

virtually indistinguishable and equally unbelievable policies. Thus, Manning is left to run on the much more treacherous terrain of social conservatism, terrain that leaves him and his party open to damaging ideological attacks from partisan opponents, the media, and interest groups.

### BUT WHAT ABOUT THE SENATE?

How, then, does the recent flap over the Senate's decision to increase tax-free allowances by \$6,000 figure into all of this? It does two things: it puts Senate reform back onto the national agenda, and it complicates the terms of the debate in western Canada.

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*"The Alberta election results suggest that there is no tide of populist discontent waiting to sweep Reform candidates into the House. Moreover, Campbell can certainly make the argument that she, and not Manning, provides the best chance for a stronger regional voice in Ottawa."*

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Senate reform has been kept on the constitutional table by western Canadians arguing for more effective regional representation. However, public support for Senate reform has been driven more by *democratic* discontent with an appointed body that has been starting to exercise some real influence on Canadian public affairs. This democratic discontent is more likely to support abolition than to support the reformed Senate favoured by western Canadian political elites.

It may be the case that democratic discontent with the Senate will reach such a level that abolition emerges as a realistic option. If it does, western Canadian political leaders will

find themselves in an awkward position. Could they carry the argument for reform in the face of growing public support for abolition? Would they appear to be resisting a democratic surge? At the very least, a renewed national debate on the Senate will be very different in character from what we have witnessed in constitutional circles over the past few years.

One final note. The potential for a renewed national debate on the future of the Senate depends on the outcome of the next federal election. If the Conservatives win, then a Conservative majority in the House will coexist quite happily with a huge and docile Conservative majority in the Senate, and such a situation will stifle any democratic impulse for reform or abolition. However, a Liberal majority or minority in the elected House facing a hostile Conservative majority in the appointed Senate would be a much more contentious and problematic situation.

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## QUEBEC REPORT

### 1982 AND BORODINO

*by Guy Laforest*

Intellectuals and scholars live and die with a few fundamental intuitions and no more than a few. As I am about to depart for a sabbatical year in Paris (poor me ...), I will share with the readers of *Canada Watch* one of my own fundamental intuitions.

In the latter part of Tolstoy's *War and Peace*, after a passage where the author describes the agony of Prince André remembering the arms of Natasha Rostov as he fixes the sky from the ground of the battlefield at Borodino, Tolstoy discourses on the meaning of this particular battle for Napoléon and the French Army, as well as for the Russians. In a nutshell, Tolstoy believes that at Borodino, the French have won the battle but lost the war. They prevailed on the battlefield, but also realized that they would never break the resolve of their opponents. They caught a glimpse of the moral superiority of the Russians. After Borodino, the French Army still won a number of battles. And then, suddenly, irresistibly, it retreated. Nothing could halt the retreat, once it began.

If I am correct, 1982 was our Borodino. Through the workings of Trudeau's constitutional bonapartism, as Philip Resnick coined the term in those bygone days, Canadian nationalism carried the day in 1982. René Lévesque and Quebec were clear losers. It took me some years to develop my own understanding of the patriation events. My eyes should have been opened earlier, for in 1982, I was studying at McGill with James Tully, an eminent Locke scholar. I should

have made the link immediately between the meaning of 1982 for Quebec and the famous passages on breach of trust and dissolution of government in Locke's *Two Treatises on Civil Government*. For some reason, which had nothing to do with the proximity of fellows such as David Bercuson and Barry Cooper, the insight came to me when I was teaching Locke in a political theory class at the University of Calgary, one month or so before the Meech Lake accord was signed in 1987. It is there that I figured out conceptually and in the flesh what 1982 was all about.

The government of Quebec takes care of the only majority French-speaking society in the Americas. At the heart of the 1982 package was a lucid and voluntary attempt to reduce

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*"The vision of 1982 was that Canada had to make itself into a single nation, whatever the costs . . . . The ultimate cost could well prove to be the existence of the federation."*

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the legislative powers of the government of Quebec in key matters such as language and education, without the consent of Quebec if necessary. In a federal state, the government of Canada also takes care of the people of Quebec. But in the spirit of Locke, as Allen Buchanan reiterated it recently, it had no business reducing the powers of a member state. 1982 is about breach of trust and dissolution of government. Winning the battle, Canadian nationalism also prepared its own demise. Hence, the comparison with Borodino.

Economically, politically, and symbolically, Canada as a community is much more fragile and vulnerable now than it was 15 years ago. It is one of the Western, developed states that faces with the utmost difficulty the hardships of globalization. The vision of 1982

was that Canada had to make itself into a single nation, whatever the costs this enterprise would entail. The ultimate cost could well prove to be the existence of the federation.

If my perception of our situation is correct, this will not happen exactly as the leaders of the secessionist movement in Quebec are anticipating. The breakup of Canada, if it occurs, will not happen following the logical scenario established by the likes of Jacques Parizeau: strong showing by the Bloc Québécois in the upcoming federal election, PQ victory in the Quebec elections, affirmative vote in a referendum on sovereignty, negotiations with Canada, second referendum to ratify the whole matter. This optimistic scenario presumes that no outside pressure would be applied on Quebec public opinion and that Canada would not try to reclaim in a sense its moral superiority by coming to the rescue of the Cree in the North following their own unilateral declaration of independence from Quebec.

Since Robert Bourassa has lost the glorious opportunity that he had either to initiate the secession or radically restructure the federation, the more likely scenario, if my comparison still holds, follows the lines of a slow but steady degeneration of a political system unable to untangle itself from the stultifying vision of 1982. Before the end of this century, the constitutional world of 1867-1982 will be no more.

If I am wrong, I promise to buy a round for all my colleagues who will have preciously treasured this issue of *Canada Watch* and who bring it to the constitutional conference in Australia scheduled for the year 2001.

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## LEGAL REPORT

### PARTICIPATION AND DEMOCRATIC PROCESS

#### Do third-party spending limits protect or threaten democratic values?

by Jamie Cameron

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Following a debate that lasted a mere 15 minutes, the federal Parliament enacted Bill C-114 on April 3, 1993. Under the legislation, third parties, including organizations, individuals, and interest groups, are prohibited from spending in excess of \$1,000 to support or oppose any candidate or political party during a federal election. In anticipation of the upcoming federal election, the National Citizens' Coalition challenged that provision under section 2(b) of the *Charter of Rights and Freedoms*, which guarantees freedom of expression. On June 25, Mr. Justice MacLeod of the Alberta Queen's Bench invalidated Bill C-114's spending and blackout provisions.

Responding to the decision, Professors Bercuson and Cooper, who testified in support of the restriction, argue that by ensuring a "level playing field for the only organizations capable of forming a government, namely political parties," such legislation would have made Canadian elections "more democratic." Bill C-114 was designed to ensure that "Canada does not follow the path of the United States." There, the prevalence of PACs (political action committees) and virtually unlimited cam-