

THE MEANING OF CANADIAN FEDERALISM IN QUÉBEC: CRITICAL REFLECTIONS

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SUMMARY: 1. Introduction. – 2. Interpretive context. – 3. Contemporary trends and scholarship, critical reflections. – Conclusion. – Bibliography. – *Abstract-Resum-Resumen.*

1. Introduction

As a teacher, in my instructions to students as they prepare their term papers, I often remind them that they should never abdicate their judgment to the authority of one single source. In the worst of circumstances, it is much better to articulate one's own ideas and convictions than to surrender to one single book or article. In the same spirit, I would urge readers not to rely solely on my pronouncements about the meaning of federalism in Québec. In truth, the title of this essay should include a question mark, and its content will illustrate, I hope, the richness and diversity of current Québec thinking on the subject. There are many ways as well to approach the topic at hand. The path I shall choose will reflect my academic identity: I am a political theorist and an intellectual historian, keenly interested about the relationship between philosophy and constitutional law in Canada, hidden in a political science department. As a reader of Gadamer and a former student of Charles Taylor, I shall start with some interpretive or hermeneutical precautions. Beyond the undeniable relevance of current reflections about the theory of federalism in its most general aspects, the real question of this essay deals with the contemporary meaning of Canadian federalism in Québec. This question is being asked in the

aftermath of the celebrations surrounding the 400th anniversary of the founding of Québec City, which can as well be interpreted as having marked the founding of Canada. Constitutional experts aware of the mood of the times across the country are all too aware that after decades of wide-ranging discussions and reform projects about the fundamental law of the land, Canada now suffers from a broad constitutional fatigue (Gibbins, 2009: p.113). The idea of constitutional reform appears dated, "passé", rendered almost unattainable through the legal and political rigidities surrounding the amending formula. Other issues now dominate the political agenda: war in Afghanistan, global environment, securing rights in a multicultural society, economic challenges. In Québec, something else must be added. The dream of full political sovereignty, which has occupied so many people and mobilized so much energy in the past four decades, appears more and more improbable as time goes on. The idea of holding a referendum on sovereignty has even disappeared from the platform of the Parti Québécois. Daniel Jacques and Alain Dubuc, a philosopher and a journalist respectively, and two of our most prominent public intellectuals, have recently written about the consequences of granting continued prominence to the ideal of sovereignty while its realization appears ever more unlikely: it encourages a spirit of bad faith in Canadian politics –witness the contradictions of the Bloc Québécois and how this party is perceived elsewhere–, it fosters an attitude of self-contempt in younger generations –why being proud of a self-proclaimed nation that just cannot realize the highest goal it seems to value?–, finally it inculcates a quasi-surreal aspect to public debates, yielding to arcane idealism rather than facing lucidly and responsibly the challenges of current times (Jacques 2007, Dubuc 2008). In addition to the constitutional fatigue shared with the rest of Canada, Québec now seems to be characterized by a kind of political exhaustion: the full nation-state status eludes sovereigntists, while federalists remain unable to get the kind of meaningful reform that would allow Québec to be a fully consenting partner of the Canadian constitutional order. Québec is staying in Canada but its situation, as I have suggested elsewhere, is akin to that of an internal political and constitutional exile (Laforest 2008). And people are, indeed, moving to other, more pressing issues: reasonable accommodations and the challenges of diversity, the role of the state in a society that is both aging fast and being burdened by soaring health costs and a huge provincial public debt, crumbling road infrastructures, the social consequences of religious disaffection centrally, but not exclusively, in the French-speaking majority, the hardships of

a public education system ill-equipped to promote the virtues that lead to academic excellence in a post-modern, hedonistic and relativistic cultural, social, and global environment.

Beyond this introduction, in the second part of the essay, I shall tell readers how I understand the topic, thereby providing an interpretive context. In the third part, I will survey contemporary trends and current scholarship regarding federalism in Québec. I shall incorporate in this section critical reflections going beyond the description of this current literature, on topics such as multinationalism and plural identities, trust and loyalty, and the whole matter concerning the rebalancing of our federal regime.

2. Interpretive context

The task of interpreting the meaning of Canadian federalism in Québec is manifold. In academia, it certainly involves integrating the methods and approaches of various disciplines such as history, constitutional law, philosophy and political science. Interest towards this topic, not surprisingly, goes much beyond academia, reaching a wider public through the media ever since the Confederation Debates of 1864-1866 (Bellavance 1991, Silver 1997). At least up until the 1995 referendum in Québec and its immediate aftermath, the meaning and fate of federalism in Québec have commanded the attention of numerous scholars and intellectuals from English-speaking Canada (Black 1975, Moore 1997, McRoberts 1997, Silver 1982, Smiley 1980, among others). It is an impoverishment of the topic to ignore this literature here, as I shall proceed to do. The same remark applies to the sustained interest in the broad topic of Canadian and comparative federalism in the English-speaking scholarly community throughout the land. The dean of scholars on this broad topic, Ronald L. Watts, has just proceeded to the reprinting of the third edition of his book *Comparing Federal Systems* (Watts 2008). In 2000, Richard Simeon delivered the Kenneth R. MacGregor Lecture at Queen's, reflecting on the relationship between political science and federalism, encompassing seven decades of scholarly engagement (Simeon 2002). In 2004, Queen's Institute of Intergovernmental Relations published a major collection, part of the *Canada: State of the Federation Series*, devoted to *Reconsidering the Institutions of Canadian Federalism* (Meekison, Telford, Lazar 2004). Working out of Montréal and Ottawa, Dimitrios Karmis

and Wayne Norman have published a major collection, providing a reader on current theories of federalism in the world (Karmis and Norman 2005). Interestingly, there are three chapters by Canadians in this book, respectively written by Ronald Watts, Pierre Elliott Trudeau and Will Kymlicka. Obviously, the meaning of federalism in Québec is deeply related to the meaning of federalism throughout Canada, so beyond this essay it would remain quite foolhardy to ignore the multiple contributions of Canadian scholars on federalism. Incidentally, this Canadian proficiency has now reached a global stage through the immense erudition provided by the Forum of Federations in the last decade.

The meaning of federalism in Québec has evolved through time and the various travails of our common history. The classical compact theory, in its pact-of-provinces, pact-of-peoples or combination-of-both formulae, is of course an interpretive construction that has undergone various reformulations (Kelly and Laforest 2004). I shall only provide here a few glimpses of this immensely rich literature. At the time of our Centennial, in the mid-1960s, Jean-Charles Bonenfant, an important Laval constitutional Law scholar, reflected about the meaning of Confederation. He concluded that often in history, peoples or nations live together less out of reciprocal affection than through their inability to live separately. In 1990, in the aftermath of the demise of the Meech Lake Accord, Léon Dion, co-founder of the Department of Political Science at Laval, and father of Stéphane Dion, former leader of the Liberal Party of Canada, had this to say in his testimony to the Bélanger-Campeau Commission:

“Quebec must at long last obtain an absolute right of veto over any amendment to the Canadian Constitution. I had not hitherto seen one of the consequences that flows from these Quebec demands. In the final analysis what I am rejecting is the 1982 revision of the Constitution in its entirety. English Canada ascribes great importance to the Charter of Rights enshrined by that revision. The Charter suits it well. We should not propose to amend it in various ways; we should reject it root and branch. We have had our own Charter of Rights for years. It suits us. We should strengthen its legal validity. Each person and group would thus appeal to a single Charter of Rights. Everybody would be better off for it” (quoted in Laforest, 1995: p.105).

Throughout his entire life, Léon Dion was a passionate promoter of the Canadian dream of duality. Twenty years ago, at the height of our debate over the ratification of the Meech Lake Accord, I gave a lecture about his thought in the department of Political Science of the University of Alberta. In the passage I have just quoted, one can sense the immensity of his disappointment over the demise of Meech Lake and the constitutional stalemate it provoked. In a way, as I shall develop further in my conclusion, this stalemate is still with us. And in another way, the profound ambivalences of Québec vis-à-vis Canadian constitutionalism and federalism have very deep roots. Consider this last excerpt, written by one more Laval scholar, the economist Maurice Lamontagne, in the mid-1950s:

“Québec’s actual position is hybrid and ambiguous and cannot last. One member of a federation cannot cling indefinitely to a bygone phase of federalism while all other members desire to evolve to new forms. The way in which Quebec currently participates in the life of the Canadian federation is that of a province submitting to the drawbacks of the federation without benefiting from all its advantages, while the rest of Canada is in a hurry to attain new objectives... The province of Quebec must therefore become conscious of this reality and make a choice. She is currently in a dilemma: either she accepts the new Canadian federation and integrates, or she refuses it and dissociates. What should she do? By and large, this is the question the population poses” (Lamontagne, 1954: 284 and 286).

