

FULL DEMOCRACY NOW



WHERE DO WE GO?

William N Downe M.D. FRCP(C)

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CANADA AT THE CROSSROADS

After Referendum Where Do We Go?

“ Man's capacity for justice makes democracy possible, but man's inclination to injustice makes democracy necessary. ”
- Reinhold Niebuhr

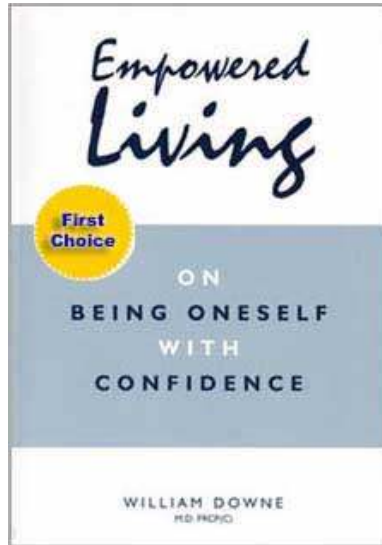
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Dedication

To those Canadians of my generation, and my father's, who fought for a strong Canada, a Nation devoted to Freedom and Democracy. Some gave their very lives.

We owe it to our ancestors, ourselves, our children and grandchildren, to see that Canada becomes a genuine democracy!



Recommended reading

www.myiport.com

Preamble

Most of the content of this booklet can be found in “The Referendum – Bring It On”, first published in 1990. That booklet went through two printings and reached some 3,000 Canadians.

“The Referendum” was written in the fond hope that more Canadians would waken to what we sadly lack in Canada – sound, accountable, common-sense Government. For I see the root cause of many of our problems to be our “bad habits” of government – our non-accountable, non-protective Governments.

Then came our so-called Referendum of October 1992. The good news was that many Canadians became more aware of the existence of the Referendum process and of its potential for empowering grass-roots Canadians.

And Canadians vented their justified indignation with the current political process - plus the self-seeking or compromising politicians which it spawns. Canadians also made it clear that they want more voice in the political process in Canada.

So where do we go from here? We can go back to sleep and allow the political parties to continue to rule us. If we do, we risk losing control of this nation and our own future. We do also, in the opinion of some, risk a violent reaction to government which is increasingly seen to be unjust, as well as out-of-touch.

The contents of this booklet point to reform of our political system. This would not mean some wild leap in the dark. It would mean the introduction of the proven system of Referendum and Initiative most fully developed by the Swiss.

It also might mean introduction of the right to Recall both elected and non-elected members of government. It will certainly mean a move away from our costly adversarial approach to problem solving, a move towards co-operation and seeking of acceptable consensus.

We have the potential to make of Canada a strong and thriving nation, a tribute to itself and a real help to other nations. Will we rise to the occasion?

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Recommended reading

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Introduction

“ Without rebellion, mankind would stagnate, and injustice would be irremediable. The man who refuses to obey authority has, in certain circumstances, a legitimate function – provided his disobedience has motives which are social rather than personal.”

- Bertrand Russell

Canadians Speak!

A large number of Canadians experience this nation to be in a crisis, economically and politically. I am one of them.

Some comments made by concerned and alarmed Canadians appeared in the April 26/90 issue of the London Free Press. They included the following:

“ Obviously the mood of this country is terrible,” stated Lysianne Gagnon, political columnist, Montreal.

“ Canada is at a very serious turning point, - and people feel manipulated and they feel lied to and they are not being told what's really going on,” stated writer Margaret Atwood who feels that Canadians are not very connected to their government - or each other - these days.

“ So we can't see anything, we don't know where the hell we're going, and now there is a terrific row starting in the aisles, and nobody knows if we're on the verge of going over a cliff,” stated Winnipeg pollster Angus Reid.

“ The worst thing in Canada right now is our political process. Some very dangerous people - like provincial premiers or federal politicians - have the legal ability to reject things and change things in our lives. These people could destroy us with their limited minds and obsession with power,” said Montreal citizen Therese Roy.

Each of these comments is right on the money! The mood of the citizenry is one of anger and mistrust, and with very good reason! On every side we read of one government or another refusing to respond to the wishes and needs of large segments of the population. And, between April and December of 1990, the mood of the nation seems to be moving from one of indignation to that of rage ...

Does any nation have it better? Yes! Wherever citizens are empowered politically with binding, citizen-sponsored Referendum and Initiative and Recall, more efficient and accountable government results. Those who will need to live with the proposed laws and taxation and

spending legislation and then have the final say. Common experience (= common sense) then prevails.

November 1991

The economic and societal crisis in Canada is the equal of the military crisis of World War 2. Our well-being, as individuals and a nation is at stake.

But there is no cause for panic or discouragement. We can learn from the Chinese for whom the word "crisis" means "opportunity to learn and change" .

This is our opportunity to grow up politically and to forge a strong Canadian nation, a nation which would include Quebec and our native peoples;-Amerindian and Inuit.

We can become an example to other nations of what healthy and self~ responsible citizenship and nationhood are all about. But we are not apt to do this unless we constructively reform our antiquated political system. This is becoming more and more evident.

I believe that Canadians are up to meeting the challenge and excitement of our current crisis. I believe that we possess the common sense to act in our own best interest.

September 1992

It would appear that Mulroney and many of our Premiers are not prepared to trust the common sense and good will of the Canadian people. There may be a shabby, not binding, federal plebiscite on the whole package of proposed constitutional changes - one vote, 'for' or 'against'.

We may not be entrusted to exercise our own good judgment on these items separately. So, one more time, we may not know the real will of the Canadian people or, as with the WW 2 plebiscite, government will do what it wants.

Mulroney initially set out to manipulate us on this constitutional vote.

He proclaimed that to vote "No" to his proposals was to be against Canadian unity.

Chapter One – Canadians Deserve Better Government

“ The first act of Freedom is to choose it.”

- William James

Let me lead off with a real-life example of the type of government which Canadians deserve. This is provided by our neighbors in the state of Washington, one of a number of US states whose citizens enjoy citizen-sponsored Referendum and Initiative and Recall.

In 1973, the Washington state legislators granted themselves and judges a very large pay increase. Some examples of salary increases were as follows: the Governor's was to go from \$32,500. to \$47,300. per year (45070 increase); the Lieut. Governor's from \$10,000. to \$22,000. (120070 increase); that of the Secretary of State from \$15,000. to \$26,000. (73070 increase).

In addition, there were the usual pension implications; some of the pension increases would be as high as 193%.

Those who would be footing the bill, Washington's citizens, did not like this. Since the legislators handled these handsome pay hikes in such a way as to hamper use of Referendum, the aroused citizens set up **I**nitiative Measure 282. This citizen-sponsored Initiative asked "shall elected officials' salary increases be limited to 5.5070 over 1965 levels, and judges the same over 1972 levels?"

This was put to a citizen vote; an overwhelming majority voted in favor of these limits; the fat increase which legislators had given to themselves was shot down. The salary of the Governor went from \$32,500. to \$34,300., not \$47,300.; that of the Lieut. Governor from \$10,000. to \$10,600., not \$22,000.; that of the Secretary of State from \$15,000. to \$15,800., not \$26,400. - and so on. a Canada!

The Swiss are the world's biggest users of the citizen-sponsored Referendum and Initiative. On those rare occasions when a Swiss government over-steps the mark in spending or taxation, it is quickly called to task by citizen-taxpayers.

In 1975, the Swiss used the Referendum to challenge proposed spending by the federal government. Some 760/0 of voters and a majority of cantons were against the spending and it was stopped. In 1977, the Swiss used the referendum to turn down a proposed, federal, value-added tax - very similar to our proposed Goods and Services Tax (GST).

Where right to citizen-sponsored Referendum and Initiative exists, taxpayers can and do have the final say on taxation and spending!

Can Canadians Handle More Political Power?

If the citizens of Switzerland, and of the state of Washington can assume more political responsibility, I am certain that Canadians can.

Thanks to the struggle and sacrifice of our ancestors, **we Canadians have the ability and the tools required to make decisions concerning taxes, spending, resource management and all other forms of legislation.**

Canadians have had the vote and compulsory education for many years.

