

# CHARLOTTETOWN 10 YEARS ON: FROM ACTIVISM TO INCREMENTALISM

*Joe Clark served as Canada's foreign affairs minister for seven years, relinquishing a job he loved to become minister of constitutional affairs in 1991. After laborious negotiations, the Charlottetown Accord was concluded in August 1992, before being rejected by the voters in the October 26 referendum. A decade later, Clark finds Canada's public policy agenda much changed, from one of activism to one of incrementalism. Incrementalism and passivity, he concludes, do not contribute to the defining identity of the Canadian community. Another corrosive consequence of preferring the incremental to the bold, Clark suggests, is that voter participation is down, Western alienation is up, and public cynicism is high.*

Joe Clark

*Après avoir été sept ans ministre des Affaires étrangères, Joe Clark a renoncé en 1991 à un poste qu'il adorait pour prendre la tête du ministère des Affaires constitutionnelles. Et c'est à l'issue de laborieuses négociations que l'Entente de Charlottetown a été conclue en août 1992, pour être rejeté par référendum le 26 octobre suivant. Dix ans plus tard, M. Clark déplore l'évolution de l'ordre du jour politique, où l'action a cédé la place à la frilosité. Un manque d'audace doublé de passivité, conclut-il, qui nous empêche de mieux définir notre identité collective. Et qui aurait en outre pour effet d'éroder la participation électorale, d'aviver le sentiment d'aliénation de l'Ouest et d'alimenter le cynisme au sein de la population.*

**I**n the fateful spring of 1991, I did not choose to leave External Affairs to become the minister of constitutional affairs. I was quite happy, solving other people's problems. After the swearing in, at Rideau Hall, my daughter said: "Well, so long Paris. Hello, Moose Jaw."

In that same spirit, I want to make it clear that I did not propose this 10th anniversary conference. In fact I asked—as no doubt others did—why in the world would anyone convene a conference on the Charlottetown Accord?

It turns out there are good reasons. The constitutional initiatives which led to the Charlottetown Accord tried to deal honestly, and as conclusively as possible, with real wounds in the Canadian community.

Three wounds were prominent. First, the province that is the foyer of the French language and culture in Canada stood outside major changes to the very constitution which is designed to make the country whole.

Second, the fundamental tension between Aboriginal and other Canadians is rooted in very different views of our history and inherent rights, and there will be no real progress against prejudice and poverty and inequality and disease until that tension is relieved.

Third, the structures, practices and mentality of the national government were set in place before Western Canada had the power to influence them and simply do not serve the present, future and legitimate interests of a region

transformed by exceptional growth and diversity and dynamism.

Moreover, the Charlottetown process produced ideas, techniques, partnerships and insights that guided public policy and discussion long after the referendum slammed the book on the Accord itself.

Let us pretend we are a video and begin with several disconnected images. That's an appropriate way to launch a consideration of Charlottetown.

Think of the bitterness and the dismay—not least among federalists in this province—after the failure of the Meech Lake process. Think of the contagious sense of exclusion among Aboriginal people, among women, in the North, and among Western Canadians.

Think of those six remarkable constitutional conferences where the agendas of the constitutional experts and the interest groups were leavened by the common sense of so-called "ordinary Canadians" chosen from the public at large.

Think of those small dramas around the negotiating table when, for example, the premier of Ontario and the grand chief of the Assembly of First Nations drafted compromise language on Aboriginal issues on the premier's laptop—or when Don Getty hunkered down beside his "Triple-E" ally, Clyde Wells, and worked out language about the so-called "third equality" between the English- and French-speaking cultures.

In a melancholy moment, a decade ago, after the results of the referendum had rolled in, I noted that Canadians had been emphatic in what they did not want but absolutely unclear on what the alternative might be.



CP Photo

Joe Clark  
"What is the nature of the Canadian Identity?"

Think of the incredulity in the audience, and the tears, when an Aboriginal veteran of the Second World War told us how his family's ancestral trap line had been taken away from him because he had not worked it in the five years that he was overseas fighting for Canada.

Think of the size of the cast—provinces, territories, Ottawa, Aboriginals—and the range of the agreement. Think of the euphoria when it was signed, and the vehemence of the referendum campaign.

Finally, consider a generalization that would distinguish between the approach in the 1980s to Canadian national public policy—with free trade, the Rio and acid rain accords, the GST, Meech, and Charlottetown, an activist international agenda—and the approach of the 1990s. It is a distinction between the bold and the incremental, and each carries a price, and each yields a series of consequences.

So, what have we learned from the Charlottetown Accord, and from the decade afterwards, when we recoiled from major national initiatives? There are five lessons I would draw.

The best first lesson would come from considering what has happened since Charlottetown. Mr. Chrétien won an election by promising not to talk about the constitution. That is one promise he kept, until jolted back to reality by nearly losing the country in a referendum.

Even then, the only constitutional activism—the only activism at all—was the *Clarity Act*, on which there will be different views in this room.

We may hear more of the unintended consequences of the *Clarity Act*. Alberta may use its provisions to challenge unilateral federal ratification of Kyoto. And Ottawa might respond by using its new power, under the *Clarity Act*, to challenge an Alberta referendum after the fact. What is most worth noting is that the *Clarity Act* was in the old Ottawa tradition of punitive federalism, or combative federalism, not co-operative federalism.

