THE POLITICS OF FOUNDING CANADA: THEN AND NOW

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Over the last half of the 20th century, there was considerable debate over who founded Canada. Canadians' comprehension of who founded the country is often a reflection of their contemporary perspective on the nature of the 1867 Confederation arrangements, something about which admittedly most Canadians have only a cursory knowledge. When asked whether they have heard about Canadian Confederation, a March 2013 survey revealed that just over one in ten had often heard something. In a January 2016 survey, some 15% agreed that they had a good knowledge of the history of Confederation (another 47% somewhat agreed).

The survey results and analysis that follow will be divided into two parts. First we'll review the debate over the existence of a British-French/bicultural compact underlying the 1867 Confederation agreement. We will look at contemporary public opinion about the nature of the Confederation agreement and how Canadians comprehend the current relationship(s) that define the federal partnership.

REVISITING THE DEBATE OVER THE COMPACT THEORY OF CONFEDERATION

Canada does not appear to possess a definitive or authoritative narrative around the founding of Confederation with regard to the intention of its principal architects. Perhaps that is what's so clever about the 1867 agreement. Uncertain as to how the future would unfold, the founders were ready to allow federation arrangements to give rise to varying interpretations in order to keep as many constituents as possible satisfied with what they thought they were getting. After all, most of our 'founding' politicians were seasoned negotiators ready to use their skill to strike a deal that was intended to be pragmatic. They were so good at it, that to this day, many Canadians remain unsure about whether the

federation arrangements were a compact between two cultures or a deal between four founding provinces or some combination of both. These talented founding negotiators were careful about what they put in the legal contract that bound provinces and peoples. Hence, in the British North America Act, there is nothing explicit about a compact of cultures between the British and French.

It is perhaps no surprise that historians are able to find passages from leaders' statements of the era to justify their view on the contractual (or 'compacted') nature of the federation.

Canadians are no exception to the general approach to assessing the past through the comprehension of the current situation. In the case of Confederation, underlying the conclusion one reaches about its nature is the idea that there was continuity between its original design and today's model. Historians have not been exempt from this practice. Many seek to develop a founding narrative to support a preferred contemporary one. One classic example of this is the 1999 publication by Paul Romney of *Getting it Wrong: How Canadians Forgot their Past and Imperiled Confederation*. Romney contends that a proper understanding of what the Fathers of Confederation "really" had in mind would have prevented the problems of national unity that have emerged over the last fifty years. Romney insists that Confederation was designed to be "a solemn pact between two nations." He also sees it as a compact of provinces, but one in which the said provinces were to be constitutionally equal to the federal government (in other words, they were not a lower order of government). In effect, it's true that the federation was a creation of the four provinces and not the inverse. Unlike future of generations of scholars, Romney saw no contradiction between the compact of peoples and the compact of provinces.

The recognition of a compact of French- and English-Canadian cultures was central to the deal struck in 1867 and, Romney writes, was regrettably denied in later years by the English Canadian establishment of historians that constructed a more centrist vision of the federation. Romney questions the widely accepted affirmation on the part of the late Donald Creighton and his followers that there is no evidence the Fathers of Confederation sought to establish a "compact of cultures" between the so-called two founding peoples. He argues that Creighton and others' dismissal of the cultural compact reflected the defects that emerged in historical knowledge about the period.

For his part, Creighton insisted that a close examination of the writings and statements of the Fathers of Confederation and the text of the British North America Act yield no evidence that the union would be based on a cultural compact between two founding peoples and that there would be an extension of the language and educational rights enjoyed by French Canadians in Quebec to the other provinces of Canada. In later years, eminent Canadian historian Ramsay Cook described the compact of cultures as an opportunistic fabrication. Cook is likely correct that the Fathers of Confederation didn't envision a compact of cultures. Even in one of the more articulate defences of the cultural compact theory, Ralph Heintzman agreed with Creighton that it would be "complete nonsense to insist that in the minds of the Fathers of Confederation there was a clearly understood 'pact' that guaranteed complete equality to both French and English throughout Canada."

But even if the BNA Act did not provide open

and explicit guarantees for the French language, Heintzman insisted there remained a strong case for the presence of a bicultural compact. This compact was animated by a "spirit of Confederation" or, in Creighton's own words, "an unspoken moral commitment which was meant to inform the whole union with its spirit." The "spirit'"in this case refers to an unwritten understanding that the concerns and aspirations of the "peoples" that were the obvious cultural foundation for the agreement of the provinces would not be dismissed. That Creighton, Cook and others contend that any rights conferred in that era upon the Catholic French language population were a function of political expediency says something about the opportunism of the founders.

Writing in 1971, Heintzman observed that: "In our present attempts to chart the course for Canada's second century, it is tempting to look to Canada's past for guidance, to put our history, as it were, to use. Unfortunately, our desire to make use of the past often makes it very difficult for us to know the past as it really was." Creighton directs the same accusation at the defenders of the cultural compact and describes those offering historical justification for biculturalism as "revolutionaries" who are either ignorant or purposely falsifying the past for political ends. Heintzman countered that when Creighton claims to speak only to the "true" nature of Confederation, he and other such historians are often telling us something about themselves. Creighton never hid his sympathy for a very limited extension of minority French language rights (which he also denied are rights). He felt that too generous an extension of minority language rights would imperil national unity.