These are two of the bases of more political responsibility for citizens. The third is information, and there has been an information explosion in the past 40 years.

Finally, we find a change in attitude in many Canadians since WW2.

They no longer want to be told what to do. They want to exercise their own judgment, make their own decisions.

In the lawyer's office, in the doctor's office, in the work-place etc. Canadians want to have input on decisions affecting their lives.

Canadian citizens must act if there is to be real hope of saving nation and selves. Via Rail and the military are being neutered; both are facts and symbols of national strength and unity. Our east coast fisheries, our furniture industry, have both been gutted thanks to failure of governments to protect - and one of the very reasons for existence of government is to protect the economy and our resources. As the reader well knows, these are but two of many examples of neglect of citizen and nation under our present system of government. Canada is being dismantled.

We have all that it takes to be self responsible citizens in a real democracy. But **our system shuts the door on us - and will until we demand and implement reform.** Until Canadian citizens can hold their governments accountable, and 365 days each year, we lay ourselves wide open to continued abuse by our governments.

And, we have outstanding examples of proven, workable, citizen-friendly forms of government in Switzerland and some US states. We can look at these proven models, draw upon them **to reform Canada's political and governmental systems.**

Chapter Two – Referendum – What is it?

*"That government is best which governs least, because the people discipline themselves." -
Thomas Jefferson*

The Referendum is the modern instrument of a genuine democracy. It allows modern states to implement the essence of the original democracies as they existed in the ancient Greek city states and the Teutonic tribes.

In those ancient democracies, each citizen had the right to express an opinion and to vote on each and every decision affecting the state or tribe. This done, the citizen had the obligation to support the majority decision.

The Referendum, as implemented in a number of modern states, municipalities, nations, allows the citizen-taxpayers to vote for or against bills and decrees drafted by legislators. Citizens, those who will need to live with the proposed legislation and taxation, can have the last say.

The Initiative means citizen-sponsored legislation. The people can propose legislation. As with Referendum, all eligible citizens can vote on the Initiative proposal and majority vote decides the issue. The people, those closest to what is really happening, can be self responsible in proposing legislation through Initiative.

Types of Referendum

From your reading you probably have discovered that there are "binding" and "non-binding" forms of Referendum and Initiative. You may have also discovered reference to both government-sponsored and citizen-sponsored types of Referendum and Initiative.

It is only the binding, citizen-sponsored Referendum or Initiative which promotes a real Participatory Democracy - with citizens in charge.

Canada's federal government held a Plebiscite on the conscription issue during WW2. Mulroney and the Premiers now do the same on our constitution.

Plebiscite vs. Referendum

There are major differences between a Plebiscite and a 'real' Referendum, though the terms are sometimes used interchangeably.

The so-called constitutional referendum being presented to Canadians in October '92 should, for accuracy, be named a Plebiscite. For the nonbelievers, check these points:

open and public debate of a referendum

(2) with plebiscite, the form and nature of the question to be asked is settled by those in power, in government

(3) with plebiscite, citizens will be asked whether they will or will not accept a given policy.

The Plebiscite allows for demagoguery. A demagogue makes his/her own rules and might exploit the Plebiscite - which can be used to make propaganda.

With 'real' Referendum, the citizens are involved in discussion and debate in preparation for the very formulation of proposals and questions. Furthermore, each item/section of our new constitution would be voted upon separately.

Representative Government vs. Democracy

In Canada, we have representative government. This is not democracy. There is a radical difference between democracy and representative government.

With representative government, citizens give their power and sovereignty to elected representatives for a set period. Then, the elected representatives in the Party-in-Power are free to legislate and tax - with no accountability to citizenry. The citizens must submit, 'til next election, when they become free to elect others to rule them!

In a democracy, citizens make the laws and must agree to the taxes; citizens then superintend the administration by their delegates of laws, taxes bond issues, etc. The citizens retain political power 365 days each year!

The Swiss, and later many U.S. states, found it necessary to revolt against the abuses by representative government. They reformed their political systems (see Chapters 3 and 4). Canadians can do the same!

Elitism vs. Democracy

Elitism means rule by a small group of people who assume that they are possessed of a special wisdom which allows them to 'know what is best' for the citizenry. Canada's government has always been elitist, more so since the 1960's (see pg. 20).

Democracy means that the collective experience and wisdom of the total citizenry is superior to that of a small group of elitists.

Citizen-sponsored, binding Referendum and Initiative and Recall are the modern instruments of direct democracy. These have been most widely used in Switzerland and a number of U.S. states (see Chapters Three and Four)

Chapter Three – Switzerland's Participatory Democracy

“ Democracy is the worst form of government, except for all those other forms that have been tried from time-to-time.”
- Sir Winston Churchill

A - INTRODUCTION

Switzerland seems to have developed the use of the citizen-sponsored and binding referendum most extensively. For this reason, the Swiss have our world's most fully developed democracy. So, if we wish to see what constructive political reform is possible for us in Canada, we can look at the Swiss success story.

Switzerland and Canada, both Confederations

We should note that Switzerland is a confederation of 26 sovereign cantons and half cantons. Swiss municipalities are named communes. Swiss cantons are comparable to our provinces. Since both Canada and Switzerland are confederations, a comparison can well be made for our Canadian purposes.

Citizens are Sovereigns

In Canada, sovereignty resides with government.

The Swiss citizens have retained their sovereignty; in times of peace, they have the right to make the final decision on any matter of importance. In Switzerland, the people are the government!

Participatory Democracy

The Swiss political system is referred to as a Participatory Democracy. Its two characteristic features are the citizen-sponsored and binding Initiative and Referendum. Initiative and Referendum exist at the Federal, at the Cantonal (Provincial), and at the Communal (Municipal) levels of government.

Each year, through voting on various federal and cantonal and communal issues, the citizens are kept aware of legislation. This enables them to assume responsibility for themselves and for the state.

No Perfection - but Percentages

There are no guarantees in this life, but there are percentages. And let us not kid ourselves that the Swiss have achieved perfection. Other nations may be in advance of them in some of their legislation.

But the essence of the Swiss political system does provide citizens with those tools which afford highest percentage possibilities for accountable and efficient and low-cost government.

B - Referendum and Initiative in Action

The Swiss are blessed with three types of Referendum and one type of Initiative. Consider these checks and balances which the Swiss have imposed to aid their elected officials:

(1) Constitutional (Obligatory) Referendum

It is compulsory that any proposed change in the federal constitution, or the constitution of a canton, be put to a popular vote. The proposed revision may be partial or total.

For an amendment to the federal constitution, the majority of Swiss voters plus the majority of cantons must vote in its favor (double majority); for an amendment to the constitution of a canton, a simple majority of voters must be in favor.

No constitutional change takes place without permission of the majority of citizen-voters!

History of Development

It had its origin in the USA and came to Switzerland first in 1803.

It was introduced in its present form in the 1848 constitution.

Usage and Results:

In one, modern, 20 year period, 37 federal constitutional amendments were put to referendum vote; 26 of these were accepted and 11 rejected by the voters and/or the cantons.

Implications for Canada:

We would have had a compulsory referendum vote on the Charter of Rights; we citizens, not the Prime Minister and the Premiers, would have the final say on current proposals for constitutional change voting to accept or reject, item-by-item, as do the Swiss and our American cousins in 49 of the 50 U.S. states! This is real democracy!

(2) Legislative (Optional) Referendum

On the demand of 50,000 Swiss voters (it was 30,000 until recent years), or of 8 of the 26 cantons and half cantons, any federal parliamentary bill or decree must be put to a popular vote. The petition must be filed within three months of the date of approval of the bill or decree by parliament.

A simple majority of votes decides the issue. If the proposed legislation is turned-down, the legislators must go back to the drawing-board. They draft legislation which is acceptable; there is no costly new election.

The Legislative Referendum is available to citizens for cantonal and communal legislation as well.

Citizens have the final say on legislation!

