

probably going to be the most difficult problem we will face over the next decades.

As national sovereignty and the capacity of central governments to guarantee prosperity erode, it is scarcely surprising that there is a

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strong economic nationalist/protectionist backlash or that this movement unites groups on the Canadian left and the American right and much of the North American labour movement. Groups on Canada's left are as fiercely determined to preserve Canadian sovereignty as those on the American right, while the restructuring of North American industry has been borne heavily on the backs of industrial workers.

The grinding recession, the battering that American and, even more, Canadian firms have taken, and the escalating number of lost jobs keep eyes focused on shares of a shrinking pie. The pain is more intense because the impact of globalization comes on top of an ongoing revolution in the nature of production. Driven by slow growth, heightened global competition, and the availability of new technology, the structure of production and employment is changing in the 1990s in a way comparable only to the revolution of mass production in the 1880s and '90s.

One cannot deny, finally, that there is danger that political systems could lurch in unexpected directions. History is not short of ironies. Economists from Smith to Marx believed the thrust of capitalism was fundamentally international and would destroy the surviving remnants of medieval state systems. But the emergence of the new industrial era at the end of the 19th century coincided not with internationalism driven by international markets or by international


classes, but rather with intense and vicious nationalism.

The danger is that the growing regionalization of the North American economy could lead to fragmentation, regional trade barriers, and exclusiveness, or to efforts to revive old national sovereignties, but the opportunities are enormous: enhanced efficiency, more rapid growth, and greater regional variety and autonomy.

1 See R. Kent Weaver, "Political Institutions and Canada's Constitutional Crisis," in R. Kent Weaver, ed., *The Collapse of Canada?* (Washington, D.C.: The Brookings Institution, 1992) and Peter Brimelow, *The Patriot Game: National Dreams and Political Realities* (Toronto: Key Porter Books, 1986), chapter 2.

2 *The Financial Times*, June 12, 1992.

3 Alice Rivlin, *Reviving the American Dream: The Economy, the States and the Federal Government* (Washington, D.C.: The Brookings Institution, 1992), 180.

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UNRAVELLING CHARLOTTETOWN'S WEB

by Bruce Ryder

What does the defeat of the Charlottetown Accord mean for the future of constitutional and political reform? The referendum result cannot be interpreted as a ratification of the status quo. Our ongoing constitutional crisis is a result of our failure to renew Canadian federalism to give positive constitutional expression to regional and cultural differences. The constitutional status quo is unacceptable because it denies the outer regions an effective voice at the centre, it has been fundamentally altered without Quebec's consent, and it has formed the basis for

the colonization of aboriginal peoples and their lands.

After October 26, the outer provinces still want in, Quebec still seeks greater powers and autonomy within or without the Canadian federation, and the aboriginal peoples still aspire to a post-colonial regime premised on respect for treaty rights and their inherent right to self-government. These profound and persistent forces for change will not dissipate; rather, they will be channelled into political struggles within the existing constitution in the short term, and into new constitutional

reform efforts in the not-too-distant future.

THE POSSIBILITIES OF ORDINARY POLITICS

Many of the goals sought to be achieved by the Charlottetown Accord can be pursued within the existing constitutional structure. The defeat of the Accord may well have the salutary effect of focusing more energy on the possibilities of "ordinary" politics. The amount of energy devoted by our political leaders to constitutional reform has diverted attention from their failure to

exploit avenues of progressive reform that are in no way precluded by the existing constitution.

For example, there is nothing in the existing constitution that prevents the federal and provincial governments from respecting the inherent aboriginal right to self-government, as the Ontario government committed itself to doing in signing the 1991 "statement of political relationship" with aboriginal nations. Moreover, the federal government could take great steps toward justice for native peoples by speeding up the comprehensive land claims process and by establishing a fair process for rectifying treaty violations and clarifying and implementing treaty rights.

Similarly, the federal government and the provinces can continue to enter agreements relating to such matters as immigration and the withdrawal of federal spending in areas of exclusive provincial jurisdiction. Under the status quo, the provinces cannot compel the federal government to negotiate intergovernmental agreements, and there is no mechanism for entrenching agreements in the constitution. Nevertheless, if the political will exists, there is ample room for intergovernmental agreements to advance Quebec's aspirations for greater autonomy and reduce overlap and duplication of services as contemplated by the "Roles and Responsibilities" section of the Charlottetown Accord.

Some might object that the referendum vote has rendered illegitimate the pursuit of any of the objectives of the Charlottetown Accord by *political* as well as by *constitutional* means. This objection is misplaced. Canadians rejected a constitutional reform package. The nature of the referendum question makes it impossible to assess whether particular elements of the Accord were supported or rejected, and to what

degree. Solutions to specific grievances must now be found within the existing constitutional framework, and as long as political solutions are arrived at through an open and accountable process, the referendum result should not be an impediment.

THE FUTURE OF CONSTITUTIONAL REFORM

In the coming years, we will have to revisit the imperatives of constitutional reform. A number of lessons can be drawn from the combined failure of the Meech Lake and the Charlottetown accords.

First, we must uncouple the demands of Quebec nationalism from the equality of the provinces principle. By linking the two, we end up twisting ourselves into impractical

"... we must uncouple the demands of Quebec nationalism from the equality of the provinces principle. By linking the two, we end up twisting ourselves into impractical and irrational constitutional pretzels."

and irrational constitutional pretzels. For example, to accommodate a Quebec veto over future constitutional change, we end up with an extraordinarily rigid amending formula that nobody favours. Regarding the division of powers, translating Quebec's aspirations into a devolution of powers to all provinces leads to an impasse. Inevitably, the rest of Canada's ceiling remains lower than Quebec's floor. Canadians outside Quebec want to preserve or strengthen the powers of the central government; Quebeckers want to strengthen the powers of the National Assembly. Obviously, we can only have both within either an asymmetrical federation or two independent states.

Quebec's needs and aspirations have been the driving force behind much of our constitutional text and practice. Yet Quebec's difference rarely rises out of the subtextual shadows, frequently buried beneath the notion that all provinces must have the same powers and status. The rest of Canada's insistence on denying and repressing the political consequences of Quebec's difference is deeply neurotic. We can only return to a state of constitutional health by clearly accepting that Quebec is not a province like the others. Only then can we proceed to develop rational approaches to the amending formula, the division of powers, and Senate reform.

Second, a process of constitutional reform dominated by the representatives of governments is unacceptable to many Canadians. Although the most recent process was a huge improvement on Meech Lake, we are clearly only part of the way along the tortuous path to a more representative constitutional reform process. Our best chance of developing a constitution acceptable to all Canadians lies in the First Ministers' Conference giving way to a constituent assembly as the forum responsible for developing constitutional reform proposals.

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