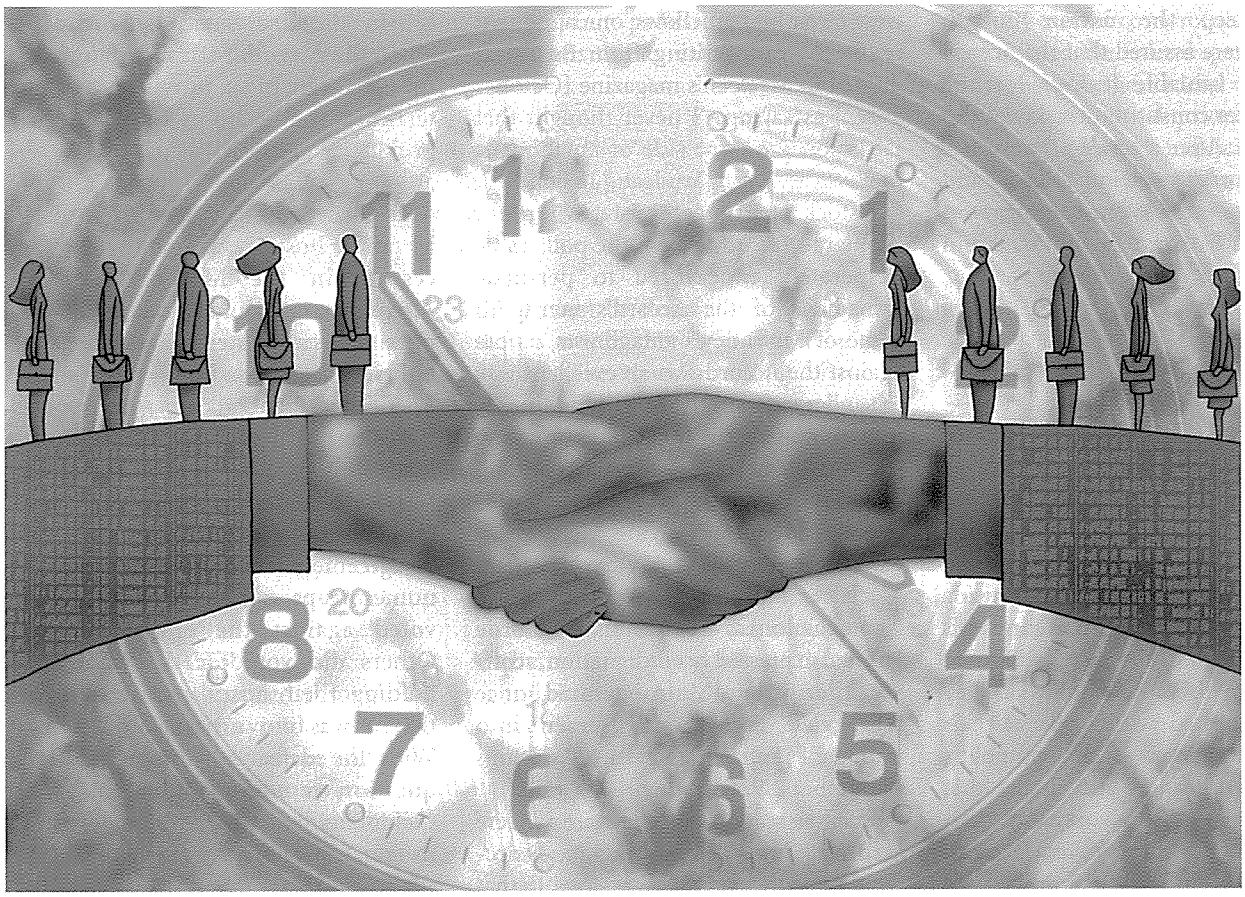

TEN YEARS AFTER CHARLOTTETOWN: Is Canada at the Crossroads?

BY Howard Pawley

THE TENTH ANNIVERSARY OF THE REJECTION OF THE CHARLOTTETOWN ACCORD [HEREAFTER REFERRED TO AS THE ACCORD] IS AN APPROPRIATE OPPORTUNITY FOR US TO EXPLORE WHY IT WAS UNACCEPTABLE TO A MAJORITY OF THE CANADIAN ELECTORATE. IT IS ALSO TIMELY TO EXAMINE WHETHER THE ACCORD COULD HAVE BEEN USEFUL IN PROVIDING SOME ASSISTANCE IN CONTENDING WITH THE NEW CIRCUMSTANCES THAT WE ARE BEING CONFRONTED WITH AS WE BEGIN OUR JOURNEY THROUGH THE FIRST TEN YEARS OF THE NEW MILLENNIUM. WHAT CAN WE LEARN AT THIS, THE ACCORD'S ANNIVERSARY?

