

September 1, 2003

Our pioneer ancestors never accepted the bullying we put up with

Here's a history question.

How did Canada change from one of the most democratic countries in the developed world to one of the least?

In the early 1800s, almost every adult male in our country had a vote. Anyone who owned a plot of land (and almost everyone did) had a say in electing the local representative.

The United States didn't adopt universal male franchise until 1845 (except for slaves). Britain didn't catch up to us until the late 1800s. Most of Europe was way behind.

But in the British colonies of Canada, every red-blooded male with a forty-shilling freehold could show up and be counted in broad daylight at the public polls, where fist-fights were a common form of electoral debate.

In this robust, backwoods environment, MPs and MLAs had minds of their own. Leaders had to plead with them to follow the party line, and often failed. MPs elected their own party leaders, and kicked them out too. Then they returned to tell the folks back home in the bush, most of whom they knew by name.

But look at us now.

News media and politicians are afraid of sounding "extreme" or "intolerant." Government MPs are too afraid of their own party bosses to vote against the cabinet.

The Prime Minister, guided by a PCO bureaucracy he does not control, names to office every cabinet minister, every deputy minister, every senator, every senior judge, every crown corporation head, all the broadcast commissioners, the chief of national security, the chief commissioner of the RCMP, the head of the armed forces, the entire governing board of the Bank of Canada, and the entire human rights commission. Appointed flunkies all.

Finally, lest anything slip past into the dirty democratic clutches of the people, we have the Charter of Rights. It works this way. Upon request by the Prime Minister, the judges appointed by the Prime Minister dictate whether the Parliament run by the Prime Minister may decide a matter the Prime Minister does not want anyone to talk about.

To this melancholy state are we reduced.

How did this happen? And what, if anything, can be done about it?

Well, I have a suggestion. If we can't democratize Parliament (and we can't) let's at least democratize the Charter of Rights.

When judges change the constitution by inventing new personal rights out of their heads, there should be a referendum vote on whether Parliament (or the affected provincial legislatures) should set

their decision aside. Section 33 of the Charter allows this, but (except in Quebec) it almost never happens.

The idea of making decisions by a public vote absolutely horrifies our governing class, just as it horrified our British colonial masters in the early 1800s.

For example, Toronto historian Michael Bliss writes that under our system the courts alone may decide the meaning of the constitution. "To have a referendum would be such an affront to the constitution of Canada and the liberties of Canadians," he frets, "that the idea is effectively a non-starter."

He's right that this has become our system. But it's a lousy one. A free democracy remains stable by maintaining checks and balances. If the courts can over-rule the legislatures, the people should be free to over-rule the courts.

And if Michael Bliss had tried telling our pioneer ancestors what he's telling us, he'd have gone home with a broken jaw.

- Link Byfield

Link Byfield is chairman of the Edmonton-based Citizens Centre for Freedom and Democracy.

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