skin colour). Here, some important work has been done within the formulation of "three nations". During the most recent of constitutional discussions this concept not only was advanced in a manifesto by a group of English-Canadian intellectuals it became the official policy of the National Action Committee on the Status of Women (27).

## **ASYMMETRY**

As for the institutional form for this new conception of Canada, here too it would be useful to look at developments in the 1960s. Before Trudeau's vision of a Canadian identity had achieved hegemony in federal circles, there was considerable experimentation with the concept of asymmetry in the distribution of functions between federal and provincial governments. Meeting Quebec's demands need not entail a general weakening of the federal government, as with decentralization of powers to all the provinces. Under schemes of asymmetry, any decentralization of powers could go to Quebec alone; Ottawa would continue to perform these functions in the rest of the country. In effect, English Canada could continue to have as strong a federal government as it wished (28).

In the early 1960s the Pearson government allowed Quebec to exercise a de facto particular status by opting out of a large number of joint federal-provincial cost-shared programmes and even exclusively federal programmes. In doing so, it was simply building on past precedents. In 1954, Maurice Duplessis had reestablished Quebec's own personal income tax, using tax room to be vacated by Ottawa (29). In 1959, the Diefenbaker government had agreed to vacate corporate income tax room in Quebec so as to allow Quebec city to recover funds which, in the rest of Canada, were paid directly to universities (30).

To be sure, asymmetry would raise some institutional problems. In particular, critics have wondered about the propriety of Quebec M.P.'s voting on measures which, under asymmetry, do not apply to Quebec and of Quebec M.P.'s assuming Cabinet portfolios which involve programs which do not function in Quebec. But the problem should not be exaggerated. After all, Quebec M.P.'s have voted on laws dealing with the Canada Pension Plan, even though Quebec has its own Quebec Pension Plan, and two Quebec M.P.'s even have assumed responsibility for these programs as Ministers of Health and Welfare: Monique Bégin and Marc Lalonde. Even then, there may be ways to alleviate these complications. For instance, Quebec M.P.'s may simply not vote on these measures -they would not be votes of confidence. If, as would most likely be the case, such a formal limitation of the right to opt out to Quebec alone would be politically untenable in English Canada, it might be extended to all provinces but with procedural requirements that would preclude it from being used frivolously; a 2/3's majority in a provincial legislature or approval in a popular referendum.

Nor is Outer Canada's desire for more power at the center incompatible with Quebec's desire for greater provincial autonomy. In fact, under certain assumptions they are highly compatible. Presuming that under asymmetry Quebec M.P.'s would not vote on measures that do not apply to Quebec, Outer Canada would in these instances dominate the House of Commons. Without Quebec M.P.'s voting, Outer Canada M.P.'s would have a majority of the seats. To this extent, a "Triple E" Senate might not even be necessary to accommodate Western Canadian concerns (31). If it were to prove necessary, a "Triple E" Senate might still be made acceptable to Quebec by coupling it with a major expansion in Quebec's power (32).

Beyond the Trudeau vision's approach to federal-provincial relations, stressing the absolute equality of the provinces, the concept of asymmetry could profitably be applied to each of the other elements of the new Canadian identity. Uniform application of the Charter of Rights and Freedoms might be tempered in the case of Quebec by a recognition of Quebec's particular cultural imperatives: this would have been the primary effect of the Meech Lake Accords's "distinct society" clause. Language rights and Canadian bilingualism could be conceived so as to recognize that the Quebec government must act to support the province's majority language in a way that no other province needs to support its majority language; and that there is a fundamental asymmetry between the situation of the Quebec Anglophone minority and the Francophone minorities of the other provinces. Finally, it may even be time to recognize the artificiality of a conception of Canadian multiculturalism that in effect places on precisely the same plane all claims for cultural specificity and distinctiveness.

To be sure, over twenty-five years have passed since the Trudeau

government began the effort to implant the new Canadian identity. Federal government policies to disseminate and implement the new values seem to be well entrenched. Through formal revision they are now embedded in the Canadian constitution.