The Accord was supported by the overwhelming majority of the Canadian political, economic and media elite; it was promoted as an essential compromise to keep the nation united. Canadians were assured that the Accord represented valuable lessons learned from the bitter constitutional skirmishes of the 1980s. After a series of consultative conferences involving citizens and followed by a series of private negotiation sessions between the political and native leadership, Prime Minister Brian Mulroney announced that a nationwide vote would be held on the accord: this referendum would allow Canadians to define whom they are and what they stand for. Flushed with pride at their ability to compromise, seventeen political and native leaders anticipated that Canadians would surely reward their accomplishment with a ringing endorsement. To their surprise, it soon became apparent that they would be blamed for either accomplishing too little or for conceding too much.

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While Quebec complained that it had been granted too few new powers, the west expressed resentment over Quebec getting too much. Many aboriginals were unhappy with the uncertainty about what they were being offered while other Canadians begrudged what they considered where the lavish concessions offered to Canada's first peoples. Women's groups and other interest groups were irritated at what they interpreted as the hierarchy of rights contained in the Canada clause. Many maintained that the Canada clause would create different classes of Canadians. Others feared the clause could subtly influence key court decisions because of the new characteristics it contained.

Former Prime Minister Trudeau, the Accord's most convincing critic, claimed [Maclean's October 12/92] that the proposals would lead to future constitutional bargaining. "The blackmail will continue," he warned. Positive response to Trudeau's intervention was overwhelming and included many who were never his bedfellows: one opponent of the Accord, writing from B.C., was quoted in Maclean's magazine [October 19/92] as saying, "I never thought that I'd be on the same side of anything as that weasel, Pierre Trudeau." In contrast, the stock of Prime Minister Mulroney slipped to record lows in the polls as he desperately endeavored to persuade Canadians of the Accord's merit. To some of Mulroney's antagonists, a vote against the Accord was an excellent way to send a message to the Prime Minister himself. Anti-Quebec feelings in some parts of Canada were more fierce than anyone suspected, evidenced by frequent references to Ovide Mercredi as "Ovide Wednesday" [Peter Newman, Maclean's November 2/92]. A Victoria Times-Colonist columnist, Gorde Hunter, expressed his indignation, scoffing that Brian Mulroney had once "smuggled French bull semen into Canada" [Peter Newman, Maclean's November 2/92].

Some sections of the Accord were accurately interpreted as only pious declarations carrying little legal clout. In that category, the enshrinement of the social Charter and other provisions pertaining to an economic Union were seen as only cosmetic. Quebec's guaranteed 25% representation in the House of Commons infuriated English Canadians who saw this safeguard as discriminatory. Limitations on the spending power were seen by others as neo-conservative, impeding future federal initiatives in health care, education and childcare. The transfer of powers to the provinces would create a "patchwork quilt form of federalism" and was criticized being an overly generous concession to the Premiers.

While Section 36 of the Constitution strengthened the obligation of the federal government to provide equalization transfers to the less well off provinces, the electorate in those provinces, including those in Quebec, were unimpressed. Although the provisions relating to the inherent right to self-government represented a giant step forward for Canada's first peoples, some chiefs feared that the Charter of Rights would be applied on their reserves. Insufficient time was provided for the Aboriginal leadership supporting the Accord to sell it in their communities.

In the final analysis, Canadians killed the Accord, with the majority of the electorate in six provinces and one territory voting 'no'. The federal and provincial political leadership negotiating the agreement suffered varying degrees of political wounds inflicted by public hostility, as had their predecessors in the Meech Lake era. Therefore, it should come as no surprise a decade later that there is no political appetite to begin a new round of constitutional talks.

The fact that there was too much loaded on the plate was a central reason for the Accord's rejection. Most Canadians discovered that they had disagreements with one or more of the numerous proposals and subsequently voted against the entire package. Others did vote for the Accord by holding their noses and recognizing that it was not a perfect document. With the defeat of the Accord, the question remains unanswered: Did Canadians miss a superb opportunity to remake Canada for the better?

