

CANADA AS A SOCIAL EXPERIMENT

Paul Bernard

This poll [Maclean's/CBC 1995 year end] has forced me to conclude that there is no way we will be able to maintain those attributes of Canada that we hold most dear short of accepting that some form of sovereignty-association is inevitable. ... Only something as radical in design or as fundamental in scope, I believe, will prevent us from sleepwalking into a future even less acceptable than the rather pathetic one Canadians are anticipating today.

Allan Gregg

Canadian society prides itself on being distinct from the United States, even though some of our claims in this respect have to be cut down to size when our differences are examined on a broader comparative scale (see, for instance, Clement and Myles, 1994). Still, Canada has been a social experiment of sorts in North America, with its relatively extensive State intervention and social security net, as well as with its own constitutional arrangements, that is, with its own style of trying to accommodate the constituent parts of the federation. This social experiment came within 30,000 votes of being interrupted, or at least profoundly altered, on October 30, 1995, the day of Québec's referendum on sovereignty/partnership. I will briefly review here: 1) what has happened, 2) what has not (yet) happened in the wake of that crisis, and 3) what could happen in the future. In this last part, I will successively examine the dark side of things, a tough geo-political avenue that could very well lead to violence, and the brighter side of things, a renewed, admittedly somewhat utopian, social experiment that could further the development and well being of Canada and Québec.

WHAT HAS HAPPENED

There is hardly any question about the numbers and their democratic meaning. Ninety-four per cent of people voted, including the supposedly politically disinterested younger generation. Fraud was negligible, thanks to a large extent to Québec's tough electoral law (one of the first accomplishments of René Lévesque's government in 1976) and a highly respected Director General of elections. A few hotheads suggested that only francophones should be allowed to vote, but they were rapidly called to order by responsible political leaders. The very largely prevalent opinion was that a democratic verdict could only be reached if all citizens could express their opinion and vote freely; as a result, nobody even pretends to have felt threatened in the exercise of these rights. Finally, surveys accurately reflected opinion, and no manipulation has even been hinted at.

Forty-nine point four per cent of the nearly five million voters answered Yes. Where do these votes come from, and what do they mean for the future? The answer is that the trend is deep, and will probably lead to a clear win for the sovereignists in the next referendum, a few short years down the road.

It must first be pointed out that the ratio of support was quite formidable among francophones (more than 6 to 4); they were just about the only ones to vote Yes, but they moved very far away from their half-and-half split in the referendum of 1980.

Second, electoral demography plays itself out in the direction of an increased support for sovereignty: *ceteris paribus*, a clear majority in favor of this option is just 3 or 4 years away, according to political scientist Richard Nadeau, and demographers Norbert Robitaille and Christine Noël (*La Presse*, 25

November 1995). They have established that with respect to this question, cohort effects largely dominate age effects: as cohorts come of age, they are socialized into the ideas of the period, and they keep these ideas as they age; since older cohorts are opposed to sovereignty, and younger ones are more favorable, the passing of time means decreasing numbers of opponents and increasing numbers of supporters.

Finally, one may ask whether the result reflects to a significant extent the personal popularity of Lucien Bouchard, a man whose charisma is bound to erode as he becomes prime minister of Québec and has to make tough decisions. According to political scientist Pierre Serre (*Le Devoir*, 3 January 1996), survey data do not point in that direction: the increase in support for the Yes side started about 50 days before voting day, and the upward trend was very regular; Bouchard's nomination as chief negotiator, 23 days before the vote, produced only a limited and very temporary push upwards. In other words, one must instead turn to factors that consistently moved opinion in this direction, that is, to the unfolding of the campaign itself (including, of course, Bouchard's contribution to it).

Given the patriation episode in 1982, and the failure of Meech and Charlottetown, federalists could not promise anything credible in the way of reform; as a consequence, they focused exclusively on the risks involved in separation. This proved counter-productive: threats and scorn acted as political boomerangs, they increased the mobilization around sovereignty. Almost no space at all was left for those who would have liked to articulate a generous revision of federalism.