The matter concerning the meaning of federalism in Québec and throughout Canada is of course the business, and many would hasten to add primarily the intimate province of constitutional law scholars. In this essay, I shall also stay outside the technical discussions about relevance and relative strength of federalism as a constitutional principle in our fundamental law and particularly in the era of Charter dialogue (Kelly and Manfredi 2009). Constitutional jurisprudence, from the lofty statements of the Judiciary Committee of the Privy Council, to the Laskin Supreme Court in the era of Patriation, to the Lamer Supreme Court’s historical reconstruction in the Reference Case Concerning the Secession of Québec, will be only indirectly discussed. Historians, on their part, would be quick to invite us to consider the interpretation of Canadian federalism in a number of key Commissions of Enquiry over the last century, some of them in Québec,

all of them involving Québec thinkers, judges or politicians: Rowell-Sirois, Tremblay, Laurendeau-Dunton, Pépin-Robarts, MacDonald, Bélanger-Campeau, Erasmus-Dussault. Each and every one of these Commissions had something important to say about the meaning of federalism in Québec and in Canada.

Interpreting the meaning of Canadian federalism in Québec must take into consideration the fact that the country has changed a lot since Confederation. This is one of the arguments put forward by André Pratte, *La Presse's* chief editorialist and one of the key contributors in the Québec debate over the meaning of federalism, as I shall illustrate at greater length in the next section of this essay. For now, I'll limit myself to a few major facts mentioned by Pratte. There are 47 times more people in Alberta today than at the time of Confederation, and in British Columbia the figure is 120 times. In 1901, the population of Québec was 7 times higher than the population of these two provinces combined. As matters currently stand, there are now more people combined in Alberta and British Columbia than in Québec. Within my lifetime, roughly speaking, Québec's share of Canada's total population will have declined from about 30% to 20%. Comparatively speaking, it is accurate to speak of Québec's steady demographical and economic decline in modern-day Canada. However, for as long as I can see in the future, Québec will continue to play an important role in the political and constitutional make-up of Canada. This much can be expected of a distinct national society of close to 8 million people, operating predominantly in French, culturally and economically dynamic on the world stage, integrating immigrants in an autonomous educational, communicational and institutional network, in an English-French bilingual federal country called Canada. The reality of English-French duality, anchored first and foremost but not exclusively in Québec, is a major part of the past, present and future of Canada. To say that the Canadian state operates in two official languages hides much of our social reality: behind that we find two legal systems, two networks of civil society associations, two scholarly communities, two media networks, two host societies for immigrants, two apparatuses of popular culture, two literatures. A substantial share of this dualistic configuration, which contributes not in the least to the originality of Canada in the Americas and in the world, is owed to the fact that Québec is a predominantly-French distinct society and an autonomous political community. And because of this, the meaning of federalism in Québec does matter for all of

Canada. This is as true now than at the times of our 19th century Confederation Debates or during the various stages of our constitutional tugs-of-war of the last decades.

From the mid-1990s onwards, when I was working on the IRPP Beyond the Impasse Project with Roger Gibbins, now president of the Canada West Foundation, I coined an expression that owed a lot to my experience in Calgary: "I'd much prefer to be governed in a federal way by a unilingual Albertan, than in a quasi-imperial way by a fellow Quebecker." Like many people in my province, I was disenchanted by the way in which, at least in my eyes, the Canadian government led by Jean Chrétien, showed little respect for the institutions and principles of federalism in its fiscal policies, higher-education initiatives, and more generally towards its rather arbitrary and unilateral way to provide coordination for our political regime. As many Quebecers were gradually moving away from the idea of seriously considering the sovereignty option, they had some reason to believe that Canadians beyond their province were gradually moving away from the idea of federalism as an ethical, institutional and constitutional pillar of our system. Consider the following passages from essays by Will Kymlicka and Sujit Choudhry:

"English-speaking Canadians have a deep desire to act as a nation, which they can do only through the federal government; they also have come to define their national identity in terms of certain values, standards, and entitlements that can be upheld from sea to sea through federal intervention in areas of provincial jurisdiction. In short, the only way for English-speaking Canadians to express their national identity is to undermine the provincial autonomy that has made it possible for Quebecers to express their national identity. The problem in Québec-Canada relations, therefore, is not simply that Quebecers have developed a strong sense of political identity that is straining the bounds of federalism. It is also that Canadians outside Quebec have developed a strong sense of Pan-Canadian identity that strains the bounds of federalism" (Kymlicka, 1998: p.166).

"The impact on federalism of Canada's increasing ethnic diversity and the concentration of that diversity in Canada's urban centres is a question that has largely remained unexplored. My sense is that federalism is in for a bit of a shock, because many

recent immigrants do not identify with Canada's self-description as a federal political community. They have not taken to federalism in the same way that they have embraced other aspects of our constitutional identity, such as rights and the rule of law. The difficulty here is that federalism offers up a conception of the Canadian political community with which immigrants find it difficult to identify" (Choudhry; in Studin, 2006: p.122-123).

There is a short, simple answer, to the question about the meaning of federalism in Québec, and it has been reformulated in recent years by political scientists of my generation such as Alain Gagnon, Alain Noël, François Rocher and myself: liberty and identity, autonomy and recognition. Canadian federalism, at its best, provides Québec with a substantial degree of political freedom while preserving and promoting its distinct identity. It fosters autonomy and offers an authentic form of recognition. This, in other words, is the dominant paradigm and I shall consider some of its limitations later on in this essay. The current Prime Minister of Canada, Mr. Stephen Harper, has undeniably struck a chord in Québec by developing a doctrine of "fédéralisme d'ouverture" (better rendered in English by the expression "federalism of openness" than by "open federalism"). In two key speeches made in Quebec City in December 2005 and later on in Montreal in April 2006, Mr. Harper elaborated a vision that contained the following orientations:

a) beyond domineering and paternalistic federalism, show greater respect toward constitutional provincial jurisdiction and division of powers;

b) foster better collaboration and coordination with provinces and circumscribe Ottawa's spending power;

c) recognize the existence of a vertical fiscal imbalance between Ottawa and the provinces and willingness to act on this problem;

d) recognize the special cultural and institutional responsibilities of Québec's government role in Unesco;

e) in Canada-Québec relations, offer a noticeable change of tone: "we shall change the debate, change the programme and change the federation". (Harper's federalism of openness is discussed in Pelletier 2008, as well in Caron and Laforest 2009).

Although the Harper-led Conservative minority government has failed to deliver on its promise to elaborate a so-called “Charte du fédéralisme d’ouverture”, I believe there is a general consensus in Québec that Mr. Harper has made significant progress on most items of this agenda. Considering, moreover, that Mr. Harper moved through the House of Commons a resolution recognizing that the Québécois form a nation in a united Canada, that he has shown tremendous respect for the French language, that he has highlighted here and abroad the role of Québec in general and of Québec City in particular, in the founding of Canada, it is somewhat surprising that he did not make substantial gains in Québec in the 2008 Fall federal election. Any analysis of these matters must be careful. In truth, the engine of “fédéralisme d’ouverture” has been losing part of its energy on a variety of issues: statements about the need to circumscribe the spending power have been timid at best, some ambiguities remain concerning what Mr. Harper really meant in the nation resolution, senate reform projects and the idea of an Ottawa-based national securities regulator have met strong resistance in federalist Québec City, the Prime Minister has shown no enthusiasm towards streamlining coordination through regular and more rational First Ministers Conferences, and he has generally stayed away from the idea of re-opening the constitutional file in order, among other matters, to formally recognize Québec’s national identity. Add to this the rift between Mr. Harper and Québec Premier Jean Charest dating back to the latter’s decision to reduce income taxes in the aftermath of a 2007 federal budget addressing the fiscal imbalance issue, and you get a more realistic portrait of the relationship between Mr. Harper’s government and Québec.

