

THE CALGARY DECLARATION: "NATIONAL UNITY" FOR A CHANGE?

BY KENNETH MCROBERTS

By signing the Calgary Declaration, the nine premiers raised a tantalizing prospect: just maybe public discussion of "national unity" will return to finding ways to bring the country together. For months now, the "national unity" debate has focussed not on unity but the conditions under which Canada might come apart. By definition, "Plan B" campaigns about such issues as whether secession would entail partition, or whether a unilateral declaration of independence would be legal, cannot produce "national unity"; indeed, they can produce the opposite. Rather, they commend themselves as a strategy for securing a "No" vote in a future referendum. Even then, their effectiveness is far from assured.

What is needed is a political order that can accommodate the distinct identity and concerns of Quebecers.

There is no mystery about what is needed to reconcile Quebecers with the rest of Canada, giving them a positive reason to reject sovereignty. After all, survey after survey shows that most Quebecers want to remain part of Canada. Indeed, about half of those who voted "Yes" in the 1995 referendum defined themselves as Canadians, while seeing themselves as Quebecers first. What is needed

is a political order that can accommodate the distinct identity and concerns of Quebecers.

Clearly, such an accommodation involves securing for the Quebec government the powers that Quebecers feel it must have to meet its particular responsibilities. These powers must be guaranteed constitutionally. But accommodating Quebecers also means recognizing and accepting their sense of identity. To be meaningful, this too must be constitutionally entrenched.

With obvious reluctance, Jean Chrétien bowed to this necessity in the last panic-stricken week of the 1995 referendum and pledged his support to recognizing Quebec as a distinct society. Yet, in the wake of the referendum, Chrétien settled for a simple Commons resolution to this effect, leaving to his new Minister of Intergovernmental Affairs, Stéphane Dion, the awesome task of persuading English-Canadian public opinion to accept constitutional entrenchment. Of course, Jean Chrétien is the one Liberal francophone in Ottawa who has enjoyed real popularity in English Canada. For whatever reason, he refused to bring it to bear.

RISING TO THE CHALLENGE

In short, through their initiative the premiers are seeking to assert a leadership that their federal counterpart has failed to provide. Indeed, no less a body than the Business Council on National Issues has been beseeching them to do so. Still, if the premiers have

risen to the challenge of providing leadership on "national unity", to what extent have they in fact met the challenge?

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The document clearly betrays the premiers' trepidation in tackling the Quebec question. They follow the Charlottetown Accord's strategy of surrounding recognition of Quebec with a variety of other defining characteristics of Canada, such as equality of the provinces, equality of citizens, tolerance and compassion, multiculturalism, linguistic duality, and the place of Aboriginal peoples. In fact, unlike Charlottetown, the document places the Quebec issue towards the end (fifth among seven sections), and then manages to avoid the fateful "distinct society" phrase by evoking the "unique character" of Quebec society. As for any new powers that Quebec might somehow secure through constitutional change, they would be automatically available to all the provincial governments. One might have thought that they, like Quebec, should demonstrate a need for such powers, whether through a two-thirds legislative resolution or a referendum. But such is the pressure to adhere to the formal equality of the provinces.

Perhaps this approach will

succeed and the declaration will be acceptable to English-Canadian public opinion. To be sure, it may be necessary to broaden the document further. After all, Charlottetown referred to "the equality of female and male persons"; there is no such phrase here. Pressure will have to be brought on some premiers, such as Glen Clark, to push the matter forward. Nor is it clear that the Premiers can really compensate for the absence of leadership from the Prime Minister. The mere fact that popular consultation will be organized on a provincial basis could mean that regional grievances may gain the upper hand over the "national unity" concern with Quebec. Still, Reform leader Preston Manning's apparent support of the initiative may spare it from some attacks.

Yet, even if the premiers should secure passage of the Declaration in their respective legislatures, will the document have the hoped-for effect in Quebec? In particular, can it help to ensure a victory for Daniel Johnson's Liberals in the next provincial election? It is too early to tell.

CAN IT ATTRACT QUEBECKERS?

Initial survey results suggest that the initiative is welcomed by Quebecers. But then why wouldn't it be welcome after months of "Plan B"? Whether the document will bear up under the scrutiny of Quebec opinion leaders, federalist as well as sovereignist, is another matter.

To be sure, as critics have been quick to point out, the Declaration offers no more than a set of principles. It does not show how these principles might be placed in the constitution nor does it outline any changes in the division of powers that might stem from them. Its authors acknowledge all that. But how will the Dec-

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shows a greater respect for the legitimate aspirations of sovereigntists within Quebec to respond to their arguments on the basis of law and logic, rather than to insult them with

bland political rhetoric and expressions of love, which can only ring hollow. Whether or not we win the battle for Canadian unity, it is worth fighting on the higher ground. Quebec

and the ROC must be able to respect each other the next morning—regardless of whether they decide to live together or go their separate ways.



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laration fare in Quebec as simply a "framework for discussion"?

After the 1995 referendum, no less a figure than Claude Ryan had proposed that Quebec be recognized as a "people". More recently, he has mentioned "nation" as an alternative. Just as Ryan's credentials as a federalist are indisputable, so there is nothing inherently "separatist" about either term.

In the end, the document may be tripped up by the very strategy that was designed to secure its approval in English Canada. And Reform's tacit blessings may become a curse.

After all, the term "distinct society" has become a benchmark in Quebec. The Meech Lake Accord made the term famous. English Canada's rejection of the Accord ensured that Quebecers would look for it, or an equivalent, in any new proposal. It's one thing to surround the term with other principles, such as the seemingly contradictory notion of equality of the provinces. It's yet another to remove "distinct society" altogether.