Heinztman felt that the argument couldn't be settled without carrying out additional research about expectations associated with the Confederation agreement, especially with regards to the French Canadian population of Lower Canada. He contended that "a moral obligation can be said to exist where one party to a contract held certain assumptions concerning the nature of the union into which it agreed to enter and where a reasonable justification for those assumptions can be demonstrated."

One of the more authoritative works on such expectations is Arthur Silver's *The French Canadian Idea of Confederation*. Based on a detailed analysis of the press in French Canada, he noted a certain range of opinions on the nature of the 1867 agreement. A recurring theme, however, was that Quebec would be the homeland of French Canada and that the province would be responsible for decisions around its nationality and religion. Silver illustrated this point with a quote from *La Minerve*:

> *Here was the very heart and essence of the pro-Confederation argument in French Lower Canada: the Union of the Canadas was to be broken up, and the French Canadians were to take possession of a province of their own—a province with an enormous degree of autonomy. In fact, separation (from Upper Canada) and independence (of Quebec within its own jurisdictions) were the main themes of Bleu propaganda. "As a distinct and separate nationality, we form a state within the state. We enjoy the full exercise of our rights and the formal recognition of our national independence."*

Refusing federal involvement in such matters partly explained Quebec's resistance to empowering the federal government to intervene on behalf of minorities in existing or emerging provincial

jurisdictions (it further helps explain why the Quebec government has offered a moral defence or appeal for language minorities elsewhere in Canada while hesitating to intervene legally). Therefore, the idea of a bicultural compact that spanned the existing and future geography of Canada did not appear to be the prevalent vision of Quebec's French-Canadian leaders. They hoped, however, that the demographic realities and political persuasion would compel politicians to tread carefully when it came to the assistance of the vulnerable minority French population outside of the home province. Given the prejudices of the period, an appeal to openness to diversity held out less hope for success than did a dose of political clout.

CONTEMPORARY OPINION ON PACTS AND COMPACTS

Recent federal government statements might be described as a key contributor to varying opinion as they encourage a number of interpretations about the founding partners (to be sure, politically, this isn't necessarily a bad thing). In one of the closest things to an official history of Canada, the Government of Canada's Citizenship Guide states that "from 1864 to 1867, representatives of Nova Scotia, New Brunswick, and the Province of Canada, with British support, worked together to establish a new country…the old Province of Canada was split into two new provinces: Ontario and Quebec, which together with New Brunswick and Nova Scotia, formed the new country called the Dominion of Canada." (www.cic.gc.ca/english/resources/publications/discover/section-05.asp). The same document notes that: "To understand what it means to be Canadian, it is important to know about our three founding peoples." To be fair, there is no direct association of this statement and Confederation as the founding event. But Canadians reading the document with only some knowledge about Confederation could be forgiven for concluding that the pact was conceived constitutionally by both four provinces and three cultures.

It's difficult to support Romney's contention that Canadians have forgotten their past and imperiled Confederation. On the one hand, he practises some historical determinism when he suggests that better knowledge about Confederation in English Canada would have resulted in a different constitutional course and presumably something closer to the one preferred by Romney. On the other hand, Romney's thesis makes assumptions about what Canadians do or don't know about Confederation. It presumes that there is a dominant narrative around Confederation with which Canadians identify (though Romney suggests the narrative is different in Quebec than it is in English Canada).

In fact, recent polling conducted for the Association for Canadian Studies suggests that there is no consensus over Confederation's founding narrative. The survey reveals that it is the idea of a British-French partnership that is the closest thing to an agreed-upon narrative, with 29% of respondents endorsing that proposition, and another 26% adding Aboriginal People to the Confederation partnership. The idea that the founding partners were the four provinces resonates most with residents of Atlantic Canada. In the Atlantic provinces and Ontario, there is a greater tendency to choose the four "founding provinces" as the basis of Confederation.

WHICH OF THE FOLLOWING BEST DESCRIBES YOUR VIEW OF THE FOUNDING PARTNERS OF CANADIAN CONFEDERATION?

	Total	French	English	Other	ATLAN.	QC	ON	MB/SK	AB	BC
British and French	29%	26%	31%	29%	28%	27%	25%	33%	39%	37%
Aboriginals, French and British	26%	30%	24%	26%	17%	29%	24%	34%	30%	23%
The 4 provinces: Quebec, Ontario, Nova Scotia and New Brunswick	23%	17%	23%	27%	31%	18%	27%	12%	22%	22%
Aboriginals, French, Irish, Scottish, English and Acadian	12%	18%	12%	8%	15%	17%	13%	9%	6%	8%
French, Irish, Scottish, English and Acadian	7%	7%	7%	6%	5%	7%	7%	12%	2%	6%
Catholics and Protestants	3%	2%	2%	4%	5%	3%	3%	1%	0%	3%

As regards the predominant vision of the federation, the survey suggests that if there is any consensus, it would be that Canada is a multicultural country with two official languages. Just as many Canadian francophones see the federation as *multinational* as they do multicultural. Many non-francophones see the federation as a country of 34 million equal citizens. The response that resonates the least with Canadians is that it's a country of ten equal provinces—the one option, paradoxically, that is most closely associated with the provincial compact.