Forty years after Pierre Elliott Trudeau replaced Lester Pearson, the Liberal Party of Canada is once again led by a major intellectual figure, Michael Ignatieff. Mr. Ignatieff succeeded in 2009 our former university colleague, Mr. Stéphane Dion, an important public intellectual in his own regard. I shall consider here some of Mr. Dion’s pronouncements about the meaning of federalism in Québec. First, I wish to say that Mr. Dion and Prime Minister Stephen Harper have a lot in common. Political theory and comparative institutional studies tell us that federalism is always about a balancing act between unity and diversity, self-rule and shared rule, autonomy and solidarity-participation. So I think that Mr. Dion, like Mr. Harper, understands very well the need to balance integrative strategies bringing all citizens

into the fabric of the Canadian national and federal political community, with strategies of empowerment aimed at satisfying the aspirations of a minority national community such as Québec. In his days as a political scientist, Mr. Dion wrote about the need to balance “stratégies d’endiguement” with “stratégies de contentement”, which I find very close to the vocabulary of experts such as Richard Simeon writing on behalf of the Forum of Federations (combining strategies of integration with strategies of empowerment). Modern-day Canada is about striking a balance between the constitutional laws of 1867 and of 1982, the first one providing a strong anchor for federalism and provincial powers enabling Québec to be free and distinct, while the second one integrates the whole country with a nationalizing Charter of Rights and Liberties. As a former leader and still a major figure of Pierre Trudeau’s party, Mr. Dion may lean towards 1982 and the Charter, whereas Mr. Harper may lean towards 1867 and a more historical and federalist understanding of Canada, but both men do reconcile these two pillars of our constitutional identity. Stéphane Dion is a bona fide federalist. As Minister of Intergovernmental Affairs in Mr. Chrétien’s governments, he made numerous speeches developing a rich federalist discourse or theory emphasizing the following principles: value of multiple national identities and necessary cohabitation of cultures in our world, tolerance, solidarity, flexibility (Dion, 1999: p. 29-30). In addition to this normative orientation, Mr. Dion has reflected upon his own praxis of federalism as a Minister, emphasizing the following elements (Dion, 1999: p. 117-118):

- a) the Constitution must be respected;
- b) close cooperation must be established where it is needed;
- c) the capacity and liberty of governments towards action must be preserved;
- d) the federation must be flexible;
- e) the federation must be fair;
- f) we must exchange information;
- g) the public must be aware of the respective contributions of the different governments.

Prior to and in the aftermath of the 1995 Québec referendum, Stéphane Dion and Stephen Harper were in the same camp on a number of issues. Both were, and remain, coherent anti-separatists forcefully defending the value of the Canadian political experience in the world, strong supporters of a firmer defence of the rule of law and of Canada's territorial integrity. In English-speaking Canada, Mr. Dion is seen as Mr. Unity and known as the co-sponsor, with then Prime Minister Jean Chrétien, of the Clarity Act. As is well established, the whole idea of the necessity of greater legal clarifications of such endeavors owes a lot to the mind of Stephen Harper. But it was Mr. Dion who fought this struggle in the trenches in Québec, and he remains to this day hindered as a political leader by the perception that in order to strengthen the legitimacy of the Clarity Act, he aided and abetted a partitionist movement in Greater Montréal and elsewhere. In the light of the fact that the Clarity Act would allow the federal government to establish the nature of a clear majority following the evolution of circumstances after a secessionist referendum, observers should not be surprised to note that it remains to this day Mr. Dion, rather than Mr. Harper, who is seen in Québec, as the real sponsor or defender of the tougher Canadian line. Mr. Dion, in Québec, while he was leader and still to this day stands for the rough language of an uncompromising Canadian national integration, the embodiment of a strong "stratégie d'endiguement"; whereas Mr. Harper, elected after the turmoil of the Chrétien decade and the malaise surrounding the sponsorship scandal, offered himself to Québec as the embodiment of the balancing act that represents his doctrine of "fédéralisme d'ouverture". In the Fall of 2006, Stéphane Dion was a candidate for the leadership of the Liberal Party of Canada. Neither during the leadership race, nor at any time following his victory, has Mr. Dion thought it necessary or useful to propose his own rebalancing act on federalism and Canada-Québec relations in the twenty-first century. All in all, a similar remark applies to the current Liberal leader, Michael Ignatieff. On these matters, the January 2010 web site of the Liberal Party and Mr. Dion's platform in 2008 share the same silence. To be fair, both Mr. Dion and Mr. Ignatieff have supported a number of measures associated with Mr. Harper's "fédéralisme d'ouverture", including the recognition of Québécois as a nation within Canada. In June 1877, in Québec City, Wilfrid Laurier made a landmark speech about the meaning of political liberalism that strongly contributed to his later election as Prime Minister of Canada two decades later. Mr. Laurier redefined liberalism for his times. It remains to be seen wheth-

er or not, at the dawn of a new decade, any leader of the Liberal Party will attempt to re-define himself or herself as a new Laurier for the twenty-first century, offering a coherent understanding of what federalism means in Québec and in Canada, rebalancing on the side of the empowerment of Québec's liberty and identity (stratégie de contentement) the mainstream majoritarian approach characterized by the legal integration of Québec in the unity of the Canadian nation (stratégie d'endiguement).

A quarter of a century after Lord Durham's Report and after the Union Act of 1840, the emergence of a federal Dominion in Canada in 1867 meant, in the eyes of George-Etienne Cartier and those who sided with him, nothing less than the political renaissance of Québec, its resurfacing as an autonomous, distinct, self-governing political community. The following two passages coherently illustrate this line of interpretation: the first is taken from a parliamentary speech made by John A. Macdonald, the second one summarizes Arthur Silver's views about the French-Canadian idea of Confederation:

"I have again and again stated in the house that, if practicable, I thought a legislative union would be preferable... But on looking at the subject in the conference... we found that such a system was impracticable. In the first place, it would not meet the assent of the people of Lower Canada because they felt that in their peculiar position –being in a minority, with a different language, nationality and religion from the majority– in case of a junction with the other provinces, their institutions and their laws might be assailed, and their ancestral associations, on which they prided themselves, attacked and prejudiced. It was found that any proposition which involved the absorption of the individuality of Lower Canada... would not be received with favour by her people." (Macdonald, Legislative Assembly of United Canada, February 6, 1865, quoted in Ajzenstat, Romney, Gentles and Gairdner 2000: p. 279)

"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 jurisdic-

tions) were the main themes of Bleu propaganda. 'As a distinct and separate nationality', said La Minerve, we form a state within the state. We enjoy the full exercise of our rights and the formal recognition of our national independence." (Silver 1997: p. 41)

These two passages remind us of what Canadian federalism meant in Québec in 1867. The length of this section shows that many hermeneutical precautions need to be taken before attacking head-on the heart of the matter, what federalism may mean for us in the contemporary era.

3. Contemporary trends and scholarship, critical reflections

In political, intellectual and academic circles, a federalist revival is currently occurring in Québec. I believe it is useful to start with a collection of essays put together by André Pratte, the chief editorialist of the Montréal newspaper, *La Presse*. It is entitled "Reconquérir le Canada: Un nouveau projet pour la nation québécoise", and was released in English with the title "Reconquering Canada". Reading this book, many came to the view that Canadian federalism had finally found its voice anew in Québec. Pratte and the contributors to his book share four premises: it is in Québec's long term interests to remain within Canada; Quebeckers must change their approach towards Canada, moving beyond the language of grievances and constitutional demands; Quebeckers should be more active participants in the political life of the country; Québec already possesses all the required tools to meet its contemporary challenges (Pratte, 2007: p. 10). In short, Québec must move beyond isolationism, Quebeckers must be more enthusiastic Canadians, and federalists must abandon their dogmas and vanquish their fear to act and to speak out forcefully on behalf of their option. In his own contribution to the book (*Faire table rase: Voir notre passé autrement pour mieux bâtir notre avenir*), Pratte proposes a lucid reassessment of Québec's situation and fate within Canada. With words echoing those of André Laurendeau at the time of the Royal Commission on Bilingualism and Biculturalism forty years ago, Pratte invites his fellow Quebeckers to become more involved, to take more risks in the human and social experiment called Canada. Quebeckers should learn more about other provinces and

other Canadians, they should learn anew the language and the spirit of compromise, they should extend a generous hand to their allies and partners in the business of this country. Quebeckers have constructed a distinct society, they have every reason to be proud of this, and they control their own destiny. They should act responsibly, and affirm themselves through their economic prowesses, their dynamism, their creativity (Pratte, 2007: p. 252-253; see also Dubuc, 2008: 229 and Pratte, 2006: p. 132). Canada has changed a lot since 1867, its governance is now extraordinarily complex, and in this context Quebeckers must abandon their past-oriented approach and the rhetoric of victimhood (Pratte, 2007: p. 232). Invoking in his writings a historical *tabula rasa* as a strategic orientation for a more rewarding future, André Pratte joins a number of contemporary historians and philosophers who have systematically criticized the rather nostalgic and melancholic brand of nationalism that has occupied so much place in Québec letters since the Quiet Revolution (Létourneau 2004, Maclure 2003, Weinstock 2005). Three more contributions in this book are relevant for my purposes in this lecture, respectively written by Marie Bernard-Meunier, formerly Canada's ambassador to Germany, by Jean Leclair, Professor of Law at Université de Montréal, and by Pierre-Gerlier Forest, the current President of the Trudeau Foundation in Montréal.

