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*Bryan Schwartz points out the pros and cons of the constitutional concoction*

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DELIBERATION on an important issue can start off fast and light; as an expanding and swirling cloud of points and counterpoints. After a while, a few considerations usually emerge as especially large and weighty. If they are instilled with conscience as well as intellect, they can be the foundation of a settled and responsible decision.

As soon as the Charlottetown accord - "the deal" - was released, I suspended any final judgment and wrote an assessment entitled Still Thinking that tried to explore all the good and bad. A month later, let me tell you what is weighing most heavily in my own ongoing deliberations. On the positive side, the deal makes a generous symbolic statement about the dignity of linguistic minorities. The proposed Senate will have little power, and there are serious problems with the "francophone veto" and the method of elections; but it still might serve as a credible sounding board for smaller provinces. The deal contains some valuable guarantees that provinces will be treated equally when the feds negotiate agreements with various provinces. The deal constrains the federal spending power, but also makes it clear that it is an essentially legitimate part of our system. Who knows if these "pluses" will be contained in any subsequent deal?

Here are my biggest concerns.

The Charlottetown accord takes decentralization to the outer edge of the tolerable. I could accept it only if it were the end of the denationalization of Canada for a generation. But many provincial politicians in Quebec are selling the deal as simply another step in steadily detaching Quebec from the national framework. The "economic union" part of the deal is almost meaningless. In some sectors, Canadians will increasingly find it easier to trade abroad than internally.

Aboriginal peoples should have more self-government, but there should be safeguards. The deal is deficient in this respect. Specifically:

Individual and democratic rights will have less constitutional protection from aboriginal governments than any other authority.

Aboriginal communities may become excessively detached from the legal framework that binds together the Canadian nation.

The deal may be used to irreversibly produce socially divisive institutions (like separate aboriginal schools and boards) in the cities.

THE House of Commons ought to be our most important national institution. The most underestimated risk of the Charlottetown deal is the degradation of the House of the Commons. Its current membership, 295, is already too high. Yet the deal will inflate it to 337 seats immediately, and at least 345 seats by 1996. After that, a permanent formula will guarantee endless further expansion. Various rules will save provinces from losing seats as their share of the population drops; at the same time, fast-growing provinces will freely gain seats. The financial costs of "house-bloat" will be huge. So will the cost to our democratic process.

Individual members of the House will become increasingly insignificant. As the House gets bigger, it can more easily overwhelm the Senate in joint sittings. So real power will be more concentrated than ever in the cabinet, and in the Prime Minister's office in particular.

THE new amending formula would leave it almost impossible to reverse any of the defects just identified. About the only thing that will remain easy is for the federal government to give away more powers. Transferring power to the federal government will, for all intents and purposes, require unanimity. Dissenting provinces can either veto a change, or "opt out" of it with compensation. All provinces will have a veto over the structure of the Senate and House of Commons. Aboriginal peoples will have a veto over any changes to the self-government provisions.

The new amending formula leaves control in the hands of political elites. There is no requirement that the people be directly consulted on anything. Politicians can consult the people if they wish; they may not. They may look back on 1992 as a special case, not to be repeated. The Charlottetown accord itself specifically identifies several crucial issues on which further negotiation and amendments are needed; I doubt we'll all have a chance to vote on them.

There is a difficult judgment to be made. Reasonable people can and will end up in either camp. I'll conclude with another general observation about deliberation: 10 million heads are much better than 17, let alone one. This time, for once - and maybe for the last time - the final say will be where it should always be: with the people.

*Bryan Schwartz is a professor of law at the University of Manitoba. Still Thinking . . . A Guide to the 1992 Constitutional Referendum is published by Voyageur.*