Nonetheless, the recent debate over Aboriginal rights is highly suggestive. After all, in the case of Aboriginal peoples the Charlottetown Accord was forthright in its recognition that they constitute distinct collectivities in Canada. The proposed Canada Clause was to contain a provision declaring that:

the Aboriginal peoples of Canada, being the first peoples to govern this land, have the right to promote their languages, cultures and traditions and to ensure the integrity of their societies, and their governments constitute one of three orders of government in Canada (33).

By the same token, recognizing that "The Aboriginal peoples of Canada have the inherent right of self-government within Canada", the Accord would have launched a process through which the federal, provincial and territorial governments would each enter into "good faith" negotiation with Aboriginal peoples of agreements through which this right would be implemented (34). Clearly, there would have been enormous variation, or asymmetry, among these many agreements.

The proposals appeared to have enjoyed quite broad support in English Canada. The basic concepts did not seem to generate the controversy they do when applied to Quebec. The proposals received less sympathy in Francophone Quebec, but this was in part because of English-Canadian refusal to apply the same concepts to Quebec.

In the last analysis, Canada can persist as a federal system but only if federalism is taken seriously and its potentials are fully exploited. Rather than seeking to find symmetry and impose uniformity we should be actively pursuing asymmetry and using federalism to accommodate differences in needs and aspirations. Despite his much-professed attachment to federalism, Trudeau rejected much of what federalism has to offer and through such measures as the Charter of Rights and Freedoms implanted a discourse that is fundamentally anti-federalist. The obstacles to restoring a truly federal vision of Canada, based on the recognition that Canada is indeed a multinational state, would seem to be staggering. Yet, the alternatives are distinctly unattractive.

## NOTES

This text draws upon some of my previously published texts including: *English Canada and Quebec: Avoiding the Issue*, Sixth Robarts Lecture. Robarts Centre for Canadian Studies, York University, 1991, "Constructing Canadian Identities", *Constitutional Forum constitutionnel*, vol.4, n<sup>o</sup>4, Summer/1993, p. 93-96, and "Disagreeing on Fundamentals: English Canada and Quebec", McROBERTS, Kenneth and MONAHAN, Patrick J.: *The Charlottetown Accord, the Referendum and the Future of Canada*. Toronto, University of Toronto Press, 1993, p. 249-263.