In her chapter, "Apprendre à jouer le jeu: le défi du Québec au sein du Canada", Marie Bernard-Meunier puts forward an appeal to the politics of reason. The complexity of federal governance is such, according to her, that such regimes can only be the choice of necessity (recall the reference to Bonenfant and the spirit of 1867 in the previous section). She sees four principles at work in the logic and nature of federalism: the locus of equilibrium in a federation will always be unstable; the cohesion of a federal regime rests on its ability to reconcile two fundamental needs, the wish of the partners to preserve their identity (*rester soi-même*) and their desire to pull together (*s'unir*); such regimes are marriages of reason, and thus in Canada Quebeckers should restrain their crippling desire to be recognized and loved; finally, and perhaps at least partly in contradiction with the previous principle, federations require dual loyalties and senses of belonging (Bernard-Meunier, 2007: p. 133-134). In her careful comparison of Canadian and German federal institutions and practices, she notes that in both countries a kind of natural logic towards centralization needs to be counterbalanced, and that Germany is bet-

ter equipped than Canada to do this. However, in German federalism all partners play the game with an authentic, bona fide desire to share and cooperate with the others. In Canada, she concludes that Québec has broken the equilibrium between autonomy and solidarity-participation, pursuing its sole interests in an instrumental/utilitarian approach (Bernard-Meunier, 2007: p. 140).

Tabling on his vast knowledge of the politics of health in Canada, Pierre-Gerlier Forest invites Quebecers and their political leaders to imagine more boldly the institutions and practices of interdependence adapted to the twenty-first century. In health as in other matters, he argues, Québec must move beyond the blind and mechanical repetition of its traditional demands and grievances. In his chapter, entitled "Santé: en finir avec la chaise vide", he proposes a typology of current understandings of federalism in Québec and elsewhere in Canada, crossing the pole of centralization-decentralization with the symmetry-asymmetry axis. Traditionally, in Québec, the hegemonic approach towards federalism has privileged strong asymmetry with substantial decentralization. Although the interpretive panorama is somewhat more complex in Canada-beyond-Québec, Forest believes that since the advent of the 1982 Charter of Rights and Freedoms, greater centralization and greater symmetry have been put forward through a redefinition of Canadian nationalism. Forest makes an insightful point about the logic of change in a federal regime. He concludes with most experts that the burden of proof belongs to those who wish to secede from a federation. He then proceeds to add that the burden of proof should also belong to those who want to consolidate centralizing and symmetrical dimensions (Forest, 2007: p. 272). Justifying in pragmatic terms the respective presence of our provincial and federal governments in the field of health, in an era characterized by the primary authority of science and knowledge, Forest adds that this burden of proof should also belong to those who want to restrain our ability to innovate and to experiment different approaches.

Much of the public interest surrounding André Pratte's edited volume when it was published was centred on Jean Leclair's brilliant, thought-provoking, polemical and at times inflammatory chapter, entitled "Vers une pensée politique fédérale: la répudiation du mythe de la différence québécoise radicale". Never since Pierre-Elliott Trudeau penned the chapters and articles that found their way in his own collection of articles in the sixties, "Federalism and the French

Canadians”, has any Québec intellectual written such an eloquent pamphlet about the theoretical and practical merits of federalism. In truth, some parallels could be established between Leclair and his former Université de Montréal colleague, Stéphane Dion. Both march in the footsteps of Alexis de Tocqueville and of Pierre Trudeau, crafting a philosophical defence of federalism for the benefit of individual freedom and multiple identities. Both see federal governance as an exercise in counterbalancing forces, promoting a political culture marked by a spirit of compromise and moderation. Beyond theory, however, as I argued earlier, Mr. Dion’s “Straight Talk” for contemporary Canada is dominated by his own brand of coherent anti-separatism. His ethics and praxis of federalism look like overtures in this greater symphony. Jean Leclair’s essay, in contrast, is first and foremost an essay in praise of Canadian federalism in Québec. According to him, the understanding of Canada propounded by Québec nationalists and sovereigntists has been deterministic and totalizing, vastly exaggerating the strength of centralizing elements in the political and legal systems. He believes that these writings have also been premised on a monistic approach towards “nation” and “culture”, disregarding the authentic possibility of multiple identities and developing a culturalizing pathos over-simplifying social reality. “One can only adhere to a single nation, everything is cultural in social life, and Québec is fundamentally and radically different from the rest of Canada”. Such would be my summary of Jean Leclair’s overview of the premises and deficiencies of much contemporary thinking about Canadian federalism in Québec.

In order to elaborate a serious theory and practice of federalism in Canada, Leclair believes that it is necessary to accept a series of premises and spiritual preconditions (Leclair, 2007: p. 63):

a) there are differences between human beings but, in addition, each human being is traversed by a plurality of forms and modes of belonging;

b) cultural dimensions are far from exhausting the whole of reality;

c) the function of federalism is to limit the power of the state as well as to peacefully structure relations between various communities;

d) federalism requires a combination of autonomy and solidarity;

e) a climate of tension is inescapable in any federal regime, in politics in general and in democratic politics in particular;

f) federalism is not a zero-sum game: Canada and the central government do not win whenever Québec and its government lose, and vice versa;

g) a majority of Quebecers remain substantially attached to the Canadian state.

Constitutional law professors, and their students, would no doubt appreciate Leclair's efforts to elaborate a balanced reading of the current state of Supreme Court jurisprudence concerning the meaning and the importance of federalism in Canadian constitutionalism. He discusses such issues as the legal anchoring of the spending power of the central government, the "national dimensions" and "national emergencies" theories of interpretation, the federal jurisdiction over the regulation of trade and commerce, over communications and concerning the implementation of treaties. On these matters, his main academic interlocutor in Québec is my young colleague Eugénie Brouillet, who is fast becoming one of Québec's pre-eminent authorities on federalism and the Constitution. Her views will be discussed further on in this essay.

Leclair concludes his contribution with a series of reflections on what needs to be done in order to foster a greater federal spirit or political culture of federalism in Québec and in the whole of Canada. I shall limit myself here to what he has to say about Québec. In Québec, this would require abandoning an essentialistic and totalizing approach towards culture and identity. It would require a better equilibrium between autonomy and solidarity (Leclair 2007: p. 65-66). And finally, it would be greatly helped by relinquishing an overly narcissistic approach on public policy dialogue. This, by the way, was one of the ideas I developed ten years ago in the IRPP. Beyond the Impasse project with Roger Gibbins, advocating federal associates to place themselves in the shoes of the other partners (Laforest, 1998: p. 51-52).

Ever since Confederation, as I have begun to argue earlier in this essay, the dominant paradigm about Canadian federalism in

Québec has been about the identity of Québec and about its liberty within Canada, about its autonomy (from Canada) and recognition (by Canada and/or other partners within Canada). One of the most enlightening recent pieces about Canadian federalism has been coined by University of Ottawa political scientist François Rocher. He considers that in both Québec and English-speaking Canada, interpretive developments to this day remain heavily dependent, respectively, on the reports of two mid-twentieth century commissions of enquiry: the Tremblay Commission in Québec and the Rowell-Sirois Commission across Canada. I shall quote at length from Rocher's chapter:

"In Quebec the dominant understanding of federalism and federal institutions has its origins in the Tremblay Report, named for the chairman of the Quebec Government's Royal Commission on Constitutional Problems, published in 1956. Since then, while evidently being adapted for particular political conjunctures, the Quebec-Canada debate has taken place almost exclusively within the argumentative framework set out in that report. Similarly, the literature in English on Canadian federalism, as well as the practice of federalism by the general government, follows the argumentation advanced by the Rowell-Sirois Commission, informally so named for its co-chairmen, in the Report of the Royal Commission on Dominion-Provincial Relations, published in 1940.

To summarize my central argument in a few words: the dominant understanding of the English-language literature on Canadian federalism pays no heed to the notion of autonomy but emphasizes the notion of efficiency, while Québec francophone scholars and the practices of the Québec government have not adequately taken into account the notion of interdependence" (Rocher, 2009: p. 98).

A healthy practice of federalism requires a form of equilibrium, of balance, between the requirements of autonomy on one side and those of solidarity-interdependence on the other. Interestingly, this remark has been recently reasserted both in a polemical fashion by Jean Leclair, in a book quite critical of Québec sovereigntists and ultra-autonomists, and by François Rocher, in the first textbook about Canadian federalism published in a long while in Québec (Contem-

porary Canadian Federalism: Foundations, Traditions, Institutions, edited by Alain-G. Gagnon). Rocher's essential point is that ever since the Report of the Tremblay Commission, there has been no such equilibrium in the work of Québec francophone scholars, the vast majority of them privileging the securing and the enhancement of autonomy for Québec, while neglecting the matters of solidarity and interdependence. I shall not dwell here on the fact that the topic of Québec's autonomy was first and foremost in the work of the Tremblay Commission, considering that this subject has been competently dealt with elsewhere (Noël 2007 and Rocher 2009). I shall rather illustrate the preservation and strength of the same perspective in the current production of Québec francophone scholars, stemming from a variety of academic disciplines and working with a variety of methodological approaches.

