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INTRODUCTION

Participant Observers and Active Players

My professional life, apart from a few brief years as a trial lawyer and occasional crown prosecutor, has been largely passed in the academies and universities, combined with frequent consulting and advising, internationally and at home (the latter at all three levels — municipal, provincial and federal); and in the service of a number of different political parties. My sometime teacher and later colleague, Harold Lasswell, dean of American social scientists, characterized this sort of combined professional role as that of the *participant-observer*. That is to say that although one is part of the events as they unfold, yet, because of the professional nature of one's engagement in those events, one has to operate within certain accepted scientific standards of commitment to honest identification of the facts, options and costs in a given problem-situation.

There are, in other words, inbuilt obligations of political self-restraint on the part of the participant-observer, and a recognition that the mandate for ultimate political choice and decision must remain with the public officials legitimated by direct election (and with their personal political advisers).

I mention this as prelude to a discussion of some of the experiences provided by the rather rare opportunity opened to me a decade ago when I moved from the ivory towers and the outer ante-rooms of power into the public arenas of political action. It was this special circumstance that now allows me to go beyond the law-in-books — the abstract, *a priori* specifications of institutions and procedures and categories of law-making competences set out in original constitutional charters drafted in an earlier century for a quite different society than our own today — to examine the actual *how, when, why* and *by whom* key community decisions are made. Roscoe Pound, founder of the North American school of sociological jurisprudence, would have called this “law-in-action.”

Pound argued that this gap between historical legal prescriptions and the elemental facts-of-life needed to be understood to enable intelligent, purposive programs of change and modernization to be undertaken. Harold Lasswell, who pioneered the field with studies such as *Politics: Who gets What, When, How*, opened up another, too often overlooked element in community decision-making with his 1930 book *Psychopathology and Politics*. It is the personality variable in political leadership which ensures that institutions established either by convention or in constitutional charter may fluctuate wildly in their actual operation as between different incumbents even when of the same political party.

I should state at the outset that this is not a personal biography. The present study is limited in its coverage to the events of the past decade or so in Ottawa, from the early 1990s to the opening of the present century. That is to say, from my first entry into the lists as a candidate for party nomination through my two successive, full terms as an elected Member of Parliament and a member of the government. What I have attempted to do is open some new,

realist-inspired perspectives on our constitutional government as it actually operates in our federal system today. I can only hope that the discussions that follow encourage some of my fellow citizens to consider taking their turn as active players in the direct political processes.

The Road to Ottawa

My own entrance to Parliament may well throw some light on the process by which candidates for Parliament are chosen. I had been approached directly in late 1991 by representatives of two major political parties with invitations to meet with their respective leaders to discuss national policies, with a view to my possible candidacy in the forthcoming election. Their interest was not in my then current work in foreign policy and the new, post-détente system of world public order on which I had lectured and commented widely in Canada and abroad in forums as diverse as the Russian Institute of State and Law and the United States House of Representatives Committee on Foreign Affairs. Their emphasis, instead, was on my earlier role as chief adviser (along with distinguished political scientists John Meisel and Léon Dion¹ from Queen's and Laval universities, respectively) to the Trudeau-appointed Pepin-Robarts² Task Force on Canadian Unity (1977–1979), from which much of the substance of the Meech Lake Accord, and particularly its provisions on safeguarding the French Language within Quebec, had been borrowed.³

¹ The father of Stéphane Dion, the minister of intergovernmental affairs in the Chrétien cabinet.

² Jean-Luc Pepin, former Trudeau cabinet minister, and John Robarts, former Conservative premier of Ontario.

³ The Task Force recommended provincial control of language rights; replacing the Senate with a Council of the Federation appointed by the provincial governments; providing the provinces with a “veto” over Supreme Court and certain other important federal appointments; generally reducing federal powers (except with regard to economic management); and introducing limited proportional representation in federal elections.

Initially, however, I was not convinced that I could achieve as much in public, political life as I could in writing, teaching and consulting in my fields of specialization: federalism, constitutionalism, and international law and organization. Then I met with Jean Chrétien in the spring of 1992. The Liberal party leader, whom I already knew, was accompanied by his close adviser, Ross Fitzpatrick, whom I had not met previously.⁴ Chrétien asked me to become a candidate. And, after some discussion with family and friends, I accepted his invitation. The timing was right. A number of my longstanding commitments and projects had been completed, providing a rare window of opportunity so far as my private, professional career was concerned.