WHAT HAS NOT HAPPENED

One would expect as close a call as this referendum to generate tremendous agitation in the Anglo-Canadian body politic. There could have been serious demands for the resignation of Prime Minister Chrétien, a man who has played a major role in shaping Canada's present constitutional arrangements, and who prided himself on being able to control the situation in Québec. Alternatively, the Prime Minister himself could have tried to use this threatening situation, in a Churchillian show of leadership, to convince English-speaking Canadians that times were ripe for a significant compromise (as suggested, for

instance, by University of Regina sociologist John Conway in *Debts to Pay*, a book that is unfortunately much more popular in its French translation of 1995 than its original 1992 edition). But no such compromise has been put forward.

A vote in the House of Commons has recognized the sociological fact that Québec is a distinct society, and even this platitude has had no echo in provincial legislatures. Any implication of this resolution for the interpretation of the Constitution in the future was carefully avoided. It was a case of saying it without saying it.

Another vote produced an oxymoron, the legally sanctioned lending of the federal constitutional veto power. Up to this point, there seemed to have been in Canada, as in most countries, a two-tiered system of laws: fundamental laws were mainstays, that is, changing them required a relatively broad consensus; other laws were more readily adjusted to the conjuncture and to the will of the government, provided they were compatible with fundamental laws. Veto lending sits on the fence and defies clarity. Only two consequences are sure to come out of it: first, it will further contribute to keeping Canada's constitutional industry going; and second, this new set of provincial/regional veto powers will make the job of amending our Constitution even harder than before, something we definitely do not need at the present juncture. It is a case of doing it and overdoing it.

While these two votes hardly produced a ripple in Québec's public opinion, a third development has succeeded in raising suspicion and even opposition. Against the general backdrop of a drastically reduced contribution of the federal government to programs it has initiated and it wants to keep regulating, the recently proposed reform of (un)employment programs fails to meet the unanimous demands of employers, unions, NGOs, and politicians that full responsibility for manpower training be turned over to the Québec government. While discussions are just starting between the two governments, it seems that Ottawa wants to keep open the possibility of distributing funds directly (and with visibility) to local training agencies (school boards, municipalities, enterprises) and even to individuals, above the head of the Québec government and its *Société québécoise de développement de la main-d'oeuvre*. It is a case of decentralizing while recentralizing.

These developments echo (and indeed reinforce, it should be pointed out) the nasty mood of Anglo-

Canadian public opinion towards Québec. An Angus Reid/Southam News survey (*The Gazette*, 28 December 1995) last December found that the willingness to make concessions dropped very significantly from the levels attained two months earlier. Quite a few people even call for the partition of Québec's territory in case of a sovereignist victory.

WHAT COULD HAPPEN: THE DARK SIDE

With variants, this argument goes as follows: decentralization, that is, a massive devolution of powers to all provinces, means the end of Canadian identity; on the other hand, special powers for Québec are unacceptable to other provinces. As a consequence, the *status quo* has to be made more desirable to Québec than available alternatives. In order to achieve this goal, the federal government should announce its intention to hold a referendum on separation throughout Canada, with separate tallies for provinces, as well as for the different regions of Québec, especially Montréal, the North of Québec, and the National Capital Region; the latter regions would only join a possibly sovereignty-leaning Rest of Québec if local majorities so decided. The cut-to-size Québec would also have to provide a land bridge between the two parts of Canadian territory, and it could then be granted recognition and access to trade circuits.

This argument is fundamentally flawed on both formal and substantive grounds. It is *formally flawed* because it deals with the notion of provincial rights strictly on the basis of political expediency: they are alternatively sacred or negligible according to the phase of the discussion (and of the political process) one is involved in.

When, on the one hand, Québec is to be denied any special status or power with respect to political questions it deems necessary to its continued existence as a distinct society (and this goes well beyond preserving language), the rights of all provinces to be equal become sacred. This late-coming principle to our constitution seems to be taken for granted without the least bit of discussion, except for vague references to the American tradition (especially the equal representation of the states in the Senate there).