There has apparently been a marked increase in use of the Legislative Referendum in recent years. The annual number of federal votes alone has risen to an average of 12 with voting taking place four times yearly.

History of Development:

It has been part of the Swiss constitution since 1874.

Usage

During one 20 year period, 23 federal bills and decrees were voted upon; 11 were accepted and 12 rejected by the voters.

During this same period, over 400 legislative bills were passed, unchallenged by citizens. The business of government is not stalled; government is simply kept efficient and accountable.

The Swiss Parliament, to avoid citizen interruption of its business, declared that "urgent" legislation had no referendum clause. The Swiss voters countered by declaring that these pieces of "urgent" legislation:

- (a) are open to challenge by Legislative Referendum after a period of 1 year, and
- (b) must be sanctioned by Swiss voters and cantons after 1 year if they infringe on the Swiss constitution.

Swiss citizens insist that they have the final say!

Implications for Canada:

We could have challenged Mulroney's GST; we could challenge the pay hikes given by any of our governments to themselves; we could have challenged any or all of Trudeau's Orders-in-Council; we could have voted "for" or "against" Mulroney's dismantling of Via Rail. In short, if Canadians had the right to the Legislative Referendum, we could have the last say on legislation - and create the kind of Canada the majority of Canadians want.

(3) Treaty Referendum:

It is compulsory to hold a referendum on any collective security arrangement involving the Swiss nation e.g. Swiss membership in the United Nations with those peace-keeping obligations. Approval by both majority of voters and cantons (double majority) is required.

Any treaty, binding upon the Swiss state for 15 years or more, can be challenged by 50,000 voters or by 8 cantons. If the treaty is to remain in effect, the majority of the Swiss voters and the majority of the cantons (double majority) must vote in its favour.

History of Development

It has been in use since 1921.

Usages and Results

I have read of 2 optional treaty referenda; one concerned a hydroelectric arrangement with Italy and this met with approval; the second, concerning a customs or tariff arrangement with France, was rejected.

With regard to compulsory treaty referenda concerning UN membership, the Swiss tradition of military neutrality has led to voting against UN membership.

Citizens can have the final say on treaties and dealings with other nations.

Implications for Canada

The two Free Trade Agreements could have been voted on, "for" or "against" - and item-by-item - by the Canadian public; and if some aspects were not acceptable, it would have been "back to the drawing-board" for the negotiators.

The Canadian public could insist upon clarity of both the wording and intent of every aspect of any and all agreements with other nations. This would give a much better guarantee that the best interests of Canada and Canadians are served - and at all times.

(4) Popular [and Constitutional] Initiative

In federal matters, 100,000 citizens [formerly 50,000] may propose a constitutional amendment. The proposal is then considered by the federal government which decides to do one of 3 things: [a] recommend acceptance; [b] recommend rejection; [c] draft a counterproposal. Then the citizens and cantons vote.

At the cantonal and commune levels of government, citizens can propose new legislation as well as changes to the constitution.

History of Development

It has been in use since 1891.

Usages and Results

During one modern 20 year period, and at the federal level, 17 such Initiatives were voted upon unchanged, with 16 rejected and 1 accepted. The legislature, with its option to make counterproposals, did so on 9 occasions with 6 of these accepted and 3 rejected by the voters.

So, out of a total of 16 Constitutional Initiatives proposed by citizens during this 20 year period: 1 was accepted unchanged, while 6 legislative counterproposals were accepted.

Citizens can propose constitutional change and new legislation. These proposals are not frivolous. While few are accepted, they often instigate earlier legislative action on the issues raised.

Implications for Canada

If we citizens had right to the Popular Initiative of the Swiss cantons, or the Statutory Initiative of some 39 U.S. states, our East coast cod fisheries might have been saved. The Maritimers, watching the over-fishing, might have initiated provincial action, thus awakening the remainder of Canada to preventative legislation and action.

Often it is one small group which first awakens to need for legislative action. Empowered with Initiative, these citizen groups can awaken the rest of us. Canadian voters, educated and informed, are politically powerless without Initiative.

(O General Comments on Swiss Democracy in Action:

We can learn from the Swiss experience about the advantages of a Participatory Democracy. They include:

(a) Accountability and Common Sense

Swiss citizens can, at all times, demand accountability and common sense of their legislators.

The mere threat of challenge by referendum causes lawmakers to take the time to solicit the experience and the concerns of citizens and organizations. It takes more time to come to a decision, but more care is shown, and this results in legislation which is more acceptable to the people. In turn, this makes for more co-operation and support from and by the citizenry.

A binding, citizen supported vote gives any legislation more respect and power than does a single Party proposal - because the will of the majority, not that of some minority, has been expressed.

Referendum wording must be clear and fair. A referendum is not a contest; it is the seeking of the will of the majority in the best interest of citizens and nation.

The Swiss have simplified the structure of government; a bureaucracy is impossible and paid officials are public servants; elected legislators are simply representing the best interests of citizens and nation - which are the same.

(b) Connectedness

This word "Connectedness" captures one of the key, potential outcomes of life in a Participatory Democracy.

People of different backgrounds, with different priorities, wind up knowing one another better. Greater respect for one another's situation follows.

When people work hard together towards a shared goal, as team members, they come to know and appreciate and accept one another.

When people compete hard against others, and all are abiding by the same rules, they come to know and respect their adversaries more.

So it goes in a Participatory Democracy; people join with others to compete hard and within prescribed rules; people come to better know and respect both allies and opponents. And the repetition of this promotes a greater sense of "Connectedness" in the population. All profit!

This makes for a strong nation, one more apt to thrive, one better able to compete internationally, one more likely to plan for future generations, one more apt to respect its human and natural resources.

(c) Commitment and Trust

Swiss men have had compulsory military service for many years.

Not only does this provide the Swiss with a means of inflicting real pain on a would-be aggressor, but it makes for a real commitment to the nation ..

The Swiss militia-man keeps his rifle and ammunition in his home. What better example of trust, where citizen and nation are concerned? And the Swiss have one of the lowest rates of violent crime of all Western nations.

Does compulsory national service, be it the military or resource management, enhance one's appreciation of and commitment to one's nation and fellow citizens.

(d) Constitution, Courts. and Change

The Swiss system makes it easy to alter the federal or cantonal constitutions at any time. This means adaptability to change in the organization of society. This allows for peaceful evolution and reform, reduces need for violence and revolution.

The Swiss constitution apparently takes up three times as many pages as does the US constitution. Why? Because the Swiss took extra care to be sure that what was intended was made quite clear. So, no need to run to the courts for interpretation, as with the US constitution - or as with Canada's constitution and Charter.

This keeps non-elected judges out of the law-making business as it should be in a genuine democracy. Citizens and their elected representatives make the laws.

Swiss courts cannot pronounce on the constitutionality of any federal law.

The Swiss constitution and laws have been written in such simple language that the average citizen can understand them in the highest court.

(e) Grass-Roots Political Power

The Cantons (provinces), and Communes (municipalities), retain much political power. It helps guarantee citizen input and responsibility where taxation and law-making are concerned.

Cantons are free to interpret federal laws according to the social conscience of its citizens, as long as the intent of the law is kept.

The Council of States (equivalent to Canada's Senate) has two elected representatives from each canton, regardless of population of canton. This allows for respect for regional differences and needs in legislation.

(f) Resolution of Differences

Switzerland is a nation of 3 major language groups and 1 minor.

Its population is approximately 50% Protestant and 50% Catholic. So there are some genuine differences in social conscience. Participatory Democracy respects these differences.

A prime example for Canadians is the handling of the Abortion issue. With approximately half of the cantons predominantly Protestant, and half predominantly Catholic, and with the cantons free to interpret federal law according to the social conscience of its citizens, there are more abortions in the predominantly Protestant cantons."

The law states that it is a criminal offence to commit an abortion, unless the life of the mother is threatened. This is interpreted differently in the Catholic and the Protestant cantons - a solution based upon respect for differences in social conscience and a model for Canada.

(g) The Swiss and Governmental Finances:

Public finances are balanced and sound; the Sovereign (ruler) in the Swiss system is the citizen who realizes that unsound finances can ruin the State, therefore the citizen.