- (1) ROYAL COMMISSION ON BILINGUALISM AND BICULTURALISM: *Preliminary Report*. Ottawa, Queen's Printer, 1965, p. 151.
- (2) At the subsequent leadership convention, John Diefenbaker led a vigorous charge against the proposition but none of the other leadership candidates supported him, and the motion was "tabled". See the account in *The Canadian Annual Review*, 1967, p. 32-38.
- (3) MORTON, Desmond: *The New Democrats, 1961-1986: The Politics of Change*. Copp Clark Pitman, 1986, p. 25.
- (4) This was contained in a 1963 statement to a meeting of the Canadian French-Language Weekly Newspapers Association at Murray Bay, Quebec. It is similar to a 1964 statement made to English Canada, on CBC television, that Quebec is "in some respects not a province like the others but the homeland of a people". Both are quoted in NEWMAN, Peter C.: *The Distemper of Our Times*. Toronto, McClelland & Stewart, 1968, p. 320.
- (5) MORTON, D.: *The New Democrats...*, p. 77.
- (6) See *Canadian Annual Review*, 1968, p. 37-38. On the other hand, Simeon and Robinson claim that he personally disliked the idea, SIMEON, Richard & ROBINSON, Ian: *State, Society and the Development of Canadian Federalism*, vol. 71, Collected Research Studies, Royal Commission on the Economic Union and Development Prospects for Canada. Toronto, University of Toronto Press, 1990, p. 190. Indeed during the election campaign Stanfield not only refused to endorse either two nations or special status, but bitterly complained about a Liberal advertisement that associated him with the two concepts, "Stanfield Continues Feud with PM on PC constitutional position", *Globe & Mail*, June 21/1968.
- (7) John Diefenbaker's final act as Conservative Party leader was to lead the charge against the "two nation" thesis. The NDP's evocation of "two nations" precipitated Eugene Forsey's departure and its indorsement of special status for Quebec caused Ramsay Cook and Kenneth McNaught to break with it, MORTON, D.: *The New Democrats...*, p. 77-78. See also LAMOUREUX, André: *Le NPD et le Quebec, 1958-1985*. Montreal, Editions du Parc, 1985, p. 97. Forsey's opposition is elaborated in FORSEY, Eugene: "Canada: two nations or one?", *Canadian Journal of Economics and Political Science*, XXVII, 4, November/1962.
- (8) Calculated from Statistics Canada: *Adjusted Language Data*, April/1988.
- (9) Speech to Quebec Liberal Convention, January 28, 1968, reported in *Ottawa Citizen*, January 29/194 as quoted in RADAWANSKI, George: *Trudeau. Scarborough*, Macmillan-NAL Publishing Ltd., 1978, p. 286.
- (10) Trudeau acknowledged this when in the fall of 1980, having released his project for constitutional revision, he addressed the Quebec City Chambre de Commerce. He explained that the entrenchment of language rights alone would have provoked English-Canadian cries of "French Power"; other rights had to be added to the project. "Des provinces ont prié Ottawa de leur imposer le respect du français", *Le Devoir*, October 23/1980, p. 1.
- (11) Comité pour une politique fonctionnelle, "Bizarre algèbre", *Cité libre*, XX, 82, December/ 1965 (Albert Breton, Claude Bruneau, Yvon Gauthier, Marc Lalonde, Maurice Pinard), p. 14. Pierre Trudeau reportedly was closely involved in the preparation of the document but did not sign it since

he had already entered federal politics. In presenting his government's policy of multiculturalism in 1971, Prime Minister Trudeau was explicit in his rejection of biculturalism. He declared that:

The very title of the Royal Commission whose recommendations we are now in the process of implementing seems to suggest that bilingualism and biculturalism are inseparable. But the term biculturalism does not accurately depict our society; the word multiculturalism is more precise in this respect.

This constitutes a translation of extracts from the French text, as reproduced in *Le Devoir*, October 13/1971.

(12) NEWMAN, Peter: *Toronto Star*, April 2/1966, as quoted in SIMEON, Richard: *Federal Provincial Diplomacy: the making of recent policy in Canada*. Toronto, University of Toronto Press, 1972, p. 68.

(13) PEACOCK, Don: *Journey to Power: The Story of a Canadian Election*. Toronto, 1968, as quoted in SIMEON, R.: *Federal-Provincial....*, p. 90.

(14) As Anthony Careless has noted:

[The] growing desire at Ottawa to secure a greater visibility of federal policies [can be seen as stemming] in the first instance, from the increasing strength of and effectiveness of Quebec's separatist claims and, in later years, from the growing belligerency of rich provinces.

CARELESS, Anthony: *Initiative and Response*. Montreal, McGill-Queen's University Press, 1977, p. 177, our emphasis.

(15) See "Voice of the People", *Maclean's*, June 15/1987, p. 12, and BLAIS, André and CRÊTE, Jean: "Pourquoi l'opinion publique au Canada anglais a-t-elle rejeté l'Accord du lac Meech", in HUDON, Raymond and PELLETIER, Réjean (eds.): *L'engagement intellectuel: mélanges en l'honneur de Léon Dion*. Quebec, Les Presses de l'Université Laval, 1991, p. 398.

(16) "Portrait des Québécois", *L'Actualité*, January/1991, p. 13-16.

(17) Another "characteristic" of Canada is "the equality of the provinces", *Ibid.*, section 1.