Indeed, recent discussions of provincial rights seem to confuse two very different things: the power

that the populations of the various provinces carry in making decisions for all Canadians (which is currently proportional to their size), and the power that the population of each province decides to exercise through its provincial, as opposed to the federal, government. If Québec had a special status that allowed it to opt out of certain federal programs (with fiscal compensation), this would not grant it unwarranted power over the lives of Canadians in other provinces, provided of course that its federal representatives abstain from participating in decisions about these programs (this is precisely what Gordon Laxer proposed in *Le Devoir*, 4 January 1992; and it is the gist of Robert Bourassa's superstructure idea).

But when, on the other hand, a new referendum is envisaged in Québec, provincial rights no longer mean anything: the territory can arbitrarily be cut into subregions where votes would be counted separately, and which would go their separate ways according to the tally. This "geography of convenience" reflects power relationships, not a deep sense of how best to accommodate diversity in a given territory. It reminds one of children's games: "What is mine is mine to keep, and what is yours is yours only if I say you can keep it."

To realize the extent to which this proposal is based on force, rather than reason, one only has to perform the following thought experiment: what about having the vote tallied separately in Francophone communities in the Northeast of Ontario and in the North of New Brunswick (not even counting smaller surviving groups in other provinces)? If they wanted to join an independent Québec, would they be allowed to split from their respective provinces? Or would the territory of Ontario, New Brunswick, and other provinces be considered inalienable? If the response to these questions is not symmetric to the proposed dismemberment of Québec, then the proposal can only stand on the grounds of either force or "political realism" (assuming the second does not reduce to the first).

On this ground of political realism, let me raise two questions. First, how realistic is it to carve Montréal away from the rest of Québec. As economically depressed as it has become over the years, Montréal remains the metropolis of Québec, the only one we have got really. The rest of Québec would be very different indeed from what it is now, a rural and small city territory, probably not viable economically, as one can see from the number of jobs in Québec which are either located in Montreal or dependent on

the existence of the metropolis. The "generous" offer to recognize an independent Québec deprived of Montréal should be taken for what it is: the continuation of the "chicken game" that has taken the place of productive constitutional discussions in Canada over the last three decades.

Second, one should raise the issue of how Montréal would be defined for the purposes of the next referendum: is it the island itself (where the No side would probably carry), or the whole metropolitan region (where it would probably not). Would a geography of convenience be used again? How could any partition scheme gain any legitimacy in international opinion? While the latter obviously reflects to a large extent sheer recognition of established power relationships, it also tends to invoke arguments that have to do with the political and cultural integrity of territories in history, a dimension that is totally ignored in the argument.

This brings to mind the second amputation of the Québec territory contemplated, that of the North. This is a much more difficult issue, because the history and cultural traditions of Aboriginal peoples enter the picture, and they do not provide an unequivocal answer. I would of course rule out a separate tally of only Aboriginal votes, because territory, not ancestry, is of the essence (imagine that the principle of ancestry be applied throughout Québec: this is not the way to a peaceful and progressive resolution of ethnic conflicts, here or anywhere). But we can probably assume that a majority of all inhabitants of the territory would not want to go along with Québec's independence. Good news for Canada? Not necessarily. The occasion may bring to the attention of these populations other avenues than simply remaining part of Canada: after all, if they acquire the right, backed by Canada, of dissociating their territory from that of independent Québec, why would they stop there, rather than claim the same right with respect to Canada? And one can easily imagine groups of Aboriginal people in other parts of Canada thinking (and acting) along similar lines.

They may indeed have a case, sustained to a large extent by international opinion, but it may turn into a case against both Québec and what will be left of Canada. Any political leader in Canada should be wary of that approach! Not that Aboriginal people should not be given some form of control over the territories where they live and an opportunity to develop in ways that they see fit. But redressing the injustices we committed towards them is going to

prove an extremely difficult task, since they will literally have to reinvent their own society with our cooperation, torn as they are between a tradition that is no longer sustainable and modernity, in which they have not found an hospitable place. The least we can do is not use them as a political football, nor make the situation intractable for both Québec and Canada.