I was approached shortly after my meeting with Chrétien and Fitzpatrick by Frank Murphy, labour lawyer, Liberal party elder statesman, and the “godfather” of the Vancouver Quadra constituency association which had successfully returned Prime Minister John Turner to Parliament, when his short-lived government (30 June-17 September 1984) was going down to crushing defeat in the rest of the country.⁵ Murphy told me that Turner, who in the general elections of 1984 and 1988 was the sole Liberal elected from BC, would not be a candidate for re-election. He also told me that there were a number of candidates already vying for the Quadra nomination, but that the constituency association executive would welcome my candidacy (blessed as it had been by Jean Chrétien). He added, however, that he and the executive would remain neutral and publicly uncommitted in the upcoming nomination contest, as would John Turner (whom I also knew from Montreal and Ottawa).

⁴ Fitzpatrick would be appointed head of the BC Liberal campaign team in the 1993 general election.

⁵ Murphy, his wife Jean and their daughters belonged to that class of enthusiastic and talented amateurs — now, unfortunately, rapidly disappearing from the public political scene — who would give of their time and intellectual energies fully and generously as campaign volunteers, without thought or expectation of material rewards or recognition.

All this meant that there would be no easy, automatic passage to the party's nomination, as would be the case, for example, with a number of leader-sponsored candidates in Quebec and Ontario — and even, in the odd instance, elsewhere. Those favoured few were simply appointed the party's nominees (with constituency association elections dispensed with altogether and other candidates barred). Should I now seek a similar grace-and-favour appointment in Quadra? After discussion with friends who urged such action, I concluded that I should not. On constitutional grounds, such a course would be inconsistent with those basic principles of representative democracy to which I had, over the years, devoted a good part of my teaching, my writing and my life. On purely political grounds, it would be quite unfair to the other candidates, who had entered the field in good faith and in expectation of a fair and open contest. My *modus operandi* was clear: (1) to enter the existing nomination battle; (2) to make up lost ground by a vigorous campaign focusing on key policy issues; and (3) to win. This we did, eleven months later in March 1993, in a come-from-behind victory, lasting through four ballots and a full seven hours until one o'clock in the morning. It was an exhilarating, if exhausting experience. The deliberate concentration on issues — a battle of ideas — normally lacking in party nomination contests, brought us our core organization.⁶

In agreeing to seek the Liberal nomination in the summer of 1992 (before the Charlottetown referendum), it was in clear expectation of what I might offer the party by way of constitutional expertise, if and when that party should form a government. It was not until well into the 1993 election campaign itself that it became

⁶ My nomination campaign team — median age twenty-three — was directed by a triumvirate from the University of British Columbia: Mark Cameron, Thomas Braun and Eric Lay. A small “ginger” group of young volunteers, including Jim Paloubis, Kirsten Jensen, Tony Fogarassy, Blair Lockhart and Chris Gignac, helped develop nomination tactics. Advice on overall strategy came from experienced volunteers, such as Betty Trainor and Stephen Sander. We also had a wise, experienced teacher and former member of the Vancouver School Board, Harkirpal Singh Sara (the first

apparent that the constitution and Quebec were no longer important to voters, or even issues that they wanted to discuss at all. The key issue for the Canadian voter had become the economy. In the words of the electoral slogan that the United States Democratic party so successfully used against incumbent President George H.W. Bush (the Gulf War victor in 1990–1991) in defeating his re-election bid in November 1992: “It’s the economy, stupid!”

Mulroney to Chrétien

An understanding of the Chrétien decade from 1993 to 2003 must necessarily be built on the principles and practices of the immediate past. The Conservative government elected under Prime Minister Brian Mulroney in mid-1984 had proceeded triumphantly with an agenda of change — *triadic* change of a revolutionary character as it turned out, in terms of long-range consequences for Canadian federalism and Canadian society as a whole. The first element in the Mulroney program was borrowed directly from one of those interminable and expensive royal commissions of enquiry spawned by its predecessor Liberal government. The Macdonald Commission, chaired by a former Trudeau cabinet minister, had recommended in its 1985 multi-volume report that Canada enter into a bilateral, free-trade agreement with the United States. Mulroney saw an opportunity in this for a political breakthrough and, in words Disraeli had used a century earlier, caught the Liberals bathing and ran away with their clothes. Free trade had been a plank in Laurier’s unsuccessful campaign for re-election in 1911. A Conservative government three quarters of a century later seized the idea and successfully negotiated it with the United States. In

Sikh-Canadian to hold elected municipal office in Vancouver), as chair of our cultural and policy committee. In 1993, my election campaign was run by Thomas Braun, Elizabeth Murphy and Jim Paloubis (with Craig Munroe as university student liaison and Peter Szeto as the candidate’s aide), supported by an army of volunteers from all the main riding communities. The Quadra constituency association executive, under president Bob Carveth, played a key role throughout both the 1993 and 1997 general election campaigns.