In a work of synthesis published in 2008, summarizing three decades of teachings on Canadian federalism, my Laval colleague Réjean Pelletier squarely espouses the autonomist approach of the Tremblay Commission as depicted by Rocher. His book, entitled "Le Québec et le fédéralisme canadien: un regard critique", starts with the classical interpretation highlighting the centralizing aspects of the 1867 constitution, placing the provinces in general and Québec in particular in a subordinate position (Pelletier, 2008: p. 14). All constitutional and institutional developments coming in the aftermath of the founding moment are essentially examined from the perspective of their consequences for the preservation and promotion of Québec's autonomy (Pelletier, 2008: p. 54). Pelletier's book has high pedagogical value: the chapters on intergovernmental relations, bilingualism, Senate reform, the Council of the Federation and Harper's federalism of openness are solid and insightful. The chapter on asymmetrical federalism is an excellent example of the contemporary relevance of the Tremblay Commission's hegemonic autonomist paradigm. Supplementing with regards to institutional development the work done by Alain-G. Gagnon on the normative foundations of asymmetry (see Gagnon 2009), Pelletier laments the fact that Québec has never been adequately recognized as a minority nation or as a distinct society within Canada (Pelletier, 2008: p. 150). The book ends on a rather pessimistic note, with the observation that the demographical and economic centers of gravity of Canada are moving further and further away from Québec. As minorities get weaker, Pelletier observes, they shall get less and less attention.

The study of Canadian federalism in Québec is successfully attracting a new generation of scholars. This is nowhere more evident than in the field of constitutional law, with the recent contributions of figures such as Jean Leclair, Jean-François Gaudreault-Desbiens and Eugénie Brouillet. Co-author of the most important French-language Canadian constitutional law textbook (Brun, Tremblay and Brouillet 2008), Eugénie Brouillet has also published mid-way through the last decade a key dimensions about the legal dimensions of Canadian federalism with regards to the autonomy and cultural identity of Québec (Brouillet 2005). Entitled "La négation de la nation: l'identité culturelle québécoise et le fédéralisme canadien", her book modified at least in part the traditional Québec interpretation –as shown in this essay by Pelletier and still very much present in the constitutional law textbook (p. 434)– focusing on the centralizing trends at work in the 1867 founding document. While not denying the institutional thrust of this analysis, Brouillet suggests that the nineteenth-century federal constitution had much to offer for those who sought to protect Québec's cultural identity. I cannot do justice here to the richness of the sections of her book on the founding debates, the analysis of the principles of the division of powers between the federal government and provinces, the ways in which Québec's autonomy and cultural identity were originally secured and later enhanced by constitutional jurisprudence for many decades after 1867. Nor can I consider her rigorous treatment of the jurisprudential evolution between the periods 1949-1982 and 1982-2005, characterized according to her by a steady dilution of the importance of the federative principle, in cases and matters pertaining to the cultural identity of Québec. What I find particularly striking is the fact that, in the same spirit as was found in the monograph by Pelletier, Canada and its federal traditions, laws and institutions are examined quite exhaustively, but solely, from the perspective of these two higher objectives or goods that are Québec's autonomy and distinctiveness. In a key development of her book, Brouillet approvingly quotes the Report of the Tremblay Commission in support of the idea that key matters dealing with culture and societal identity were left to provinces and thus to Québec in 1867, before synthesizing the argument about the centrality of the principle of autonomy of spheres of jurisdiction to understand the relationships between orders of government (Brouillet, 2005: p. 154-156). In these pages, she thoroughly vindicates the point made by Rocher about the contemporary relevance of the paradigm clearly

defined by the Report of the Tremblay Commission in francophone scholarship in Québec.

What Réjean Pelletier and Eugénie Brouillet represent and have accomplished respectively within the spheres of political science and constitutional law is brilliantly completed in the universe of political philosophy by my Université de Montréal colleague, Michel Seymour. In a remarkable synthesis published in 2008, entitled "De la tolérance à la reconnaissance: une théorie libérale des droits collectifs", Seymour builds on the work of Charles Taylor, Will Kymlicka and John Rawls in an attempt to justify philosophically and legitimize politically the existence of collective self-governing rights for non-sovereign peoples (Seymour 2008). Kymlicka's approach remains insufficient for Seymour because it cannot go beyond moral individualism in its defence of minority rights within liberal theory. Seymour's argumentative strategy consists in extending to non-sovereign peoples the collective rights that the last Rawls is willing to grant to independent nation-states. All in all, Seymour has produced the most sophisticated philosophical argument of the decade in support of the defence and enlargement of the autonomy –self-government- of non-sovereign peoples in general, of Québec in particular. In 1999, at the height of a particularly acrimonious period in Canada-Québec political and intellectual debates, Seymour had published a book that clearly replicated the traditional Québec perspective on Canadian federalism: an existential approach towards Québec (its autonomy and its recognition) coupled with an instrumental/utilitarian stance towards Canada. In a key passage of his 1999 book, Seymour reflects about the meaning and consequences for Canada of the recognition of the existence of the Québec people. These consequences are summarized by him in a list of ten points:

1) Official recognition of the existence of the Québec people in the constitution;

2) Acceptation that the principle of provincial equality does not apply to Québec;

3) Acceptation of the general principle of asymmetry in the distribution of powers and spheres of jurisdiction;

4) Formally accepting the responsibilities of the Québec government in the promotion of the French language;

5) Acceptation that the Québec government is the only one in charge of culture, communications and the internet on the territory of Québec;

6) Limiting the spending power of the federal government;

7) Granting Québec a veto right on constitutional modifications;

8) Recognizing that Québec has special responsibilities with regards to its national economy;

9) Giving Québec the right to participate in the nomination of three of the nine judges on the Supreme Court;

10) Acceptation that Québec should have an enhanced presence on the international stage. (Seymour, 1999: p. 95-96).

Recall François Rocher's point about the lack of equilibrium in Québec's francophone federalist scholarship between the goal and value of autonomy on one side, the goal and value of solidarity/interdependence on the other. It seems to me that the previous list and relevant passage from Seymour's 1999 book are perfectly illustrative of this break of equilibrium. For supposing that Canada would consider accepting the various points on Seymour's list, all connected to the enhancement of Québec's perennial objectives of enlarged autonomy and meaningful recognition, how would this transform the way Québec and its citizens understand Canada, what would be the specific consequences with regards to obtaining more authentic forms of solidarity and interdependence within the Canadian political community? Seymour remained silent about these matters in the bitter political context of 1999. His more recent work, "De la tolérance à la reconnaissance", deals mostly with strictly philosophical matters, only incidentally referring to Canada-Québec issues to reinforce the thrust of the argument. But quite unequivocally, it is a philosophical work devoted to issues of autonomy, recognition and self-government, rather than about cooperation and interdependence, as the following central passage clearly establishes. Note that the translation is mine.

"Peoples without state possess in my understanding a general, unilateral and primary right to internal self-determination, i.e. they have the right to develop themselves, economically, socia-

lly, culturally within the larger state (N.B. État englobant in French), and the right to determine their political status within this larger state. A secession right should be admitted only as a right for reparation. If the larger state refuses the representation of the minority people within its institutions, if it quashes the rights and freedoms of the citizens of the minority people, if it annexes the territory of the minority people, the latter has the right to secede. More importantly, the minority people is endowed with a right to secede seen as a right for reparation if the larger state violates the principle of internal self-determination of the minority people” (Seymour, 2008: p. 624).

Whether the emphasis is placed on the approaches of political science, constitutional law or political philosophy, the same conclusion appears to be warranted: francophone Québec scholarship studies Canadian federalism with an existential and Québec-focused ultra-autonomist focus, adopting an instrumental/utilitarian stance towards Canada. This orientation carries with it a number of consequences which are lucidly discussed by Rocher:

“Following from the recognition of the need for the general government to respect provincial jurisdiction, the Quebec government during the Quiet Revolution demanded the recasting of Canada’s Constitution in order to obtain powers that it judged to be indispensable to the affirmation of the Quebec identity in all spheres of activities—economic, social, political and cultural—... For the Quebec governments, the Quebec-Canada dynamic is illustrated through several concepts: attachment to the principle of autonomy, respect for and expansion of provincial jurisdictions, achieving a distinct status, and asymmetrical federalism... It is remarkable to note that this construction has taken place, both at the discursive level and concerning the Quebec-Canada state relations, on the basis of the non-participation of Quebec in the building of the Canadian political community.

From the point of view of political institutions and the normative project of federalism, the dominant approach in Quebec is problematic in many ways. First, the emphasis on notions of pluralism, autonomy and non-subordination is clearly disproportionate to the scant attention paid to the notion of interdependence. This imbalance was present in the work of the Tremblay Commission and has since

been consistently reproduced. The desire to construct a 'complete' Quebec society has privileged the expansion of the spheres of sovereignty of the Quebec state and sought disassociation from the Canadian political space. In this context, the necessity of a double loyalty within the federal state proves impossible to articulate" (Rocher, 2009: p. 106-109).