The last point brings me very close to the *substantive grounds* with respect to which I also think such tough propositions are flawed. The basic question around which my argument revolves is very simple: what is it that we want to achieve with constitutional arrangements, whatever they end up being? Contrary to a number of naïve observers, who claim that we should leave the constitutional debate behind, and move to more pressing social, economic, and cultural problems, I do believe that a constitution is something important: it is not only a symbol behind which people can rally (though that may play a role in political mobilization); it is also, and above all, the organizational chart of our polity, and, to a significant extent, of our society, given the central role the State plays and will continue to play in our collective existence. Constitutions say where and how people (ultimately, at least) think various collective functions are better performed (in various levels of government, in parliaments, in the courts, in administrative tribunals, in multipartite bodies, or in civil society). Constitutions both reflect and influence how power is exercised and public decisions are made. They have profound implications in all of our lives — they simply cannot be made into abstractions.

Now, what would tough proposals demonstrate, and to where would they lead us? Suppose it was demonstrated, at the end of the process, that all provinces indeed have equal power, that Québec never can be distinct in any meaningful political sense, that it cannot become independent under reasonable conditions. So what? Where does that exercise in self-assertion leave Canada? Are we going to be a more united nation, pulling in the same direction? Will we stand better chances of pursuing our existence as a society distinct from our immensely powerful and influential Southern neighbour? Will we be in a better position to solve our fiscal crisis, to preserve and improve our social programs, to create jobs and to redefine employment, to sustain our culture, to contribute to world peace and development?

WHAT COULD HAPPEN: THE BRIGHT SIDE

Of course, I know that constitutions do not, by their own virtue, solve these problems, which must be addressed through specific policies. And yet, they are not indifferent to such prospects. At the very least, constitutions can get in the way; at their best, they can provide us with adequate forums to confront issues in inventive and productive ways. This is precisely what our current constitution does not do, in very many respects.

First, it has itself become an object of discord, rather than of consensus, especially since it was patriated against Québec's specific and nearly unanimous opposition. Second, its amendment formula was made extremely rigid (as the Meech saga demonstrated), partly for fear that Québec might have too easy a task in getting accommodation from the rest of the country. And as I mentioned earlier, the situation has worsened with the recent law distributing veto powers to provinces as if they were candies.

Third, the constitution does not in reality determine the distribution of responsibilities between levels of government: the federal government has been using its spending power to enter provincial jurisdictions, and, as I mentioned, it keeps threatening to use whatever is left of it to deal directly with local government and groups, over the heads of provincial governments — Québec's in particular. Fourth, the Supreme Court, as the constitutional tribunal of the country, does not have an appropriate level of independence with respect to the federal government; many constitutional experts in Québec argue that it has helped further the latter's claim that everything is ultimately related to everything, so that no barriers should stand in the way of "national" priorities.

But this is just complaining about the current state of affairs, when a solution to our problems must be found. Playing the chicken game provides no benefits to anybody, and it actually threatens to destroy any further free cooperation among us. Let us ask ourselves, instead, what it is that we want as a society (or, rather, as a set of interspersed societies) and how we are to achieve it? Turning to the future we might build seems more promising than fixing our sight exclusively on how we are going to share and rule over what we have already got (as well as our national debt). It is admittedly a utopian perspective, but it cannot possibly be worse than the exasperation

we are currently going through, or the sombre and probably violent future on the dark side.

What is key to this orientation towards the future is the question of how we want to reconcile the two most fundamental modern social values, freedom and equality. Every democratic nation has worked towards and still pursues some accommodation in this respect; and this accommodation involves cultural as well as political and economic dimensions. The relationship between these values of freedom and equality is genuinely dialectical, that is, the two constitute a totality in contradiction; as a consequence, any accommodation is but one historical and provisional way of dealing with the issue. Some of these accommodations are quite satisfactory, others less so, according to one's own particular point of view. But the most important facts are: 1) that the dynamics of democratic nations allow for debate and change concerning the issue; and 2) that the various actors are bound by the legal rules that have been elaborated as a result of this debate.

It is quite obvious that our societies are now at a cross-roads in this respect. The older model of running an economy and a state have come to a crisis in most, if not all, advanced capitalist societies. The precarious equilibrium between freedom and equality has been broken. Inequality spreads rapidly and threatens the ability to freely and meaningfully participate in cultural, political and economic life (Muller, 1995). States are increasingly impotent when faced with the internationalization of capital and economic activity. Freedom borders on anomie, as our environment and our social fabric are put under heavy stress by technological and economic progress. For instance the recent development of a Genuine Progress Indicator (GPI) by American economists Cobb, Halstead, and Rowe (1995) reveals that while a higher Gross Domestic Product (GDP) has meant a genuine increase in quality of life during the fifties and the sixties, the trend has reversed from the seventies onward: the GDP keeps going up, but the quality of our social and physical environment, as indexed by the GPI, has declined by almost one half.