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The various forecasts of the pundits about the potential severe ramifications triggered by the Accord's defeat were grossly exaggerated; the separation of Quebec from Canada had been widely anticipated. Although the death of both the Meech Lake and the Charlottetown Accords was nearly fatal for Canadian unity when Quebec secession was beaten by the narrowest of margins in 1995, that threat today appears to be in full retreat. Senate reform, a hot issue in the early nineties, is no longer a priority. Since 1992, Canada's first peoples have achieved much through the courts, perhaps more than they have historically accomplished in the political arena.

In Canada as in the world, changes have taken place at an accelerating pace, sweeping aside old political and economic certainties. Exponential changes are changing Canada and the world community beyond the wildest fantasies of our parents and our grandparents. Our grandchildren will observe changes beyond our grasp and understanding. Undoubtedly, the speed of the change, with the resulting uncertainty in a fast-changing world, did not assist the 'Yes' camp in persuading voters to support the great unknown. The speed of change has only radically intensified since then. Now, ten years seems like an eternity.

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TEN YEARS LATER

We have now passed through the gates of the 21st century and are entering a new era. Increasingly, more and more Canadians see themselves as powerless to influence change. The public's estrangement from politics has intensified. The institutional structure of the parliamentary system, supported by the coordination that Canadian federalism can provide, is necessary to combat a growing crisis in a number of vital areas of public concern. Unfortunately, the passage of the Accord would have at best provided marginal advantage, if any, to either to the parliamentary system or to the structures of federalism.

First, the Accord's proposed elected senate and its guarantees for future Quebec representation in the House of Commons would have done little to increase the public's trust of our parliamentary institutions. The public rejection of the Accord contributed to the regional fragmentation of contemporary Canadian politics and the decline of national parties that can speak legitimately for the entire country. This is also true for the ruling Liberals, with two-thirds of its members of parliament hailing from Ontario. Scandals rampant – both federally and provincially – have reinforced the perceptions that political parties are too influenced by big money and that well-paid lobbyists enjoy more political clout than backbench MP's. Stanley Knowles, in his time, answered such criticism by asserting, "disillusionment about parliament ... prompts Canadians to the realization that something must be done about it ... where there's a will, there's a way" [Knowles Stanley, The New Party, McClelland & Stewart Ltd 1961]. Unfortunately, the Accord would have been of little assistance with three fundamental reforms that deserve the consideration of Canadians.

- *An expansion of democracy and accountability.* This can be enhanced by reducing the power of the prime minister. Greater opportunity for decision-making by M.P's is needed to inject greater meaning into their roles and to diminish some of the monopoly of power that is historically concentrated around the offices of the political executive. The same principle should apply provincially.

- *Donations to political parties.* Manitoba and Quebec legislation banning corporate, union and large individual donations to political parties is a beacon of light for other jurisdictions to emulate. Restrictions and transparency should also apply to party leadership contests.

- *Proportional representation.* Regionalization of our politics could be ameliorated should Canada join the vast majority of democracies and introduce some form of proportional representation and with the transferable ballot.

The second major challenge facing us is the need to modernize Canadian federalism. The fathers of confederation did not envision present day Canada: healthcare, education and municipalities, seen as less than important, were designated as provincial responsibilities; not surprisingly the environment didn't make it to anyone's agenda in 1867. The Accord sought to deal with this by lessening federal-provincial conflict with a carefully crafted compromise that would have limited the federal spending power and deterred the federal government from ignoring local priorities. Ottawa also acknowledged implicitly that for years it had been intruding into some provincial areas – mining, forestry, tourism, housing recreation and regional development. The transfer of Labour Market Training and some other powers to the provinces was intended to gain provincial support.

A number of issues have emerged to the top of the policy agenda. Although constitutional reform is no longer politically feasible, the present challenge is to devise institutional tools to improve the current level of coordination between governments. The current morass of difficulties can no longer be afforded. Jurisdictional jealousies only trump the public good. It is questionable whether the Accord would have lessened intergovernmental pressures and might have jeopardized the capacity by the federal government to launch programs, such as those that follow, of national importance to all Canadians.