In all these affairs pertaining to trust, loyalty and equilibrium, it is of course wrong to put exclusive focus on one of the partners. Considering as I do in this essay the evolution of the meaning of Canadian federalism in Québec, I could encourage my readers to become blind to the fact that if indeed a certain dilution of the importance of the federative principle in the institutions and political culture of Canada, accompanied by a certain abandonment of what Rocher has called in his own word the ideal of federalism, have indeed occurred in the past couple of decades, it is of course not only the responsibility of Québec, its political leaders and its intellectuals. As I have shown in an antecedent section of this essay through a couple of quotes from Kymlicka and Choudhry, English-speaking Canadians and their political leaders and intellectuals also partake in this responsibility. Rocher himself, in his seminal analysis, recalls that the ideal of federalism has also been abandoned by English-speaking Canada, ever since the Rowell-Sirois Commission, and contemporary behavior by political elites and corresponding studies by the scholarly community have reproduced the abandonment of autonomy –with an exclusive emphasis put on the instrumental logic of performance and effectiveness– which had characterized the work of this Commission. Notwithstanding this remark, my subject matter remains the evolution of ideas about Canadian federalism in Québec. Reflecting on the work of the past decade, I would suggest that although Rocher remains correct, in his assertion about the hegemony of the interpretive paradigm associated with the Tremblay Commission, a number of emerging cracks have appeared in this model, lending credibility to the idea that a paradigm shift could occur in the foreseeable future. The work of André Pratte and of his colleagues does not just amount to an exceptional event in the quiet air of still interpretive times.

In 2005, one of Prime Minister's Trudeau's former speech-writers and advisers, and a philosopher in his own right, André Burelle, published a major book in which he offered a critical re-assessment of Trudeau's intellectual and political trajectories. Marching in the foot-

steps of Emmanuel Mounier and Jacques Maritain, Burelle recalled the four principles of a political philosophy of federalism steeped in the categories of “communitarian personalism”, coined by Denis de Rougemont and others in the aftermath of the second World War at the dawn of the project towards the construction of a new Europe. These principles are summarized as follows:

1) In a liberal-democratic federal regime, the ethical anchor of just relations between citizens and federated communities should be the principle of equivalent treatment rather than identical (uniform, symmetrical) treatment, because whenever we treat in a uniform way beings and agents who are not identical, we negate their difference and we cease to pursue the federal goal of union without fusion.

2) Subsidiarity should be entrenched as a founding principle to establish the sharing of jurisdictions between federal governmental partners. In order to maintain the exercise of power as close as possible from human beings and communities of proximity, matters should be allocated or transferred to the central authorities only when they cannot be dealt with appropriately (in a just and efficient way) at the local level.

3) Non-subordination should be entrenched as a founding principle with regards to the sharing of sovereignty. The establishment of peaceful and creative cohabitation between federal partners requires that none of the orders of government should be subordinated in law or in practice to the other in the exercise of their respective constitutional powers.

4) Co-decision should be established as the founding principle for the management of interdependence between partners in the federation. In order to respect the previous principle (i.e. non-subordination), federal partners should decide jointly the nature and scope of the constraints that each is prepared to accept in the exercise of one’s sovereign powers to solve the problems that they also share jointly when their respective jurisdictions meet one another (Burelle, 2005: p. 44).

Interestingly, Burelle shares many of the critical judgments concerning the evolution of the Canadian federation that can be found in many contemporary studies faithful to the traditional Québec au-

tonomist interpretive canon, such as Pelletier, Brouillet and Seymour. Like most analysts, Burelle believes that there was greater respect for his principles in 1867 than when Canada was constitutionally re-founded in 1982. However, he is much more vocal and lucid than anybody else about the need of a new equilibrium between the requirements of autonomy on one side and those of solidarity-interdependence on the other. Throughout the last decade, without concrete results much to his chagrin, Burelle has advocated that Québec governments should open talks addressing this idea of a new equilibrium, demanding the constitutional recognition of Québec's right to national difference (a difference that comes with legal and political consequences beyond the realm of symbols) but also prepared, at the same time, to accept the aforementioned principle of co-decision in the management of economic and social interdependence (Burelle, 2005: p. 467).

In many ways, André Burelle remains an idealist, about federalism as a doctrine, and also in his understanding of Canada's 1867 federal constitution. Thus, I find it useful to read his prose alongside that of Christian Dufour, who has been intelligently studying the histories and collective identities of Canada and Québec for twenty years. While Rocher and Burelle talk about an equilibrium between autonomy and solidarity/interdependence, Dufour, without relinquishing the need of such balance, prefers to talk about the twin projects of sharing and separation (Dufour, 2000: p. 105). Federal partners indeed need to share, no doubt about this, but they also need to have separate rooms in their joint political home, they require enough space to conduct their own affairs. Because the language of separation is stronger than the vocabulary associated with autonomy, Dufour remains suspicious about Burelle's principle of subsidiarity, considering that it may yield too much to the target of greater efficiency. Dufour, however, becomes a nice companion to Burelle's reflections when he notes that Québec's lack of participation in the Canadian state over the last 25 years has contributed to the weakening of the federal principle across the country, when he recognizes as well that Québec's approach to the Canadian federal project is partly out-dated (Dufour, 2000: p. 106-108). Dufour also brings a welcome touch of historical realism to the whole discussion when he recalls the entwinement of the Canadian and Québécois collective national identities, and the key role of Quebeckers in the founding and development of both of these identities. The contemporary Canadian national identity has been created and transformed ever since the eighteenth century

through historical events that took place largely, if not exclusively, on the territory of Québec. Particularly following the Quiet Revolution a Québec national identity came to dissociate itself in a substantial extent from the Canadian national identity, but the latter has kept much greater relevance in the hearts and minds of Quebeckers than many, in the sovereigntist intelligentsia, have been willing to recognize. In the words of Dufour, most contemporary Quebeckers are also the deepest-rooted Canadians, and this explains why it has remained extremely difficult to make them renounce their Canadian allegiance. If this is the source of a profound misunderstanding in Québec, the equivalent elsewhere in Canada takes the shape of an immense difficulty, in the light of Québec's role in the transforming of Canada, to embrace its right to difference and the idea that this should have meaningful political and legal consequences. Both Dufour and Burelle were advocates and admirers of the ill-fated Meech Lake Accord. They believe that this accord was the best attempt to modernize the Canadian federal project in agreement with the principled ideals of federalism and the realist surroundings of our historical trajectories. Taken together, Burelle and Dufour provide a nice starting-point for those who would attempt, at the dawn of a new decade, to modernize the paradigm of the Tremblay Commission.

It would be impossible to revisit the developments of the last decade without attempting to assess the ideas and the contributions of the current Québec government, formed by the Liberal Party and led by Jean Charest. First elected in 2003, reduced to minority status in 2007 but having climbed back to an albeit modest but real majority position in December 2008, the Charest government inherited the traditional autonomist position and demands of Québec in the Canadian federal dialogue. Benoît Pelletier, the constitutional law scholar who was Minister of Intergovernmental Affairs between 2003 and 2008 claims that the Charest government has attempted to respect the federalist tradition of the Québec Liberal Party through respecting three principles:

“Affirmation –because Quebec has every reason to be proud of its identity and to want to reinforce it and have it resonate both in Canada and around the world.

Autonomy –because being a federalist means believing in autonomy. Indeed, federalism postulates that the provinces' auto-

nomy is just as important as that of the federal order of government. Quebec is an autonomous entity within the Canadian federation. The Government of Quebec is committed to defending this autonomy, and even extending it, in part through non-constitutional means, such as the signing of administrative agreements. The current Quebec government defines the term 'autonomy' from a resolutely federalist perspective.

Leadership –because Quebec must resume the leadership position that it held historically within Canada, both in its relations with other provinces –namely interprovincialism– and in its dealings with Ottawa” (Benoît Pelletier, 2009: p. 471).