Canada and its constituent societies obviously are undergoing the same crisis. On top of that, culture is also gradually becoming international (not an altogether bad thing, mind you), with a strong component from the US, a fact that further threatens the Canadian identity or identities. These two crises constitute the challenge we have to face if we are to pursue a distinct, and rewarding existence as collectives. We

should discard our fetishistic attachment to the arbitrary rule according to which only what can turn a profit is worth undertaking; we should invent new modes of collective mobilization, and enlarge the space for relationships of mutual support. To this end, we should invent and amend constitutions and charters so as to produce new and interesting resolutions of the problem of freedom and equality, of the question of our identity. Even the president of one of Canada's largest and most profitable banks, Matthew Barrett, agrees that we should face the challenge of rising inequality, and that this requires profoundly changing the way we govern ourselves.

We should go beyond specifying which powers should be exercised by whom, and according to which procedures. We should even go beyond the most usual and fundamental clauses of charters of rights, which focus on negative rights, that is, essentially the rights of individuals to exercise their freedom without interference. We should go to positive rights, that is, to the minimal norms of equality that are required for people to fully participate in society: minimal standards of living (income, housing, etc.), access to education, minimal norms with respect to work, for instance with respect to pay, working conditions, free time (in spite of, in fact, especially when jobs are scarce), norms with respect to the environment, and so on. These positive rights involve more than letting people be, as important as this may be in itself. They require the mobilization of groups and communities, that is, they have to involve matching responsibilities. Such obligations might of course enter in conflict with freedom, and a resolution has to be found, and challenged, and found again in each society as it evolves.

This may seem very far fetched. But it is not, for at least two reasons. First, such norms and responsibilities have timidly been introduced into some charters of rights (for instance, Québec's in some respects), into bits and pieces of legislation about social assistance, minimal norms of health and safety at work, etc., and even in such unlikely places as international trade agreements. Of course, these clauses often remain rhetorical, especially when no powerful governing body and set of social forces are engaged in defending them, and especially when the ideological tide has imposed profitability as the ultimate arbiter of everything. But they can be fought about and mobilized around, especially if, and this is my second point, they appear as the key to solving our socio-economic problems.

An increasing proportion of our adult population has become redundant in the labour market as it is now shaped, and this is only likely to worsen with time (Hobsbawm, 1994). With the internationalization and mechanization of production, the jobs are just not there, and they will not be. What is to be done with the excluded? The choices are not many (Rosanvallon, 1995). Either they are controlled through repression, an avenue that seems wide open in the United States; or we buy peace with handouts, a costly and unsustainable solution (Myles, 1995), which is already wrecking havoc in the finances of our governments and threatening the very sovereignty of Canada (Chossudovski, 1995); or, again, we reinsert the excluded into productive activity (Alain Noël insisted on the necessity for the State to fight, rather than help bring about, the dualization of work and of society; see his brief to the Committee on Human Resources Development of the House of Commons, excerpted in *Le Devoir*, 6 April 1994).

This requires a dual approach: there is no point in motivating and training people (labour supply) for jobs (labour demand) that are nonexistent; as a consequence, we must take into account both sides. We must *package into jobs* work that is necessary but not much performed (cleaning and improving the environment, organizing non-commercial leisure activities, etc.), and work that is indeed performed, but often under inadequate conditions (raising children, helping them get an education, taking care of sick and elderly people, offering support to lonely people, repairing homes, etc.). In some respects, this is the contemporary equivalent to the mass production industrial jobs that sustained our economy in the three (so-called "glorious") decades that followed World War II: the demand is massive, the manpower required already has the skills or can be trained relatively easily. The key difference is that a substantial part of that work is not profitable, which does not mean that it is uneconomic, unmanageable in a rational way.