Of course, there are other terms than "distinct society" that would resonate well in Quebec. After the 1995 referendum, no less a figure than

Claude Ryan had proposed that Quebec be recognized as a "people". More recently, he has mentioned "nation" as an alternative. Just as Ryan's credentials as a federalist are indisputable, so there is nothing inherently "separatist" about either term. Indeed, as the recent referenda campaigns demonstrated, British leaders quite freely refer to Scotland and Wales as "nations".

WHAT WE HAVE LOST

For that matter, there was a time when even English-Canadian leaders applied such terms to Quebec. Back in the 1960s, Prime Minister Pearson called Quebec "a nation within a nation" and "the homeland of a people". Both the Progressive Conservatives and the New Democratic Party adopted the language of "two nations".

Of course, Pierre Trudeau's tenure as Prime Minister put an end to such talk. And the premiers' invocation of Quebec's "unique character" is itself testimony to the hold which the Trudeau vision of Canada has secured outside Quebec. The term it replaced, "distinct society", apparently had been itself adopted to avoid such words as "nation" or "people". But even it violated the Trudeau vision, and during the debate over Meech Trudeau personally made sure that all Canadians were aware of this. Now, apparently, it too has disappeared from the lexicon of Canadian politics.

Time will tell whether the Calgary Declaration provides a framework that is not only acceptable to English Canadi-

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COLONY, NATION, EMPIRE

BY GUY LAFOREST

In earlier times, just prior to the referendum of May 1980 on sovereignty-association, when our political lives were much simpler, the late Donald Smiley wrote that Canada almost had a unified judicial system. I shall use Smiley's comments, and his overall evaluation of the nature of the Canadian federation, as a springboard in my analysis of the political context linked to the Reference soon to be heard by the Supreme Court of Canada.

In his book, *Canada in Question: Federalism in the Eighties* [3d ed. (Toronto: McGraw-Hill Ryerson, 1980) at 22-24], Smiley argued that the Canadian political system was quasi-federal. This judgment was based on the recognition of the imperial context which presided over the birth of the Canadian federation. Westminster named the judges whose task it was to oversee the Dominion, while Ottawa named the judges whose duty

it was to oversee the provinces. This included the judges

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of superior and appellate courts of all provinces and, from 1875 onwards, the members of the Supreme Court of Canada. In 1949, British judges disappeared from our affairs. Since 1982, Canada is no longer a colony. But the prov-

inces remain subordinate to Ottawa in judicial matters.


Smiley used the expression "colonial subordination" to describe the relationship of the provinces *vis-à-vis* Ottawa produced by such powers as reservation and disallowance. The passing of provincial legislation can be deferred and, ultimately, blocked. The lieutenant-governor, whose nomination is recommended by the Prime Minister, is essentially in my understanding an imperial envoy in the provincial capitals. Smiley mentioned other matters: spending powers, emergency powers, the de-

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ans but can win the active support of Quebecers. In the meantime, as politicians feel compelled to discard yet another term for describing Quebec and its place in

Canada, one cannot help but be struck by how we have lost the very vocabulary for conducting a meaningful debate over the future of Canada. It's for this reason

that Plan B strategies come so much more easily, and the debate over "national unity" becomes a debate about Canada's break-up. 

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THE QUEBEC SECESSION REFERENCE: PITFALLS AHEAD FOR THE FEDERAL GOVERNMENT *from page 97*

endum, decides to postpone it indefinitely.

However, some of the interveners in the reference, most notably Mr. Guy Bertrand, urgently press the Supreme Court for a declaration that the federal government is constitutionally obli-

gated to oppose a new referendum. Also, once the Supreme Court has given its answer, the action filed by Mr. Bertrand in the Superior Court of Quebec for a permanent injunction against another referendum will be revived. Yet, if a new referendum were prohib-

ited, the only other conduct open to the Bouchard government would be to hold an election on sovereignty (which would be much easier to win than a referendum). And it would surely be quite arduous for the federal government or for Mr. Bertrand to

ask for a court order prohibiting democratic elections in Quebec. 

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tion has become paramount in light of the revelations by former Premier Parizeau that he would have unilaterally declared sovereignty as little as ten days after the narrowest of victories in the last referendum. Parizeau would not only have betrayed the compact among his sovereigntist partners to enter into a period of negotiations for a new partnership with the rest of

Canada; he would also have betrayed the democratic rights of Quebecers to determine the most fundamental nature and true future course of their own society. The instrument of the betrayal would have been the non-transparent referendum question.

CONCLUSION

The concept of legitimacy imposes conditions to both the

exercise of democratic rights and the assertion of the rule of law under the Canadian Constitution. Because of the imperatives of legitimacy, the rule of law under the Canadian Constitution and the exercise of democratic rights of Quebecers are not in opposition to each other. They are natural allies. 

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course, all of this is old stuff.

13. There is one thing new in the Landry rebuttal, the "rappel" that, in 1982, Pierre Trudeau repeated a number of times that if the U.K. Parliament ever refused to give Canada the constitutional amendment it required in order to patriate the *BNA Act*, then Canada would proceed on its own and declare its unilateral independence. What a strange idea. I always knew

you could count on Pierre.

14. Bernard Landry is an economist by profession and training. It must mean something that he has found the time to engage in a high-level intellectual debate with Stéphane Dion. Yes, but what exactly? It can't be a "rational choice" decision. 

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