The Swiss system provides for referenda at all levels of government; through this, citizens keep a handle on spending and taxation. Some cantons and communes have obligatory financial referenda on both spending and taxation; at the federal level, citizens can control spending via right to challenge taxation.

(h) Cost of Government

It is enlightening to look at the comparative expense of the Swiss federal legislature: (1) the legislator is only paid for actual days of attendance; (2) the legislature conducts its business in approximately 12 weeks only, each year; (3) the legislators arrange their own, private pension plans - no indexed, taxpayer-funded pension plans!

Elected representatives are not professional politicians and they receive modest monies for time spent in government. They continue to earn the bulk of their income from their respective jobs or professions or businesses. And they arrange their own pension plans!

(i) Labor and Management

No significant strikes in 50 years! It sounds like a pipe-dream to Canadians, but it is a fact of life for the Swiss. The Swiss are too smart to allow their economy and well-being to be damaged by wasteful, costly strikes.

The atmosphere of respect and co-operation, encouraged in a participatory democracy, extends to labor and management. Differences are resolved with full consideration to the best interests of all concerned, not Canada's wasteful adversarial approach.

(j) Attitudes towards Self Responsibility, Work and Efficiency

The Swiss political system encourages productivity, excellence, efficiency and self responsibility in the citizenry. As a result, citizens and nation have consistently enjoyed one of the world's top economies.

Wherever possible, the private sector and free enterprise manages. And this is so because the Swiss realize that private enterprise makes for more accountability and efficiency and self responsibility.

If the public sector,~' the government, _ manages anything (railroads, highways, hydro-electric power, etc.), its level of efficiency is expected to match that of the private sector. None of the "close enough for government work" for the Swiss, as attested to by those who have used the Swiss railroads. Expect efficiency of government and get it! This is the Swiss experience! *(k) Citizens and Nation before Political Party or Business*

Once a legislator is elected to the Federal Council (equivalent of our Federal Cabinet), the loyalty of the legislator belongs to the nation. The Federal Council attends to the nation's business year round

The 7 member Federal Council consists of representatives of

the 3 Parties having major representation in the legislature. This makes for more co-operation, more seeking of consensus. We might compare this with our costly Canadian adversarial approach in parliament.

The primary interest of a political party is the next election, the primary concern of a business is the next profit and loss statement; the primary concern of citizens is the next generation. Therefore, the best interests of nation and citizenry are served in a Participatory Democracy because the citizens have the last say on laws and taxation.

(l) Rights and Obligations, Freedom and Responsibilities

The Swiss appear to have learned some basic lessons of life; to have Rights is to have accompanying Obligations, and to have Freedom is to have attendant Responsibilities. And to have all of these is to live more fully.

The Swiss citizens have retained political sovereignty; they have not given elected officials the right to rule them. As a consequence, they are more self responsible and have more self respect.

Every citizen has the right to express his or her views on political issues; all citizens have the right to express political power via formulation of, and support for, both referenda and initiatives. These things encourage political awareness and self responsibility. The result is more excellence and satisfaction, less frustration, for all.

(III) Social Security

The Swiss spend the usual % of their Gross National Product on social security. So that it is effective but not too costly, it is funded in a way which promotes the sense of personal responsibility.

Therefore, social security programs are largely funded privately.

This cuts out that very costly and wasteful middle-man with which we are familiar in Canada - government!

For example: unemployment insurance is administered by a combination of private and governmental institutions and funds; health insurance is privately administered and covers more than 96% of the population.

With more emphasis upon private sector management, and upon individual responsibility, one could fairly safely assume that the Swiss get much better value for dollar spent, a much better "bang for their buck" than do Canadians.

(n) The Swiss Public Service

The Swiss principal is this: so long as citizen needs can be met adequately by private enterprise, without the public interest suffering, government intervention should be avoided.

Where a service vital to the community is involved, and public interest is more important than profit, state controls are necessary. So, state control is traditionally restricted to sectors such as railroads, highways, airlines, communication, military.

Otherwise, government management is deemed to always be less efficient and less dynamic than private sector management; and, whenever the state takes over management through the public service, its level of excellence and efficiency is expected to match lip to that of the private sector.

And it is impossible for a bureaucracy to develop. Civil servants are paid, public servants.

(0) Usage of Referendum and Initiative

The Swiss now vote on an average of 12 federal issues alone, each year. The numbers seem to be increasing. Voting takes place four times each year. In addition, there are the votes on cantonal and communal issues. Citizens are involved!

The Swiss are a tradition-oriented people, so few proposed constitutional changes are passed on first attempt.

Citizen-sponsored Popular Initiatives are not frivolous; though seldom accepted, they often awaken citizens and legislators to address the issues more quickly.

Citizen-sponsored challenges to legislation, via Legislative Referendum, result in a rejection of the legislation 50070 of the time. The Swiss can and do keep legislators accountable.

Switzerland has a population of some 6.5 million. A set number of signatures is required to implement Referendum or Initiative. The numbers required federally are: 50,000 for Referendum and 100,000 for Initiative (0.8% and 1.6% of the population, respectively).

Should Canada, with a population of some 26.5 million, (approx. 4 times that of Switzerland) use the Swiss approach, we would require 200,000 signatures for federal Referendum and 400,000 for Initiative - or, one third of our provinces and territories (4) could join to instigate a referendum (8 of the 26 Swiss cantons can join to demand a referendum).

Chapter Four – Participatory Democracy In The USA

"Whenever any form of Government becomes destructive to those ends (Life, Liberty and the pursuit of Happiness), it is the Right of the People to alter or abolish it. " - Declaration of Independence

Our American neighbors underwent a time of political reform around the turn of this present century. Voters were tired of the undue influence upon legislation by individuals and organization&. Some. of this influence came from within the Parties. Citizens wanted legislation which was more responsive to the wishes and needs of the majority; they wanted government which was more accountable to the voters.

So, many states brought in the Referendum and Initiative based upon the Swiss model. They also introduced their own, additional instrument of Participatory Democracy - the Recall.

In the US, none of these - Referendum or Initiative or Recall - apply at the federal level of government. Many states use these; many more . municipalities use them.

I shall attempt to summarize:

A - Recall

This allows the voters to remove an elected official from office before his or her term has been served. The Recall petition cannot be launched before the elected official has been in office for 6 months.

Once the required number of voters have signed the petition, a Recall vote is held. Majority vote prevails and the elected official either remains in office or is out. If the official is removed, a special reelection is held and the recalled official is free to seek re-election.

Usage

It applies to state officials in some 14 or 15 US states. Some 36 US states allow usage of the Recall at a municipal level of government.

It has been used 5,000 or more times and in 50070 of cases the elected official has been recalled.

It has been used prudently and without ill effect.

Some more outstanding instances of successful use of Recall include the Governor of North Dakota in 1921, and the Mayor of Los Angeles in 1938.

Municipal officials are more frequently recalled; it is much more difficult to obtain the required number of signatures for Recall at the state level.

B - Referendum and Initiative

These tools of a Participatory Democracy, like Recall, do not apply at the federal level in the US - for whatever reason. Referendum and Initiative, of various forms, are used in some states and many municipalities.

They were learned from the Swiss and introduced for the same reasons - to keep elected officials accountable! There are the following forms:

(1) Obligatory Constitutional Referendum

Some 49 of the 50 states, with Delaware the single exception, make it obligatory to obtain voter approval of any constitutional change. The citizens have the final say on all proposed constitutional change.

Over a number of years, 60% of the proposed constitutional changes were approved of by voters. And this is with reference to constitutional changes proposed by the elected legislators.

(2) Constitutional Initiative

In 14 states, citizens have the right to initiate changes to the constitution. Over a period of years, 34% of citizen-sponsored constitutional changes met with voter approval.

It is note-worthy that American citizens seem much less tradition-bound than are the Swiss, judging by the much higher rate of acceptance of citizen-sponsored constitutional changes in the US.

(3) Statutory Referendum

This is the equivalent of Switzerland's Legislative Referendum.