The State obviously has to play a key role here, in conjunction and in concert with capital, labor and NGOs. It can support job sharing. It can push some more of that work above the threshold of profitability through fiscal measures. It can delegate some more of it to the voluntary sector. And it can better organize the part of it that it undertakes itself. This obviously requires some consolidation of its legitimacy: it must become less of an imposition, and more of a democratic organizer of the pursuit of the collective good. People do accept to share time and income,

and they might go further in this direction if they become persuaded that benefits will come back to them in the form of improved quality of life, and that everybody will share the burden equitably. For instance, the recent Angus Reid/Southam News survey cited above revealed that a large majority of Canadians give priority to job creation and the preservation of health, education and social programs over deficit reduction and the lowering of taxes; not unexpectedly, compassion is particularly high among the poor and the middle classes, lower among those who have larger incomes.

I should also point out that this work enlargement scheme is likely to strengthen our competitive position in the world economy of profitable work. The improvement in the quality of life will make for a more productive population, healthier and better educated; the congeniality of the society, its dispositions towards concerted action, will attract enterprises. Moreover, an increasing share of the profitable work depends on intellectual, managerial and cultural creativity, rather than on the availability of resources and physical capital (Economic Council of Canada, 1990); running this vast social experiment would certainly produce gains in this respect.

TRANSFORMING THE CONSTITUTIONAL DEBATE

One may ask, at this point, what the relationship is between this ambitious perspective on our future and current constitutional debate? That the question can be asked indicates how much we have let this debate move away from imaginative thinking. In reality, fundamental laws should help us in many ways along the path to such an original social experiment. They should state the broad objectives we want to pursue in terms of human rights, including positive ones. They should also provide the organizational chart of our polity, a chart that should be adequate to the pursuit of these objectives.

It should prescribe which level of government should exercise power over different domains of action. The general principle should be (see Cousineau, 1993) that we delegate to common institutions (of a partnership, of a superstructure, or of a genuinely confederal Canadian State) the powers required for the definition of the common objectives, as well as for equalization payments among regions. Ways in which these objectives would be pursued

would be defined and applied as closely as possible to the field, that is, in what are currently called provinces.

The constitution should also define structures for consultation and concerted action among social partners: government, capital, labor, and possibly NGOs. Moreover, since the major threat to such a social experiment would be that capital acts on a world scale, while States and labour act mainly at the national level, we should consider inscribing in our fundamental laws our will to actively participate in and promote international cooperation, both in international organizations and in regional alliances that are contemplating the elaboration of a social charter, such as the European Community.

Why would political actors want to have anything to do with such a plan? In Québec, sovereignists have already come up with the idea of a partnership. Much as they want independence, they realize there are major difficulties ahead if the rest of Canada is hostile. It goes beyond avoiding reprisals; it means pursuing, under different political arrangements, a cooperation which has produced some very worthwhile achievements economically, but also politically and culturally, and which has contributed to buttressing our capacity to remain distinct from our American neighbors. In the absence of a partnership, each province or region might go its own way socially and even politically. Socially, we might witness the dissolution of our compassionate stance, as regions would try to undercut one another fiscally in a bid to attract enterprises. Politically, provinces might drift towards the United States. None of this is particularly interesting from the point of view of an independent Québec.

Canada itself might prove almost ungovernable if we do not come up with a renewal of our social experiment. Most of the institutions that defined our identity are profoundly threatened in the current fiscal and ideological context, be they social (health and social programs), cultural (CBC/Radio Canada, the National Film Board, etc.) or even military (our participation in peace missions). We need to remobilize people around them, and this requires more than a little tinkering here and there, as I have shown above. Moreover, the political scene itself is a minefield. Never in the last decades have we had such a division of parties in Parliament along converging regional and ideological lines. And careful extrapolations by Parliamentary correspondent Chantal Hébert (*La Presse*, 13 January 1996) indicate

an even more divided Commons after the next federal election: the Bloc québécois would keep probably about 50 seats, the Conservatives and the NDP would remain marginal, Liberals and Reform would vie for the leadership of a minority government.

In any form of partnership for the future, we definitely need something new — this time it is not going to be something blue, as Canada is living on borrowed time. □

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