(18) "There should be a constitutional provision for an ongoing federal role in the establishment of national policy objectives for the national aspects of labour market development. National labour market objectives would be established through a process which could be set out in the Constitution including the obligation for presentation to Parliament for debate", *Status Report: The Multilateral Meetings on the Constitution*. Final version, July 16/1992, section 28.

(19) *Ibid.*, section 29

(20) *Ibid.*, section 10.

(21) Under the Charlottetown Accord's version of Senate reform, representation would indeed have been "equal", with the same numbers (six) of representatives from each province, plus an indeterminate number of aboriginal representatives. But it would not necessarily have been "elected": to placate Quebec Premier Bourassa, provincial legislatures had the option of appointing the representatives. And on the basis of the powers to be wielded by the Senate, there was uncertainty about the extent to which it would be "effective". While a majority of the Senate could still veto bills taxation of natural resources, the Senate could no longer veto (by 70%) most other measures. Bills which were rejected in the Senate would simply be submitted to joint sittings, where Senators would be outnumbered by M.P.'s 5 to 1. To add further insult to injury, within the House Central Canadian representation would be increased by 36 seats, bringing it from 59% to 62.3% (*Draft Legal Text, October 9/1992* [best efforts text based on the Charlottetown Accord], p. 3-13).

(22) *Ibid.*, p. 11, 13,25 and 31.

(23) McROBERTS, Kenneth and MONAHAN, Patrick J.: *The Charlottetown Accord, the Referendum and the future of Canada*. Toronto, University of Toronto Press, 1993, appendix 3.

- (24) ROYAL COMMISSION ON BILINGUALISM AND BICULTURALISM: *Preliminary Report*. Ottawa, Queen's Printer, 1965, 151, our emphasis.
- (25) ROYAL COMMISSION ON BILINGUALISM AND BICULTURALISM: *Book I: General Introduction*. Ottawa, Queen's Printer, 1967, xxxi.
- (26) *Ibid.*, xxviii.
- (27) "Three Nations in a Delicate State", *Toronto Star*, February 4/1992, A17.
- (28) The concept of asymmetry was in fact endorsed at the first of the five public conferences which the federal government organized during the winter of 1992. In the words of conference rapporteur Rosalie Abella:  
The government has offered a general devolution of powers to the provinces. You appear to have been reluctant to accept this and prefer that Canada have a strong central government. Most of you have urged that the federal government address Quebec's needs directly and that such transfers of powers as may be necessary should not for the most part be extended across this country".  
DELACOURT, Susan: "Forum Urges Separate Deal for Quebec", *Globe and Mail*, January 20/1992, p. 1. For their part, government officials soon dismissed the idea from serious considerations.
- (29) In the process, Duplessis forced the federal government to yield 10% of its tax-twice the amount of room it had originally intended to vacate. This episode is described, among other places, in McROBERTS, Kenneth: *Quebec: Social Change and Political Crisis*, Third Edition. Toronto, McClelland & Stewart, 1988, p. 124.
- (30) *Ibid.*, p. 141.
- (31) See, for instance, LAXER, Gordon: "Distinct Status for Quebec: A Benefit to English Canada", *Constitutional Forum constitutionnel*, vol. 3, n° 3, Winter/1992, p. 60.
- (32) In fact, among the documents prepared by top Quebec civil servants that recently published last October in *L'Actualité* there is the intimation that Senate reform might have been acceptable to Quebec if it had been accompanied by additional powers for the Quebec government:  
En raison de son caractère distinct, le Québec peut difficilement accepter une réforme du Sénat ou sa représentation serait sensiblement amoindrie. Seule l'obtention d'un statut particulier -réformant au gré du Québec le partage des pouvoirs- pourrait hypothétiquement justifier une diminution sensible de sa représentation au sénat. LISEE, Jean François: "Dossiers secrets de Bourassa", *L'Actualité*, 1 Novembre/1992, p. 64.
- (33) *Draft Legal Text*, Octobre 9, 1992, section 2 (l) (b).
- (34) *Ibid.*, section 35.