It allows the voters to challenge legislative bills and decrees.

In the US, 39 states have this in some form. In 24 of the states, it is as liberal as in Switzerland; in 15 states, it is more limited in its range of applicability.

In total and over a number of years, some 600/0 of these pieces of legislation challenged by voters were turned down. Shall we eat our hearts out? or shall we demand the same respect for Canadian citizens?

(4) Statutory Initiative

This Initiative allows citizen groups to propose any kind of legislation.

Some 22 US states have this. In 15 of these states, the proposal goes directly onto the ballot, unchanged by legislators; in 7 states, the proposal is subject to legislative revision and goes "indirectly" onto the ballot.

Over a number of years, 380/0 of all of these pieces of legislation sponsored by citizens met with voter approval! This, again, is a much higher rate of acceptance than found in the more tradition-oriented Swiss population.

C - Municipal Referendum in the US

Some 39 states either allow or require use of Referendum on municipal legislation.

Many US municipalities also make use of the Initiative. Literally thousands of referendum votes have occurred at the municipal level in the US since the turn of the century. Many concern financial matters; often it is mandatory to gain approval of the majority of voters on taxes or bond issues.

Where municipalities make use of Referendum and Initiative, the following observations have been made: superior fire and police departments, better schools and public utilities, lower debt, more civic and individual pride, more political awareness and involvement.

Others observe that a better quality of citizen stands for public office, and it is common for these representatives to serve for a longer term.

Finally, the statement has been made that the mass of the citizenry is at least the equal, in intelligence and character, of the average elected official.

D - Generalities about US Experience

At the state level, citizens most commonly challenge the constitution. Next in frequency come challenges on taxation and revenue, followed by regulation of business and labor. There have been more civil rights issues since the 1950's and more environmental issues since the 1970's.

US citizens have made use of the Initiative in efforts to change the state constitution almost as frequently as they have used the Initiative for ordinary state laws.

Generally, legislation proposed by elected representatives meet with

voter approval twice as frequently as do those legislative measures proposed by citizen groups.

When, through binding referendum vote, the citizens have made their decision about a bill or decree, it is better accepted and more powerfully supported. And why not? With referendum vote there is much more respect shown for the experience and wishes of the citizen-taxpayer!

E - Specifics About The State of Washington

It might help to look more closely at implementation of Referendum, Initiative and Recall in our US neighbor. And Washington has a population of 4.8 million.

(a) How Long do Legislators Sit?

Citizens limit the sitting of the state legislature to 60 days one year and 105 days on alternate years.

(b) How Many Signatures?

Washington state voters must obtain a certain number of signatures before either citizen-sponsored Referendum or Initiative goes on the ballot. The numbers of signatures are: (a) for Referendum - signatures totaling 4070 of the total votes cast for the office of governor in the last regular election; (b) for Initiatives signatures totaling 8% of the total votes cast for the office of governor in the last regular election.

For a Recall vote on an elected official, the numbers of signatures required is much higher. Depending upon the position . of the official, either 25070 or 35% of total votes cast for all candidates for that position in the last election - that number of signatures is required.

What About Emergencies?

Washington state legislators can declare a piece of legislation to be an emergency measure. It is then not subject to Statutory (Legislative) Referendum. However, as in Switzerland, citizens can challenge the legitimacy of any of these "emergency" measures. This is what actually led to the Initiative Measure #282 of 1973, and already described.

(c) Cost of Initiative and Referendum

Depending upon (1) whether it is a state election year, and (2) the number of Referendum and Initiative measures on the ballot, the cost per measure is \$130,000. to \$200,000. Much more money is saved by making government accountable.

Chapter Five – Disrespected? Incompetent? Empowered?

"To be or not to be? that is the question!"

- from Hamlet

I will make three observations, then amplify on each:

(1) in our present political system, the adult Canadian citizen-voter is treated like a child; this is disrespectful

(2) our present political system promotes stupidity in government and citizen alike; this is costly and dangerous for citizen and nation (3) the principles which promote the success of modern organizations, business and otherwise, are the same principles underlying a Participatory Democracy

(1) Canadians are Disrespected:

Most Canadian citizens aspire to be Adults, an Adult being a person who tries to be responsible for her or his self and life. An Adult exercises her/his own judgment, makes decisions, lives with and learns and grows from the consequences of these decisions.

Adults pride themselves in their achievements, do not alibi or blame.

Adults want to live their lives and fully, not be spectators. "Life is not a spectator sport!"

To assume responsibility for oneself is to be more awake and adaptable, to take charge of one's life. People who take charge of their lives experience less anxiety and stress.

Adults express their reactions and opinions, they do not 'ask permission' to do so. They must express to grow wise.

Adults want to compete within the rules; they know that healthy competition brings excellence and fullness to life. They also understand the need for co-operation and healthy compassion. Because they respect themselves, they respect others. Real respect for others depends upon self respect.

Canada's political system creates of governments - and sometimes courts - overbearing and intrusive parents. The result is that able, adult Canadians are treated like helpless and servile children.

We elect Members to Parliament. They then set about to think and exercise judgment for us - whether we want it or not! Often, when formally petitioning our elected representatives, we must use terms such as "we humbly request" , certainly not the statement of an adult. And, if we fail to use the proper language, our petition will be rejected. We deserve the Initiative, not petitions.

In recent memory, when opportunity for a free vote occurred in Parliament, many Members blatantly stated "I will vote according to my conscience, not be bound by the wishes of my constituents!"

Having adequate social assistance programs is one thing, but these need not weaken the nation. With our very politicized universal programs, we encourage Canadians to be helpless and dependent, discourage and disrespect self reliance. We have lost track of the old wisdom "Feed me a fish and I eat to-day; teach me to fish and I eat forever!". Our governors prefer citizens who are obedient and servile.

Finally, we find different rules and laws applying to government as compared with serfs (= citizens). "Do as we say, not as we do!" is the message from our parental rulers ..

None of this nonsense in a Participatory Democracy! There the relationship between citizen and government is that between equals and adults - for the people know that they/are the government! This brings mutual Respect.

(2) Elitism Stupefies

We have established that Canada's governments are elitist. Our elected governments (= the Party-in-Power) presume to 'know best' what is right for Canada and Canadians.

Canada is not alone. Many western nations suffer under elitist, representative government. And a whole, new growth industry has evolved. It is variously referred to as the New Class or the New Elite.

The New Class is essentially a non-productive but very influential group of people. They seem to be long on theory and 'book-learning', very lacking in real life experience and common sense. It is largely made up of academicians, lawyers, bureaucrats, social activists. They know how to influence our political system in order to see their vision of Canada translated into law. Try the Young Offenders' Act, amongst a multitude of citizen-unfriendly legislation.

This New Class, very influential in Canada since the 1960's, is prominent in what is termed the 'consciousness industry'. They perceive the rest of us to be somewhat selfish, stupid, irrational and not to be trusted to govern ourselves! They dislike direct democracy.

Our governments as well make little effort to draw upon the tremendous wealth of experience of the citizenry - those who will need to live with the laws, taxation, spending and treaties and who could provide sensible input.

Relying upon their own limited experience of life, not wanting or trusting the experience of the common woman or man, governments and the New Elite render themselves stupid - they deny themselves informed citizen input.

Not trusting the ordinary citizen, they tend to not inform - or to misinform - and the average citizen is then left somewhat ignorant of politically important facts. The citizenry is rendered politically uninformed and helpless.

Where elitism in government prevails, tyranny and poverty are invited. Where direct democracy is combined with Common Law traditions of liberty and the rule of law, we find the greatest degree of personal freedom combined with the highest degree of economic prosperity. The reasons for this become evident as you read (3) below.

(3) Trust, Inform, Delegate, and Empower

Let us speak of the obvious and workable way out of this current mess, in Canada. And anyone who does not see that we are in a real economic and social crisis, in Canada, suffers from old-fashioned 'dead soul'!

To be 'empowered' - a useful buzzword in to-day's world - is to make the most of one's abilities.

North American businesses are particularly concerned about empowering their employees. The very survival of any business, in our highly competitive global economy, depends upon the ability of that business to produce and to make the right decision - to adapt to change!