According to François Rocher, while embracing normatively the ideals of federalism and maintaining steadfastly that Québec should remain a dynamic partner in the Canadian federation, Mr. Charest and his government have been nothing short of implacable in their assessment of the current state of the federal political system (Rocher, 2009: p. 107). Premier Charest delivered this message in a subtle way in a speech he gave at Charlottetown in November 2004, inviting Canadians and their leaders to renew with the spirit of federalism and to take their distances from centralizing temptations. Entitled “Rediscovering the federal spirit”, this conference gave Premier Charest the opportunity to identify five principles which should inhabit the spirit of federalism in Canada: the respect of the choices, the jurisdictions and the intelligence of each partner; flexibility, i.e. adaptability, respect of differences and asymmetry; the rule of law but also the capacity to change rules if they do not correspond anymore to the will of the partners; political as well as fiscal equilibrium, for ‘there can be no long-term equilibrium if one member finds itself in a situation which transforms detrimentally the nature of the relationship between levels of government’; and finally the principle of cooperation, becoming ever more inevitable due to the requirements of interdependence characterizing contemporary politics. Whereas Premier Charest’s key speech in Charlottetown mostly focused on aspects of political culture, insisting firmly but respectfully that the central government is not the sole guardian of the common good in a federal regime, most of former Minister Pelletier’s addresses between 2003 and 2008 have been devoted to the structural characteristics of our federal regime. The crucial piece from this perspective is one pronounced on a few occasions by him in the spring of 2004,

while travelling in Western Canadian cities. He suggested that a federal regime should respect four requirements:

1) the establishment of an equilibrium in the sharing and interpretation of legislative powers between the two levels of government;

2) the ability of participants to obtain sufficient fiscal resources in order to assume their responsibilities fully and adequately;

3) the capacity of provinces to express their views in common central institutions;

4) the setting up of efficient mechanisms to facilitate intergovernmental cooperation in fields where coordination is required.

Benoît Pelletier arrived at the conclusion that the Canadian system of government does not measure up with any of these structural requirements. But rather than lamenting the existence of a federative deficit – as I did for instance with my co-authors in a different chapter from the same book–, he chose to call for the urgent revitalizing of Canadian federalism. Almost a decade after their first electoral victory, how can we assess the performance of Jean Charest’s Liberals in the revitalization of Canadian federalism? The results are far from insignificant: the creation in 2003 of a new body aimed at streamlining horizontal interprovincial intergovernmental relations, the Council of the Federation, a major agreement towards the financing of the health system with the central government in 2004, formally recognizing the principle of asymmetrical federalism in a parallel deal with Québec in 2004, a Canada-Québec agreement paving the way towards the participation of Québec in the forums of UNESCO in 2006, the motion adopted by the Canadian Parliament in 2006 as well recognizing that the Québécois form a nation within a united Canada, and the partial overhauling of fiscal relations between the central government and its partners in 2007. I have discussed some of these results in a previous section of this essay while commenting on Prime Minister Harper’s federalism of openness. Experts have analysed in depth most aspects of this performance (see Réjean Pelletier 2008, Laforest and Montigny 2009). Beyond these segmented evaluations, it is worth noting that the Charest government has adapted its federalist rhetoric in the past couple of years. In a major speech delivered in Toronto during the October 2008 federal election campaign, entitled “Rein-

venting Canada: the Challenges of our Country for the 21st century”, former Minister Pelletier clearly modified the structure of Québec’s traditional federalist discourse. Habitually, this discourse is “existential” about Québec, emphasizing the twin mottos of autonomy and recognition, while simultaneously adopting an instrumental/utilitarian stance towards in Canada. In his Toronto speech, Pelletier started with a reference to Canada as a country that “we build and share all together” (Benoît Pelletier, 2008: p .2). Obviously, he did not neglect the objectives of autonomy and recognition, but he started by talking about the management of interdependence and cooperation. With regards to the national identities of Canada and Québec, Pelletier insisted that they did not need to conflict with one another, that they could enrich each other, inasmuch as the “affirmation of Québec’s distinct national character could be conciliated with the pursuit of a Canadian common project” (Benoît Pelletier, 2008: p. 5). In the year that has elapsed since this speech, this recalibrated federalist discourse has not been followed or consolidated by any major new development. Intergovernmental relations between Canada and Québec appear to be dominated by problem-solving and the search towards administrative arrangements. It remains to be seen whether or not the governments of Stephen Harper in Ottawa and Jean Charest in Québec will be capable of proposing and structuring new orientations, towards a new equilibrium between autonomy and solidarity/interdependence.

About a decade ago, Alain-G. Gagnon and James Tully published a major collection on multinational democracies (Gagnon and Tully 2001). At the crossroads between comparative political science and political philosophy, this research endeavor studying political and constitutional developments mostly in advanced democracies such as Belgium, Canada, Spain and the United Kingdom has produced significant academic outputs under the leadership of Gagnon running major inter-university collaborative efforts out of Montréal (Groupe de Recherches sur les Sociétés Plurinationales et Centre de Recherche Interdisciplinaire sur la Diversité au Québec). In the deliberative public spheres of complex democracies, the flagship of multinational federalism is often carried with greater enthusiasm by the academic leaders of minority nations, witness the cases of Gagnon in Québec-Canada debates and Ferran Requejo in Catalunya-Spain debates (Gagnon 2007, Gagnon and Iacovino 2008, Requejo 2005). Logically, it would be only normal to expect these academic leaders to reproduce in debates sur-

rounding multinational federalism the hegemonic categories of the internal debates in their respective national communities. Keeping in mind what François Rocher had to say about Québec's interpretive federalist traditions, let us consider the following excerpts from a recent book by Gagnon and Iacovino:

"As this overview of Canadian constitutionalism will show, Quebec's position with regards to its place in Canada has survived generational shifts, international political transformations, and mostly, domestic social currents both in the larger Canadian context and in Quebec, demonstrating remarkable consistency with regards to its existential standing. From both a socio-historical and historical-institutional perspectives, Quebec's place in Canada has rarely shifted, and when it has, it has been a matter of degree as opposed to a wholesale reconceptualization" (Gagnon and Iacovino, 2008: p. 22).

"It is time for both parties to take the high road... Canada must understand that Quebec's affirmation is not inimical to the preservation of the country. It is not a zero-sum game. The extent of association, however, must be negotiated before the level of mutual confidence and trust that bind the political communities together are severed beyond repair. This is a key step, since the will to live together may not be sufficient once that symbolic threshold is crossed. The high road is a two-way street. Quebec must make additional efforts to assure that its minorities are represented in the process of formally constituting itself. Its relationship to the rest of the country ought to be deliberated in a more legitimate procedure than a mere referendum question would imply. And its solid record in respecting liberal democracy ought to remain unblemished. The formal constitution process puts all of this on the table. With regards to Canada, whatever negotiating partner emerges, whatever procedure is adopted, one clear principle must take precedence; it must internalize the notion that it is not ratifying and subsequently negotiating a new deal as a majority. It must begin to see itself as a partner, in the spirit of dualism to which Quebec has always adhered. They may not ratify the document, or reject the process altogether, but in the scenario outlined here, this would only hasten the rupture" (Gagnon and Iacovino, 2008: p. 174-175).

I believe that the tensions and contradictions that can be perceived in these passages reinforce the idea that the ground is slowly but effectively moving in Québec, that the current decade could indeed witness an important paradigm shift. The first passage is all about continuity, pretty much in the spirit of the Tremblay Commission and of its legacy critically analyzed by Rocher. The second passage does not totally depart from this view –consider for instance that the Canadian partner is deemed required to accept the dominant Québec view of dualism– but it also insists that all players in this democratic deliberation should take the high road, that the whole matter is a two-way street –thus insisting on the key notion of reciprocity–, with everything on the table –thus calling all partners to display imagination and courage. These latter elements were more consistently present in the introduction and conclusion of the book that Alain-G. Gagnon published under the auspices of the Institut d’Estudis Autonomics in 2007, for which he obtained the first Josep Maria Vilaseca i Marcet prize (Gagnon, 2007: p. 15 and 179). Our political and intellectual communities will be hard-pressed to display that kind of imaginative boldness in the 2010s.

