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# *An Eastern Perspective on the Constitution*

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by Arthur Donahoe, MLA

Canada is going through yet another round of constitutional soul-searching. Like it or not, and many do not, we are again faced with the need to re-think and re-make the political structure of our country.

Last fall, shortly before his death, the Canadian literary scholar, Northrup Frye set out in a powerfully reasoned essay his view of Canada, in particular Canadian culture. In his view, there are three aspects of the word "culture".

First, there is culture as a lifestyle, shown by the way a society eats, drinks, clothes itself and carries on its normal social rituals. The British pub and the French bistro represent a cultural difference in lifestyle of this sort. Second, there is culture as a shared heritage of historical memories and customs, carried out mainly through a common language. Third, there is culture in the shape of what is genuinely created in a society: its literature, music, architecture, scholarship, and applied arts.

Frye traced developments from the time of Confederation – a point at which he said that Canada could hardly be said to have had a culture in any of these areas, to the present time. He argued that directly in front of us lies a primary need for what he called re-Confederation, which he thought of essentially as providing a cultural skeleton for the country that fits its present conditions.

He went on to argue that the best political context by far for re-Confederation is a renewed political Confederation, which means in his view, abandoning all the jockeying for power that proposes trade barriers or separate currencies.

Frye's entire speech is an exceptionally well-reasoned plea for cultural tolerance and understanding, concluding with the thought that Canada has now become cosmopolitan to a degree that would have been incomprehensible fifty years ago. Society must have loyalty, he said, but in a democracy there are no uncritical loyalties. There must always be a tension of loyalties, not in the sense of opposed forces pulling apart, but in the

sense of one feeling of belonging attached to and complemented by another, which is very often the relating of a small ethnic community to a larger one.

It is through some such process that the cultural development of Canada must make its way, he concluded.

Despite Northrup Frye's distaste for what he called "continued political tinkering of the most futile kind," there is no question that if political restructuring does not take place in a form of renewed federalism, Canada will cease to exist.

As has been said by many recently in our region of Canada, Quebec separation, which will be the inevitable result if the rest of the country does nothing in response to Quebec's recent constitutional initiatives, would be disastrous for those of us who live in Atlantic Canada. This is not fear mongering, it is simply a statement of fact.

Last summer's failure of the Meech Lake Accord has been overwhelmingly interpreted in Quebec as a rejection of Quebec by English Canada. This attitude, wrong though I believe it to be, is nevertheless so prevalent now in Quebec as to be almost sacred dogma. Developments in that province subsequent to the failure of Meech Lake have made this a watershed time for Canada and Canadians.

I am among those who believe firmly that significant change is certain – it is necessary if Quebec is to continue in Canada, and it is inevitable if Quebec chooses to leave. We have to be very aware of the sense of deep rejection felt in Quebec at the failure to ratify the Meech Lake Accord.

A great sadness, followed by anger, overtook those Quebecers who were strongly saying yes to Canada, when it became apparent that the agreed-upon accord would *not* be adopted. But this real sense of hurt over a constitutional failure is, in my view, not sufficient reason for Quebecers to give upon Canada.

As importantly, the proposals now coming out of Quebec following the Meech Lake Accord must be looked at by those of us in other parts of the country in a clear-headed, rational manner. They should not be rejected out of hand. One need only read the Allaire Report and see therein the numerous references to the

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failure of Meech Lake to recognize that its proposals are born out of a real sense of frustration and rejection.

*Those who simply say in response to what is now coming out of Quebec, things like "Let them go" or "They've already gone and it's just a matter of negotiating the separation agreement" add nothing constructive to the situation.*

Retaliatory messages produce nothing but more of the same. I for one, am not among those who are ready to throw in the towel. I have been struck recently by the common threads beginning to appear in speeches made by politicians of all political stripes from the rest of Canada in addressing constitutional reform.

Among these are the recognitions that: 1) constitutional changes must reduce the number of overlapping jurisdictions which make our country one of the most over-governed in the world; 2) changes should bring about economic policies which lead to a more prosperous country and that to achieve this goal, some matters in provincial jurisdiction should perhaps be transferred to the federal government just as some matters should be transferred the other way; 3) there is also a clear indication that certain national standards must be maintained in the interest of all Canadians, for example, pensions must be portable and health care must be accessible to everyone.

In my view, it must also be recognized that the federal government has an obligation to provide the necessary means to cover the costs of maintaining these national standards; 4) there also appears to be a need to move decision-making closer to people and to involve citizens in the decision-making process itself. This could be done in part by including mechanisms for more effective communications among Canadians and allowing for the expression of the various cultures about which Frye spoke so eloquently; 5) support for the fundamental rights and freedoms for Canadians as expressed in the *Charter of Rights and Freedoms* is for many, a first principle; 6) happily, there appears to be a willingness to deal with the special circumstances of our aboriginal people.

As I mentioned earlier, we in Atlantic Canada have a special stake in this process. I do not intend tonight to get into any partisan political discussion. And yet the process about which I am speaking is very clearly a political one. And the political lines are being drawn and becoming clear. The decentralizing forces represented in large measure by western reformers, Quebec sovereigntists

and economic small-L Liberals will be ranged against Atlantic Canadians, most Ontarians, people from the Territories and some Westerners who believe in the necessity of maintaining a strong national presence.

Professor Wade MacLaughlan of Dalhousie Law School put it well recently when he wrote:

"Two critical elements will determine how the balance is tipped. The first, and most ironic, is the position of the "macho" federalists. If they insist on "ten equal provinces", they may make common cause with decentralists. If they opt for a strong national dimension, they may accept an asymmetrical relationship with Quebec. Most likely, they will persist in the line that we can have both a strong central government and ten equal provinces, a position that will only lead in this round to separation. Unless one still believes, as many of the macho federalists appear to do, that Quebec is bluffing."

We should make no mistake, Quebec is not bluffing. Another important point which I believe should be made, particularly in light of the presence of the Acadian community in the Maritime provinces, is that this is not the time to turn against bilingualism.

We are culturally richer as a country with two official languages. There is historic justice in maintaining this policy and while perhaps different approaches to recognizing the bi-cultural fact can be taken, the basic thrust of the policy should in my view continue.

Finally, I believe, as I am sure all of you do, that whatever changes are made, we must maintain Canada's constitutional concept of the Queen in Parliament and Legislature.

This concept, containing as it does the unique feature of "Loyal Opposition" has a proven track record of evolving to meet legitimate demands for accountability of government to citizens within the framework of the Crown's sovereignty.

Those who would substitute for it some sort of "sovereignty of the people" or "will of the people" must remember that at best, there can only be the will of the majority. The proposition that there is a "will of the people" is a logical absurdity for as we all know will is singular, people are plural.

Those who endeavour to adopt the legal concept of sovereignty of the people generally show little tolerance for legitimate dissent and often regard any opposition as putting oneself against "the people".

As it has been put, the first victim of "the people" is invariably "the person". So whatever constitutional changes and adjustments we make in this country, our traditional Canadian sovereignty of the Queen in Parliament and Legislature and its corresponding institutions must be retained. ●