So, studies have been undertaken and the switch away from traditional top-down, boss-bossed business methods is underway. What do the more successful organizations do? They Trust their employees, they Inform, they Delegate responsibilities, and these combine to Empower and to bring out the best in employee and organization. There are no guarantees in life, but this combination is most apt to make for success. "Life is percentages!"

Most human beings make fullest use of their talents if they are Trusted and encouraged. Most of us are best able to apply our skills if we are Informed, if we see the larger 'game plan' for the team; and management needs information and feed-back from its team, if it is to function well. It is when we know that we are responsible that we waken up and really apply what we know; Delegation of Responsibility has this magical effect - it sharpens our wits and we do it!

Now, add together Trust, Inform, Delegation and you have the ingredients necessary for Empowering - for optimal functioning of people and the 'team' of which they are a part. And all of these benefits are there for any nation and citizenry. What is required is the introduction of the system called a Participatory Democracy - with right of citizens to implement binding Referendum and Initiative.

The need for reform should be obvious. The direction and form of change-for-the-better has proven itself politically and in the business world. The same principles found in successful organizations Trust, Inform, Delegate, Empower - are present in and basic to a Participatory Democracy! We can make the choice. Will we?

Arguments Against Initiative and Referendum

(1) this would undermine our present form of government

Answer: it would reform our representative government, make it more accountable, efficient, citizen-friendly

(2) voters are not capable, not to be trusted

Answer: if we are capable of handling jury duty, we are capable of handling Referendum and Initiative voting; to trust people makes them more trustworthy and responsible

(3) tyranny of the majority would result

Answer: this does not happen; there is more respect for the wishes and needs of all; minorities do not tyrannize

(4) monied interests and media would have too much power

Answer: outside influence is less possible, though it always must be guarded against; media misinforms less

(5) wording of Initiative measure can be inflexible

Answer: where the legislature has the option of rewording the Initiative, this is less apt to occur

(6) Initiative and Referendum would not work in Canada

Answer: Switzerland has fewer natural resources, more pronounced problems with language and religious differences - and has overcome these; Canadians need to risk breaking out of bad habits of 'being ruled', of not trusting their own judgment politically.

Chapter Six – Canada 1990 - Democracy Disappearing!

"The subject who is truly loyal to the first magistrate will neither advise nor submit to arbitrary measures. " - Junius

Canadians have lost freedoms during the past 30 years. Our legislators have taken them from us; they did not present us with the facts concerning freedom-taking legislation; neither did they seek our permission.

It would be helpful to review, to take a long look at what we once had and what we now have.

A - The Good News· English Common Law

The English were amongst the first people to clearly protect the Individual against the power of the State. They entrenched these protections in English Common Law.

English Common Law provides the foundation of whatever freedoms we have as Canadian citizens. Government does not provide the basis of our freedoms; neither does the Charter of Rights and Freedoms.

We inherited English Common Law; our ancestors fought and worked for it; it has formed the important basis of our Canadian Law. And we can examine its practicalities under several headings:

(a) Individual And the State

(State and government are the same; so are government and the Party-in-Power, in our Canadian system.)

English Common Law assumes that people are born free and that individual freedom existed before mankind created governments. This attitude is of immense importance.

It is Common Law which protects individuals in Canada from unlawful confinement.

More general and important is the Common Law attitude that the State only enacts certain laws which tell us what we cannot do; but, beyond these specific laws, individuals are free to pursue their own lives. Individuals do not need to run to government to "ask permission."

Governments, for their part, exist to create an environment in which: (1) all people live by the same law; (2) all people are self responsible with respect to family, personal lives, community, and making a living.

Common Law puts emphasis upon a minimum, decentralized government; it encourages the political and economic freedom of the individual; it encourages self responsibility.

(b) Individual and the Courts

Laws and the courts have been created by the people and to serve the best interests of the people.

Common Law has developed out of the practicalities of life; it has evolved out of common experience (= common sense). Very importantly, it states that the same law applies to both "rulers" and "ruled".

These practical, common experiences, once incorporated in English Common Law form "precedents"; the courts must then base future judgments upon "precedents", which protect the individual from possible fly-by-night and biased court decisions.

These "precedents" also help accused, lawyers, judge and jurors see the rules of the contest. The rules cannot be changed at the whim of court or others.

Common Law has given us right to elect trial-by-jury. The common experience and the common sense of one's peers, 12 jurors, can be a protection for the individual against the possible bias or immaturity of a judge.

It is Common Law which states that an individual is innocent until proven guilty.

You can see that all of these aspects of English Common Law are powerful and common-sense protectors of freedoms of individual Canadians. We need to be constantly reminded of this, and grateful and fiercely protective - in the best interest of ourselves and our nation.

(c) Individual Freedom to be Self Responsible

As any good parent would, English Common Law encourages and expects the best of individuals. This is perceived as the better way to build a good society, one in which individuals can grow and prosper.

How does Common Law achieve this? By incorporating the concept of "natural rights"; by incorporating the concept of free will; by endorsing each individual's responsibility for his or her actions; by supporting political and economic freedom.

Common Law has an underlying respect for people which makes it unnecessary to formulate a long list of laws, laws designed to control and manage the behaviour of citizens and their organizations.

Common Law incorporates the attitude and belief that people are basically moral, wanting to add to society. In modern terms, this means that people can intuitively recognize that the best interests of self and society are usually the same - if people are encouraged to do so.

Common Law is based upon the wisdom that the surest way to build a good society is to expect the best of individuals.

People are allowed to become whatever they wish, and natural differences are respected. The one obligation is that the law be obeyed, with the same law applying equally to all.

Common Law supports a striving for Excellence, for the full use of one's talents and abilities; this means competing fully within the rules, and being rewarded for Excellence.

Summary

English Common Law, based as it is upon common and practical experience, incorporates many of the qualities which one finds in a good parent; it encourages people to express themselves, to accept and respect natural differences, to make full use of one's talents, to trust one's own experience and judgment, to obey and trust the law (rules). Behind it lies an attitude of trust in the natural, inborn wish of people to get along with one another, and to develop their abilities.

B - The Bad News - The British Parliamentary System

"Life, Liberty and Property do not exist because men made laws. On the contrary, it was the fact that Life, Liberty, and Property existed beforehand that caused men to make laws in the first place. "

- Frederic Bastiat

After the Norman invasion of 1066 A.D., political power resided in the king. The king ruled; the king's word was law; and the king need not abide by the laws applied to those ruled. This was termed the Divine Right of Kings!

The nobles did not like this and forced the king to share some of this power with them ..

Some 350 years ago, following a civil war, political power in England passed from king and nobles to Parliament. That is where it remains. Parliament rules and citizens are ruled. This is what Canadians have inherited. And that old Divine Right of Kings attitude towards law is manifest to-day by our governments.

While citizens have won some of the bases for assuming more political power (the vote, compulsory education, access to information, a measure of wealth), sovereignty does by law remain with Parliament.

Parliament tries to legitimize its retention of power by setting itself up as the protector of the people. So, we see much legislation designed to foster dependency upon government at the expense of healthy self reliance - our Canadian "universality" legislation being a prime example.

Canada's systems of both government and politics draw heavily upon the British model. We can see our situation more objectively through the eyes of critics of Britain's system. And, for what it is worth, these two critics are British.

Lord Hailsham, a keen student of government and democracy, made these observations of Britain's Parliamentary form of government:

- before citizens had the right to vote, the role of parliament was to defend the rights and freedoms of ordinary people - first against the excessive powers of the crown and nobles, later of the industrialists in the period of the industrial revolution;

- once people had the right to vote, they had the ability to express their own will; there was less need for Parliament to play the role of "protector"; -

- with the vote, (and the decline of the power of the monarchy), parliament has actually taken on more power; it has become a law unto itself, and in the name of protecting citizens who now need less protecting;

- no restrictions on the powers of parliament have been written into a formal constitution; there is nothing legally which it cannot do; it has taken away the liberties of its fellow citizens without semblance of a fair trial; it has confiscated property; it has over-governed and badly governed; it has imposed unnecessary laws;

- the Party which controls parliament can do what it likes; the Party-in-Power is our ruler. Wilfred Sendall is another respected observer and critic of the British Parliamentary system. He has made the following observations: - freedom of the people does not lie in the right to elect their own (Members), but in the power of the people to get rid of unwanted Members without resorting to violence;

- the Party System has deplorable consequences for citizen-taxpayers; Members, once elected, are expected to uphold party interests, to put party interests ahead of voter interests; as a consequence, citizens are deprived of democratic representation, while Members are denied the right to exercise their judgment;

- parliament and government, are in danger of losing the respect and trust of the citizenry.