In one sense, the national government moved from activism to passivity on constitutional issues. It didn't talk about them. But it used the cover of silence to revert to the worst habits of combative federalism.

Look at health care, where the cuts were massive, unannounced and unilateral, and where Ottawa has dragged its feet on reform while nearly every other jurisdiction has pushed forward.

Look at Kyoto—the classic case of the federal government being able to exercise its treaty power only if the provinces are prepared to implement what was agreed. We have a dangerous impasse today because the national government walked away from the federal-provincial agreement it had accepted before going to Kyoto.

Look at the fiscal imbalance, where the federal government is determined to keep a perverse system whereby the cash rolls into Ottawa and the costs pile up in the provinces.

In a melancholy moment, a decade ago, after the results of the referendum had rolled in, I noted that Canadians had been emphatic in what they did not want but absolutely unclear on what the alternative might be.

By and large, Mr. Chrétien's government has filled that vacuum with combative federalism towards the provinces and indifference to both Aboriginals and the West. Under duress, he has fleshed out some of Charlottetown's ideas, for example, on the social union.

It is ironic that the caustic caricature of Meech Lake is of men in suits meeting secretly, while the most benign image of the 1981 meeting which Quebecers call the "night of the long knives" was the so-called kitchen cabinet of Messrs. Chrétien, Romanow and McMurtry. That is where the deal was cooked, the one that left Quebec outside our constitution. The country is back in the kitchen, and that is too exclusive, too secret a place to decide the future of the country.

A second, more heartening lesson of Charlottetown is that the Canadian federal system can yield agreement on the most complex issues. Leaders as different as Brian Mulroney and

Ovide Mercredi, Robert Bourassa and Clyde Wells can find agreement when they all try. Now, it is true, that agreement may not survive a national referendum, but that is another question, to which I will come.

We can, if we choose, remember that the Canadian public rejected the agreement of what we now call the elites—and rejected it with real enthusiasm. Certainly, I remember that. Or, we can remember that these very different leaders, representing very different interests, were able to negotiate and accept agreements on an extraordinary range of issues, from the distinct society, to Senate reform to the inherent right of Aboriginal self-government.

There was a much more fundamental reason why so many leaders found so much agreement on so many issues. That reason was that all the parties genuinely tried to make it work.

Political will matters. And will was a palpable factor in the negotiation of the Charlottetown Accord. Of course, hard lines were taken. Of course, some voices counselled giving up. But no one at the table gave up. And no one at the table held so blindly to their hard line that compromise became impossible.

With all the objectivity you would expect of me, I believe the critical factor was the determination and the flexibility of the national government. On critical issues, if the national government proves itself to be open to the other partners in Canada, we can make remarkable progress. So another lesson is that, with leadership and mutual respect, the Canadian federal system can produce significant agreements.

A third lesson concerns just how much you can put in the stew. There is no doubt that the Charlottetown Accord had too many parts and too little detail. Not only did that make it easy to attack—everyone could find something they didn't like—it is also not a very neat or logical way to design what could be considered our basic law. Of course, logic does not often guide human conduct, but there was a reason to be so inclusive. And one reason was that Meech had failed by being so exclusive.

We can argue whether Charlottetown overreached. The more salient point is that the age is over when constitutional discussions could be limited to issues of interests principally to Quebec. Those Quebec issues are critical, of course. But there is now a range of other issues, principally in the West and among Aboriginals, and if they are not dealt with together, the excluded issues will fester and hurt us all.

A fourth lesson is that approval by referendum of a detailed constitutional accord is a stiff test. I understand the populist argument for referenda. And there is no doubt that the Canadian public now is more informed, more assertive and more cynical than it was in a time when it deferred to its leaders. But, whatever their other strengths, referenda are ideal ways to say no, particular to complex questions. More than most societies—with our distance, our diversity, our relative comfort—Canada needs ways to say yes. We must consider whether there are better ways to combine the requirements of detail and democracy and decisions, or we will have simply invented a new way to frustrate the will that has always been vital to Canada.

Finally, there is a troubling and fundamental question that flows from one of the other lessons of Charlottetown. That question is: What is the nature, what is the identity, of the community whose constitution we are seeking to define?

Those of us who went into the trenches and fought for Charlottetown know that some of the most ferocious opposition was triggered by language that was designed to describe elements of our identity which some of our citizens still find controversial. That was the case with the distinct society as it was with the inherent right of self-government, to mention just two elements. A constitution can contribute to identity, but it can't proclaim it, at least not alone.

This issue of identity—of the contemporary nature of this extraordinary community—is at the heart of the challenge. When we brought together, in those interminable meetings, people who genuinely reflected most of the formal interests of the country, we found real agreements. That has to encourage us.

And certainly, incrementalism and passivity do not contribute to the kind of identity we would want to have define the Canadian community. In fact, another corrosive consequence of preferring the incremental to the bold is that voter participation is down, Western alienation is up and public cynicism is high, and as our young achievers reach out to the world, from their bases in Calgary or Quebec, they step over Canada. We are their passport now, and we must become again their country.

*Joe Clark, leader of the Progressive Conservative Party and 16th prime minister of Canada, negotiated the 1992 Charlottetown Accord as minister of constitutional affairs.*

On critical issues, if the national government proves itself to be open to the other partners in Canada, we can make remarkable progress. So another lesson is that, with leadership, and mutual respect, the Canadian federal system can produce significant agreements.