- In the 19th century, when people lived principally in hamlets and rural areas, responsibility for municipalities was understandably entrusted to provincial governments. However, about 80% of Canada's current population are urbanites with two-thirds living in metropolitan areas with greater than 100,000 people [Horizons Vol 5 Number 1]. Persistent downloading at the federal and provincial level has resulted in Canadian cities suffering from growing traffic congestion, homelessness and a multitude of other problems. Federal and provincial governments must coordinate approaches that will provide cities with new revenue sources and more freedom to innovate. A balance must be achieved in our cities between competitive and social justice needs.

- In the past ten years, homelessness has risen sharply, the elderly and the

disabled lack decent and affordable accommodation and pre-school children occupy the largest proportion of those living in poverty; the gap between rich and poor is widening and these conditions persist despite an economic boom. Governments must co-operate as a team to ensure this dismal situation is eradicated. In the 1970s, I recall fondly the affordable housing programs that the federal and most provincial governments rendered to their citizens. As a young Housing Minister in Manitoba in the early seventies, I did not see the housing initiatives provided by two levels of government as being an invasion of provincial jurisdiction but rather as part of a successful campaign to tackle poverty.

Canada's aboriginal people remain second class citizens. Would the Accord have made a difference?

- Medicare is frequently seen as one of the Canada's greatest achievements, and one in which Canadians proudly differentiate themselves from their neighbours. However, demographic shifts, new technologies and drugs are imposing huge strains on the system. Its very continuance is threatened. In a recent article [Health Care in the New Millenium, Canadian Federalism, Performance, Effectiveness and Legitimacy Eds. Herman Bakvis & Grace Skogstad, Oxford University Press 2002], Antonia Maioni eloquently explains that the federal government's role is to minimize asymmetry in the provision of health among the provinces, contribute to regional equity across Canada, and thus "avoid it becoming a political football." Unfortunately, the Accord could not have prevented the current crisis; some would claim that the weakening of the federal spending power could have only exasperated this problem.

- Canada's aboriginal people remain second class citizens. Would the Accord have made a difference? Perhaps some recent Supreme Court rulings have provided greater benefit to our first peoples than have the actions of government. The sharp growth in Canada's urban aboriginal demographic adds to the severe crisis facing the cities. It is projected that Canada will witness future declining birth rates throughout most of the population; Aboriginal people are one of the most notable exceptions to this. Much of the answer to a future anticipated shortage in skilled trades can be discovered among the ranks of the youthful aboriginal population; will Canada's governments cooperate to meet this challenge?

- There is an environmental crisis swiftly developing with dangerous levels of pollution in our air, land and water. Mounting evidence points to an indisputable connection between the health of our citizens and the state of the environment. A federal authority empowered to address this heightened environmental challenge is essential at both the national and international levels. It is only the government of Canada and not a group of provinces that can best represent Canadians when it comes to ratifying international treaties such as Kyoto.

- In the past few years the federal government has enjoyed considerable budgetary surpluses. However, the same has not been true for most provinces and they have jurisdiction for the most rapidly rising expenditures – which often cannot be reduced – such as health, education and the fight against poverty. Measures are necessary to reduce the current fiscal imbalance where the federal government is becoming wealthier in relation to the provinces.

- Charlottetown would have assisted in toughening those provisions in the constitution ensuring that "provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation" and providing "reasonably comparable economic infrastructure of a national nature in each province and territory." The federal government needs to see to it that the principal of equalization is fulfilled in practice. There must be equality among all Canadians!

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In conclusion, while there may have been some positive aspects of the Accord's passage, there is nonetheless no need to cry over spilt milk. The concerns of 1992 have been replaced by those of 2002. While we should never be overconfident, Quebec remains in Canada and the rest of Canada must always be prepared to respect that province's uniqueness. Although there has been far too little progress, Aboriginal peoples have made some progress, but much remains to be accomplished. Nonetheless, it is evident that greater coordination and cooperation is essential to meet the modern challenges Canadians face – the cities, healthcare, the environment and parliamentary reform. To do this, constitutional changes are *not* necessary. If politicians fail to achieve those solutions demanded of us in this new age, other powerful forces will exercise disproportionate power. To work, Canadian federalism demands leadership, vision, goodwill and an array of coordination and other innovative approaches. New prescriptions are essential to improve the health of our democratic system. As Canadians, we have arrived at the crossroads; the stakes are high.

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