If we lose respect for government, we risk losing respect for law and order.

With the introduction of compulsory education, citizens have become better able to deal with information, encouraged to think for themselves. This further lessens the need for a parental and "protective" government.

With elected Members actually selected by Party machines, political power (in terms of money and rights) tends to shift to the minority elite controlling the Party.

It becomes obvious why and how Canada's political and parliamentary systems are subject to abuse. The Parliamentary system treats citizens as children who, are to be obedient, who can protest against but will "humbly ask permission" of the Party-in-Power. With their freehanded spending and our mushrooming national debt, there is little evidence of any genuine protection of nation by government.

Summary

The British Parliamentary system allows government to over-ride and negate some of the benefits of Common Law. For example, laws which apply to citizens (ruled) do not always apply to governments (ruler). You will see a current example of this if you look at our "under-funded" Canada Pension Plan. Some \$250 billion of compulsory contributions have been spent by federal and provincial governments, and governments have the gall to expect citizens to repay the spent \$250 billion through increasing our compulsory contributions. Lawyers and directors of financial institutions, guilty of similar mismanagement of our monies, would be jailed for fraud or theft: Not so with the Divine Right of Government!

Our governments have been taking on more power, under the guise of protecting, at a time when citizens are quite capable of being self responsible. Our governments are costly and interfering "parents".

The Party-in-Power (= government) commonly caters to those who support the Party, to special interest groups who might help re-elect the Party. The best interest of the majority, and of the nation, is too often neglected.

Many aspects of the British Parliamentary system appear to make it an unhealthy one, if we aspire to live our lives fully as mature human beings and to have a strong nation.

Footnote: Hailsham & Sendell (5) "The Minimum State"

C - The Worst News· The Second Norman Invasion

"I am France" - Charles de Gaulle

"When I speak, you hear the voice of France" – Mitterand

We are products of our upbringing; so it is not surprising that Trudeau's governments brought an influx of French attitudes and rules to government and law in Canada.

Compare the "top-down" attitudes evidenced above by de Gaulle and Mitterand with Churchill's "Give us the tools and we will finish the job." We see attitudes with a very aloof, authoritarian ring as compared with an attitude of co-operation - with regard to leadership in government.

In Europe, they say of France's political system "Paris is France and France is Paris." Centralized government with a big bureaucracy to control and manage the grass roots - this appears to be the French style!

I wonder whether Trudeau was really aware of the attack on our Common Law freedoms resulting from his Charter and new constitution, his changes towards French-style centralized government? He further aggravated the abuses already existing under the British Parliamentary system.

Trudeau's beloved Charter of Rights and Freedoms (1982) has changed the nature of Canadian society. Many of these changes are not for the better - if we aspire to be free and self responsible people, things encouraged by English Common Law.

It seems appropriate to examine the impact of the Charter, using those same categories through which we looked at English Common Law.

(a) Individual and the State

The Charter speaks of "guaranteed" rights and freedoms for individuals; at the same time it actually limits them. It limits them by specifically defining what they are. So, if a freedom is not defined, it does not exist.

We can compare this with Common Law which states that individuals are naturally free, apart from abiding by specific laws. Common Law emphasizes individual freedom; the French attitude evident in the Charter emphasizes the role of the State in doling out, in granting, freedoms.

The Charter grants individual rights and freedoms subject to that controlling phrase "to such reasonable limits as can be justified in a free and democratic society."

And who decides the meaning and the application of those terms "reasonable limits-democratic?" Our governments and non-elected judges decide. We are less protected by common experience incorporated in "precedent".

This is not democracy. Neither is it freedom. It is to remain tethered to an intrusive, controlling government; it is to be more vulnerable to the whim of the courts.

Principles defining the relationship between the individual and the State are present in our new constitution and Charter. It is revealing to compare Trudeau's attitude with that evidenced in the US constitution and Charter. And we can remind ourselves that English Common Law also forms the basis of freedoms for our US cousins.

Common Law principles of individual freedoms are clearly stated and strongly defended in the US constitution and Charter. Not so in Trudeau's new constitution and Charter. Our Charter supports the priority of State rights. And this is good for Canada's citizens??

In addition, our Charter contains that right given to provincial and federal governments to "override" provisions of the Charter. Yet again, the State gains power and individuals lose freedom and power.

(b) Individual and the Courts

The Charter's "such reasonable limits -" makes it possible for judges to clearly restrict citizen freedoms.

The Charter permits judges to interpret legislation and, in this way, to "make law". So the courts take on more power in lawmaking. We citizens wind up with both legislators and courts making

law, and we are neither free to challenge unwanted laws nor to peaceably rid ourselves of law-makers whom we deem to be incompetent. We have less democracy.

On the other hand, the Charter's "over-ride" provision leaves us without court protection from freedom-taking by government. Quebec restricted English language freedoms and rights using the "over-ride". We seem less protected.

(c) Individual Freedom to be Self Responsible

The Charter purports to defend individuals vs. the State. It actually encourages minorities to over-ride the common experience and the wishes of the majority. It thus promotes antagonism and misunderstanding between individuals and groups; it moves Canada in the direction of a divided and weak society, and away from being a strong, co-operating nation.

Rights of citizens can be invented by a government. These are "positive" rights; they consist of claims which citizens are told they are allowed to make against the State.

As usual, the State (Party-in-Power) does not consult the citizenry about the common sense of these "positive" rights; but the citizenry will foot the bill for these goods and services dispensed by the government. Some skeptical Canadians see this as a device allowing the Party-in-Power to buy votes - while funded by tax-payer monies.

Under this French-type and top-down government, citizens are to be managed by an elite. This elite presumes to know what is best for the citizenry. These people have very definite ideas about what is best for Canadians; their ideas are too often lacking in common sense or public support, yet they manage to implement legislation which makes law of their definite notions. Our citizen-endangering Young Offenders Act would be a good example of the type of legislation created by this elite.

We citizens, meanwhile, suffer with their unasked for, and frequently unwise, legislation.

Governments and judges can from day-to-day, and at whim, change our specified individual rights and freedoms. This is in keeping with the French way of presuming that legislators and courts give freedoms to citizens. For me, this is a very arrogant and disrespectful assumption. It invites an angry reaction to government and law.

The 'notwithstanding' clause of the Charter allows the State (= government) to change previously specified individual rights and freedoms. What protection of the citizenry by justice?

Summary

Those aspects of Canadian law and government which are based in French attitudes are akin to a very different type of parenting: there seems a lack of trust in the basic desire of people to work together; laws (rules) can be changed at the whim of the ruler; the ruler tries to control rather than encouraging free and full self expression and self responsibility; the ruler favors special interest groups amongst the citizenry, promoting antagonism and mistrust and non co-operation; governments intrude into the lives of individuals and organizations, taking more power into themselves, adding to costly governmental inefficiency.

Law is much less predictable for you and me, and we are controlled much more by those with authority. And what happens when authority is more in control and less predictable? Authority becomes more intimidating, less fair, less trustworthy. People are then cowed by, or furious with, authority; even those cowed are furious within; and there is less willingness to co-operate on the part of all. The majority of Canadians polled on the Charter find it of no benefit. The reasons are obvious. It should be voted upon in a national referendum; those clauses approved of would remain with us; those clauses rejected would go! We have had enough experience with Charter law to know our minds and wishes.