Equally paradoxically, as revealed in the correlation below, even those Canadians who believe the four provinces were the founding partners of Confederation are far more likely to say that we're best defined as multicultural with two official languages.

CONCLUSION: RIGHTING WRONGS

If there is a common thread in past and present interpretations of the Confederation arrangements, it is that they *tend to bend historical reality to fit contemporary frames*. In setting out to right a perceived historic wrong, there is a risk that we lead ourselves to believe erroneous representations of the past. Distortions of the past do us a disservice, as they often contribute to false nostalgia and/or romanticized visions of our history. For the most part, the Fathers of Confederation were not very tolerant of difference, as judged by our contemporary standards. They frequently reflected the prevailing

WHICH OF THESE VISIONS BEST REFLECTS YOUR PREFERRED IMAGE OF CANADA?

	Total	18-24	25-34	35-44	45-54	55-64	65 +	French	English	Other
Canada is a country of ten equal provinces	10%	10%	9%	11%	9%	12%	12%	9%	12%	8%
Canada is a multicultural country with two official languages	43%	53%	56%	45%	38%	34%	38%	40%	41%	53%
Canada is a country of three nations: the Quebec nation, the English-Canadian nation and the aboriginal(s)	17%	22%	13%	17%	19%	15%	17%	40%	12%	6%
Canada is a country of 34 million equal citizens	30%	16%	22%	27%	35%	39%	33%	11%	35%	33%

prejudices of their era, some of which they articulated openly.

While some things about the text and vision of Confederation will remain the focus of ongoing debate, certain assumptions about the country's founders are simply false. Indeed, in some instances, it's simpler to identify the things about which Canada's Confederation was *not* rather than what it was. One fallacy that many Canadians now endorse is the idea that Confederation was a product of three founding partners and hence the compact might be described as "tricultural". It's wrong to say that Aboriginal Peoples were a partner in the Confederation agreement. The reality is that they were excluded from it and from subsequent deals, something which has been the subject of legitimate concern in the decades that followed. The imagined inclusion of indigenous Canadians in the 1867 federative pact is often well motivated, but more a reflection of how some Canadians would like things to have been.

As regards the issue of the bicultural compact, a paradox has emerged from the literature with some analysts—mostly from Quebec—suggesting that the bicultural spirit of the 1867 agreement was betrayed in subsequent years (particularly with the 1982 Constitution) and others insisting that the Confederation agreement itself was a betrayal of French Canada. Some curiously contend it was both.

Nearly a century after Confederation, a Royal Commission was mandated to report on the existing state of bilingualism and biculturalism in Canada and to recommend what steps should be taken to develop the Canadian Confederation on the basis of an equal partnership between the two founding races (later changed to two founding *peoples*), taking

WHICH OF THE FOLLOWING BEST DESCRIBES YOUR VIEW OF THE FOUNDING PARTNERS OF CANADIAN CONFEDERATION?

	British and French (binational/ bicultural)	Aboriginals, French and British (multinational)	French, Irish, Scottish, English and Acadian (multiethnic)	Aboriginals, French, Irish, Scottish, English and Acadian (multination/ multiethnic)	The 4 provinces Quebec, Ontario, Nova Scotia and New Brunswick (territorial)
Canada is a multicultural country with two official language	44	43	35	42	43
Canada is a country of 34 million equal citizens	26	28	33	32	35
Canada is a country of ten equal provinces	13	8	13	6	11
Canada is a country of three nations: the Quebec nation, the English-Canadian nation and the aboriginal(s)	16	21	19	21	11

into account the contribution made by the other ethnic groups to the cultural enrichment of Canada, and the measures that should be taken to safeguard that contribution. Clearly this was not an example of a country insensitive to its history. But what might have been suited to the cultural demography of 1867 but in line with the values of the 1960s was no longer as suited to the Canada of the latter period. Canada was no longer the country brought into being by the Fathers of Confederation The emerging vision, by the 1960s, was one of multiple cultural expressions with two overarching languages that were eventually designated "official.". While it is somewhat unfair to transpose the vision of the founders onto a more recent period, it is quite likely the Fathers of Confederation would have found multiculturalism highly objectionable.

With regards to respect for minority rights, looking for inspiration from most of the leadership of the 1860s requires a considerable stretch of the imagination. Yes, there were some tolerant voices in the Confederation era, but popular sentiment was less progressive. The federation architects did, however, lay the foundations for subsequent generations, which included many individuals who

sought sunnier ways to deal with minorities' desire to preserve their identities. And as for French language minorities, the 1982 Canadian Constitution marked a fundamental departure from what was proposed in 1867. Indeed, it was in the spirit of 1982 and certainly not 1867 that, in February 2016, Ontario Premier Kathleen Wynne issued a formal apology to the Franco-Ontarian community for a 1912 rule that virtually banned the use of French in the province's elementary schools.