Conclusion

I have argued in this essay that the interpretation of the meaning of Canadian federalism in Québec is at a crossroads in 2009-2010. While the traditional, strictly autonomist paradigm of the Tremblay Commission is still dominant in the key disciplines of political science, constitutional law and political philosophy, rich internal debates within these disciplines give indications that a major paradigm shift could be looming (Graefe 2009). Quite naturally, as often happens in the human and social sciences, not everything will change simultaneously. In both francophone Québec and English-speaking Canada, the dominant interpretive traditions are deeply-rooted and will not be easily displaced. If it was possible to muster sufficient space and intellectual resources, it would be interesting to see if François Rocher’s argument about federalist traditions in Canada can be applied as well to the political and intellectual lives other multinational societies such as Belgium, Spain and the United Kingdom. My hunch is that it does, allowing us to see that in the dialogue between minority and majority national political communities, most authors (scholars, intellectuals, politicians) have formulated their interpretation of their shared tradi-

tion of federalism or partnership, broadly speaking, with an instrumental –thin- perspective if they are part of the majority and with an ontological identity-defining, thick perspective if they are part of the minority. This explains some of the major misunderstandings between interpretive communities. Focusing mostly on the Québec francophone interpretive community, I have examined here, following the path-breaking work of Rocher, some of the intellectual shortcomings of this tradition. Of course, as Gagnon and Iacovino have adequately insisted, this whole affair is a two-way street and the English-speaking interpretive tradition is not devoid of its own shortcomings. Moreover, as Alain Noël has argued in his own assessment of current scholarly debates about multinational federalism in Canada, these debates are always complex affairs, combining normative considerations and power politics between governments, between majorities and minorities. They always are, simultaneously, associating the power of arguments with the arguments of power (Noël, 2006: p. 422). Considering all the constraints that limited their capacity for action and innovation, Noël suggests that nineteenth-century politicians from Canada and Québec did a reasonable job in their own deliberations, one that could possibly inspire us in our own times:

“For all its democratic limitations, the constitutional politics of the late nineteenth century followed a path that was neither ‘analgesic’ nor ‘agonistic’. Anchored in the immediate preoccupations of politicians and informed by the need to find workable accommodations, the process nevertheless displayed a tension between the principled search for uniformity typical of modern constitutions and the equally principled demands for recognition and for the preservation of diversity that were anchored in the country’s ancient constitution. This tension pitted the idea of a new nation against the protection of established ways of life, and confronted the elites of the new state with the complex requirements of popular consent in a multinational federation... Like all deliberative processes of significance, the Canadian constitutional debate never was a nice and polite conversation, carried by well-meaning participants who had previously checked their interests and their advantages at the door. It often involved tough bargaining or verged on plain domination, was always less than perfectly democratic, and incorporated many restrictions and constraints that disadvantaged some or many constituents. This debate, however, was also anchored in principles

about democracy, continuity and consent, and it contributed to the establishment of important rights and relatively satisfying institutions and practices. This deliberative process was, in other words, a real political process. And it mattered very much (Noël, 2006: p. 438).

This deliberative process is still going on and it still matters very much for us in 2010, with all kinds of new constraints in a transformed Canada, a transformed Québec, and a globalized world. Be they majorities or minorities, national communities are always structured around an equilibrium between the pull of the past, of heritage and memory, and the pull of their projected futures. Will these futures be characterized by the mechanical repetition of the dialectic of conquest and reconquest, premised on the idea of domination, or a by a more edifying politics of concord and reconciliation? We can never be completely certain about these matters in human affairs. However, I am pretty convinced that if the politics of concord and reconciliation are to prevail in Canada-Québec debates, it will require the political leaders of these societies and the scholars of the two major academic communities to agree, respecting Burelle's principle of co-decision, about the appropriate disentangling between utilitarian issues that can be governed by the categories of thin, instrumental rationality, and existential matters that will demand the ability to speak the thick language of authentic allegiance for their shared and intertwined collective national identities. It will not be a simple process. As Noël reminded us, it was far from being simple as well at the time of our federal founding in 1867.

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Concerning plural identities, see the chapter by Dimitrios Karmis, "The Multiple Voices of the Federal Tradition and the Turmoil of Canadian Federalism", pp. 53-76; about the need to go back to 1867, see the chapter by Marc Chevrier, "The Idea of Federalism among the Founding Fathers of the United States and Canada", pp. 11-51; Alain-G. Gagnon is also going back to 1867 in his chapter, "Taking Stock of Asymmetrical Federalism in an Era of Exacerbated Globalization", pp. 255-272; the matter of balance or equilibrium is discussed in the chapter by Alain Noël, "Balance and Imbalance in the Division of Financial Resources", pp. 273-302; it is also discussed in the chapter by J.F. Caron, G. Laforest and C. Vallières-Roland, "Canada's Federative Deficit", pp. 132-162; the issue of trust and loyalty is discussed in the chapter by François Rocher, "The Quebec-Canada Dynamic or the Negation of the Ideal of Federalism", pp. 81-131.

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ABSTRACT

Ever since the federal founding of Canada in 1867, Québec has substantially contributed to the various stages in the evolution of the Canadian state and in the interpretation of Canadian federalism. In the aftermath of the referendums of 1980 and 1995, and considering that a third sovereignty referendum appears quite unlikely in Québec, this article provides a survey and critical understanding of current federalist thinking and current academic discourses concerning federalism in Québec. Although the article is mostly about intellectual history, it integrates current political developments in the province of Québec, governed by the Liberals led by Jean Charest since 2003, and in Canada as a whole as well, governed since 2006 by consecutive Conservative minority governments under the leadership of Stephen Harper. The article shows that in the major academic disciplines of constitutional law, history, political science and philosophy, Québec interpretations of Canadian federalism continue to be dominated by a paradigm formulated by the Report of the Tremblay Commission, a forum for enquiry on constitutional matters created by the Québec government more than fifty years ago. The dominant paradigm continues to propose an «existential» approach focusing on greater autonomy and recognition for Québec, while at the same time adopting an instrumental-utilitarian stance towards Canada. While this approach continues to be developed with great academic sophistication, in most of these disciplines a certain federalist «revival» is under way, attempting to propose a better equilibrium between the requirements of autonomy-recognition for Québec and those of solidarity-interdependence with the whole of Canada.

Key words: Canadian state; Québec's political freedom and self-government; autonomy and recognition; Canadian federalism; federal equilibrium.

RESUM

Des de la fundació federal del Canadà el 1867, el Quebec ha contribuït substancialment en les diferents etapes de l'evolució de l'estat canadenc i en la interpretació del federalisme al Canadà. Després dels referèndums del 1980 i el 1995, i tenint en compte que sembla poc probable un tercer referèndum sobre la sobirania al Quebec, aquest article ofereix una anàlisi i una comprensió crítica del pensament federalista actual, a més de dissertacions acadèmiques recents sobre el federalisme en aquesta regió. Encara que aquí es tracta especialment la història intel·lectual, també s'integra la situació política actual a la província del Quebec, governada pels liberals, encapçalats per Jean Charest, des del 2003, i al Canadà en conjunt, governat des del 2006 per governs successius de minoria conservadora sota el lideratge de Stephen Harper. L'article mostra que a les principals disciplines acadèmiques de dret constitucional, d'història, de ciències polítiques i de filosofia les interpretacions del federalis-

me canadenc del Quebec continuen sent dominades per un paradigma formulat en l'informe de la Comissió Tremblay, un fòrum per a la recerca en matèria constitucional creat pel govern del Quebec fa més de cinquanta anys. El paradigma dominant proposa un enfocament «existencial» que se centra en més autonomia i reconeixement del Quebec, mentre que alhora s'adopta una posició instrumental i utilitària cap al Canadà. Si bé aquest enfocament es desenvolupa amb una gran sofisticació acadèmica, en la majoria d'aquestes disciplines s'experimenta un cert «renaixement» federalista que tracta de proposar més equilibri entre les exigències de l'autonomia i del reconeixement del Quebec, i els de la solidaritat i interdependència amb tot el Canadà.

Paraules clau: estat canadenc; llibertat política del Quebec i autogovern; autonomia i reconeixement; federalisme canadenc; equilibri federal.

RESUMEN

Desde la fundación federal de Canadá en 1867, Québec ha contribuido sustancialmente en las distintas etapas de la evolución del estado canadiense y en la interpretación del federalismo en Canadá. Tras los referéndums de 1980 y 1995, y teniendo en cuenta que un tercer referéndum sobre la soberanía parece muy poco probable en Québec, este artículo ofrece un análisis y una comprensión crítica del pensamiento federalista actual, además de disertaciones académicas recientes sobre el federalismo en esta región. Aunque aquí se trata especialmente la historia intelectual, también se integra la actual situación política en la provincia de Québec, que está gobernada por los liberales, encabezados por Jean Charest, desde 2003, y en Canadá en su conjunto, gobernada desde 2006 por sucesivos gobiernos de minoría conservadora bajo el liderazgo de Stephen Harper. Este artículo muestra que en las principales disciplinas académicas de derecho constitucional, historia, ciencias políticas y filosofía las interpretaciones del federalismo canadiense de Québec siguen siendo dominadas por un paradigma formulado en el informe de la Comisión Tremblay, un foro para la investigación en materia constitucional creado por el gobierno de Québec hace más de cincuenta años. El paradigma dominante propone un enfoque "existencial" que se centra en más autonomía y reconocimiento de Québec, mientras que al mismo tiempo se adopta una postura instrumental y utilitaria hacia Canadá. Si bien este enfoque sigue siendo desarrollado con una gran sofisticación académica, en la mayoría de estas disciplinas se está experimentando un cierto "renacimiento" federalista que trata de proponer un mejor equilibrio entre las exigencias de la autonomía y del reconocimiento de Québec y los de la solidaridad e interdependencia con todo Canadá.

Palabras clave: estado canadiense; libertad política de Québec y autogobierno; autonomía y reconocimiento; federalismo canadiense; equilibrio federal.