Finally, French-style top-down and centralized government requires a larger and costly bureaucracy - to control and manage the citizenry. More civil servants means higher taxes. Since money affords freedom and power, this large and costly bureaucracy taxes away freedom and power from the individual-and transfers it to the State.

Conclusions

Our Common Law heritage is the basis of our freedom. It promotes that which is healthy in human beings and nation.

To bring in a Participatory Democracy, with right to citizen-sponsored, binding Referendum and Initiative, is to create a political system based upon Common Law principles and attitudes. This would further encourage health and prosperity in the Canadian nation and people.

With a Participatory Democracy in place, we could set about to peaceably and sensibly correct those maladaptive laws and attitudes imposed upon us by the Charter and our present Parliamentary system.

Neither the Charter nor our Parliamentary system are 'all bad'. But Canadians have had enough experience with both to know how they work to our disadvantage and wherein they require change.

We live in a political system which, far too much, promotes stupidity in rulers and governed. We live in a political system which treats the citizenry like children who-are-to-obey, which renders the citizenry too helpless.

The question for Canadians is a simple one: do we have the self respect, the courage, the motivation to take charge of our political process and thus our very lives? Will we take the action required to reform the system?

D - Update 1992

(a) Participatory Democracy in Canada

Saskatchewan enacted The Referendum and Plebiscite Act on June 18, 1991. British Columbia had given assent to its Referendum Act on July 27, 1990. Both governments empowered the Lieutenant-Governor, not the citizenry, to order a Referendum vote; both legislatures allow for some binding Referendum votes. In the 1991 B.C. provincial election, over 80070 of voters said

"yes" to right to citizen-sponsored Recall and to citizen-sponsored and binding Initiative. The B.C. government has yet to set the number of voter signatures required to implement these - a very critical matter. But of even more significance is the failure to act upon the expressed wish of the B.C. voters with respect to implementation. Will B.C. be another Italy with a 22 year wait for enabling legislation?

(b) Mulroney's Constitutional Proposals

In the best of all possible worlds, our Prime Minister and the Premiers would implement a referendum vote on each and every new clause in any constitutional change. Those clauses gaining approval from a majority of Canadians and a majority of provinces/territories (double majority) would be accepted; those falling short of the double majority would not become law - and would need to be re-worked until they obtain voter approval. Will they trust us?

(c) Italy on the Move (I) Historical:

In 1948, the Italian people chose to become a Republic and to cease being a Monarchy through a binding referendum vote.

The constitution of 1948 provided for institution of the Popular Referendum; this would allow citizens and Regional (Provincial) governments to challenge parts or all of certain legislation. However, a series of Italian governments did not see fit to make this a practicality until 1970 .•

There were few Referendum votes during the 1970's, more during the 1980's and usage continues to grow. One very important vote was held on the thorny divorce issue in 1974. This is mindful of Switzerland's use of Referendum to deal with the abortion Issue.

(2) Direct Democracy:

Italy has three forms of Direct Democracy:

1. Citizen Initiative - any group of 50,000 or more electors (voters) can draft a piece of legislation; this cannot deal with matters restricted by the Abrogative Referendum (see below).
2. Any Individual Citizen can petition parliament requesting it to examine or regulate a particular matter; this right is not restricted to eligible voters
3. Referendum - Italy has 3 forms

(A) Abrogative Referendum: this is held upon the request of 500,000 voters or of 5 Regions (provinces) and Italy has 20 Regional governments; excluded are taxation, ratification of international treaties, amnesties and general pardons

(B) Suspensive Referendum: this applies to legislation amending the constitution; any of 500,000 voters or 5 Regional parliaments or 1/5th of the members of either House of Parliament can call for this during a mandatory suspensive period; it only can be invoked if the original legislative proposal had less than 2/3rd approval upon second reading in either House '

(C) Regional Referendum: restricted to matters related to Italy's 20 Regional governments

(d) Australian Experience

In Australia, constitutional amendments must be ratified by a 'double majority' - the majority of voters nationally plus the _ majority of voters in 4 of the 6 Australian states. **Since 1900**, 8 of 42 proposed changes to the constitution have been accepted by 'double majority'.

There has been, and for some years, an interest in the Swiss system. A number of candidates in the New South Wales elections of the late 1980's pledged to support introduction of Participatory Democracy practices.

Dozens of Electoral Councils work for introduction of the Swiss system plus Recall.

(e) Making it Work in Canada

This is presented to stimulate action. We can choose to use the U.S.A. methods of deciding upon numbers of voter signatures (070 of votes cast in previous election) or the Swiss system with set and attainable numbers of signatures.

(1) use the Swiss experience basing numbers of required signatures upon total population (Federal, Provincial and Municipal) (2) 1.0% of total population becomes the required number of voter signatures for citizen-sponsored Referendum (Federal, Provincial, Municipal) - the Swiss use 0.8%

(3) 2.0% of total population becomes the required number of voter signatures for citizen-sponsored Initiative (Federal, Provincial, Municipal) - the Swiss use 1.6%

(4) allow approx. one third (4) of the total of our provinces plus territories to combine to challenge Federal legislation via Legislative Referendum

(5) allow approx. one third of total number of constituencies to combine to challenge legislation via Legislative Referendum; this would apply to both Federal and Provincial legislation (6) **insist upon the reform necessary to make our governments Accountable, Responsible and Efficient!** - and **our citizenry Trusted, Involved, Committed and A ware!**

(f) Canadian Capabilities, Challenges, Psychologic Barriers

(1) Capabilities: We have demonstrated our abilities to rise to the occasion during 2 World Wars. The citizens of this nation demonstrated the sacrifice, the determination, and the cooperative team effort to defend Canada and allow it to survive.

We have observed the ability of our athletes to compete successfully, to thrive! Recently we thrilled to our women rowers, to their courage and dedication and sacrifice and team work. This month we take pride again in hockey's Team Canada 1972, - in reliving their immense efforts and success.

All Canadians are capable of making fuller use of their abilities, of the dedication and team work and sacrifice referred to above.

(2) Today's Challenges: For me, the economic and social and national crises for Canada today are as real as the military crisis of World War II. The survival of the Canadian nation is at stake.

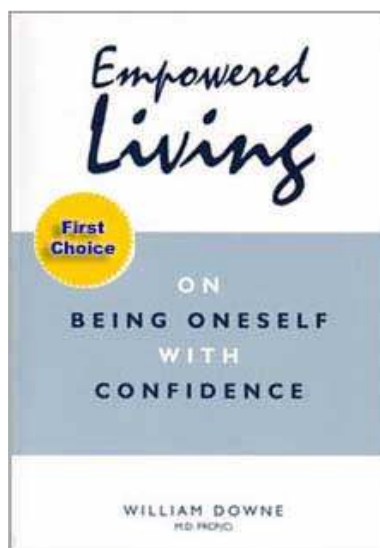
(3) How It Can Be: We can dedicate ourselves to first the survival, then the strengthening and the thriving, of the Canadian nation. We can work together to be good caretakers of our Canadian resources, natural and human. We can leave the Canadian nation and resources in better shape than we found them in. This would give purpose and meaning to our lives as Canadian and world citizens.

We can take charge, or leave ourselves and Canada adrift like a rudderless ship - vulnerable to going under or to coming to violence.

(4) The Psychologic Barriers: Within the nation, we need to cease being political children, being parented by political Parties and a representative form of government.

Internationally, we have yet to affirm ourselves by taking charge of our economy and resources. We depended upon Great Britain prior to WWII, briefly affirmed ourselves during WWII, are back into depending upon the U.S.A. post WWII.

We give up a false sense of security, if we take charge of our own destiny. We risk gaining our own survival and, beyond that, thriving both economically and politically by taking charge of the political process and our nation.-



Recommended reading
www.myiport.com

This booklet proposes sensible reform of Canada's political and governmental institutions - for the sake of the Canadian nation and citizenry.

The strengths and liabilities in our present system are brought forth, along with some of the evidences of an urgent need for reform.

But the booklet is not devoted to the negatives, to what is wrong. This booklet contains much factual data on a proven and workable system which can make for a healthier Canadian nation and citizenry.