WHO CAN SPEAK FOR WHOM?

Struggles Over Representation During the Charlottetown Referendum Campaign

by

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ABSTRACT

In this study, I undertake a discourse analysis of struggles over representation as they were manifested in the Charlottetown referendum campaign. I utilize transcripts taken during the campaign derived from the CBC news programs The National, The Journal, and Sunday Report as well as from The CTV News. The issue of (im-)partiality provides the analytical focus for this study. Who can legitimately speak on behalf of whom, or, to what extent do individuals have a particular "voice" which places limitations on whom they can represent? On the one hand, underlying what I call the "universalistic" discourse is the premise that human beings can act in an impartial manner so that all individuals have the capacity to speak or act in the interests of all other individuals regardless of the group(s) to which they belong. On the other hand, a competing discourse based on "group-difference" maintains that all representatives express partial voices depending on their group-based characteristics. I argue that the universalistic discourse was hegemonic in the transcripts but, at the same time, the group-difference discourse was successful at articulating powerful counter-hegemonic resistance. Ironically, the universalistic discourse was hegemonic despite widespread assumptions of partiality on the basis of province, region, language, and Aboriginality. This was possible because the universalistic discourse subsumed territorial notions of partiality within itself. In contrast, I argue that assumptions of Aboriginal partiality will likely diffuse themselves to other categories, beginning with gender, in the future. I also describe the strategies used by the competing discourses to undermine one another. The universalistic discourse successfully portrayed the group-difference discourse as an inversion to a dangerous apartheid-style society where
individuals were forced to exist within group-based categories. The group-difference discourse used the strategy of anomaly to demonstrate that individuals were inevitably categorized in the universalistic discourse; impartiality was a facade for a highly-partial ruling class. In examining these strategies, I demonstrate that the group-difference discourse justified its own position by making assumptions about the operation of power and dominance in society. Thus, impartiality was impossible not for the post-modern reason that inherent differences make representation highly problematic, but because power relations hinder the ability of representatives to act in a truly impartial manner.
<table>
<thead>
<tr>
<th>TABLE OF CONTENTS:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>ABSTRACT</td>
<td>ii</td>
</tr>
<tr>
<td>TABLE OF CONTENTS</td>
<td>iv</td>
</tr>
<tr>
<td>LIST OF FIGURES</td>
<td>v</td>
</tr>
<tr>
<td>ACKNOWLEDGEMENT</td>
<td>vi</td>
</tr>
<tr>
<td>CHAPTER 1: Introduction</td>
<td>1-11</td>
</tr>
<tr>
<td>CHAPTER 2: Analytical Framework</td>
<td>12-29</td>
</tr>
<tr>
<td>A] Gramsci, Hegemony and Discourse</td>
<td></td>
</tr>
<tr>
<td>B] Categoric Systems and Hegemonic Discourse</td>
<td></td>
</tr>
<tr>
<td>C] The Universalistic and Group Difference Discourses</td>
<td></td>
</tr>
<tr>
<td>CHAPTER 3: The Negotiations</td>
<td>30-46</td>
</tr>
<tr>
<td>A] Federalism and the Negotiations</td>
<td></td>
</tr>
<tr>
<td>B] Aboriginality and the Negotiations</td>
<td></td>
</tr>
<tr>
<td>C] Gender and the Negotiations</td>
<td></td>
</tr>
<tr>
<td>D] &quot;Other&quot; Categories and the Negotiations</td>
<td></td>
</tr>
<tr>
<td>CHAPTER 4: The Referendum Campaign</td>
<td>47-73</td>
</tr>
<tr>
<td>A] Federalism and the Campaign</td>
<td></td>
</tr>
<tr>
<td>B] Aboriginality and the Campaign</td>
<td></td>
</tr>
<tr>
<td>C] Gender and the Campaign</td>
<td></td>
</tr>
<tr>
<td>D] &quot;Other&quot; Categories and the Campaign</td>
<td></td>
</tr>
<tr>
<td>CHAPTER 5: The Charlottetown Provisions</td>
<td>74-98</td>
</tr>
<tr>
<td>B] Aboriginal Self-Government</td>
<td></td>
</tr>
<tr>
<td>C] Gender Equality in the Senate</td>
<td></td>
</tr>
<tr>
<td>E] &quot;Other&quot; Categories and the Provisions</td>
<td></td>
</tr>
<tr>
<td>CHAPTER 6: ANALYSIS</td>
<td>99-117</td>
</tr>
<tr>
<td>A] Locating the Categories on the Continua</td>
<td></td>
</tr>
<tr>
<td>B] Hegemonic/Counter-Hegemonic Outcomes</td>
<td></td>
</tr>
<tr>
<td>C] Strategies: Inversion and Anomaly</td>
<td></td>
</tr>
<tr>
<td>BIBLIOGRAPHY</td>
<td>118-120</td>
</tr>
</tbody>
</table>
LIST OF FIGURES

Figure 1 25

Figure 2 101
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CHAPTER 1: INTRODUCTION

In recent years, Canadians have witnessed a remarkably heated struggle within the public sphere over conflicting notions of representation. The rise of what is often referred to as "identity politics" or the "politics of difference" has transformed discourse in the media, academe, and the workplace. There are many examples of this transformation within the Canadian context, including the appropriation-of-voice issue in the artistic and literary communities, the (anti-) "politically correct" movement which continues to rage in the media and elsewhere, and the ongoing debates over employment equity and affirmative action. In each of these discursive fields, the traditional liberal notion of the individual as universal citizen, unencumbered by group categorization, is coming under attack by a counter-discourse emphasizing group difference. This counter-discourse attempts to undermine and delegitimate the universalistic discourse by portraying it as a facade which masks the highly particularistic reality that exists within liberal societies: for example, the universal citizen is characterized as white, male, and heterosexual. In place of this, the group-difference discourse puts forward a notion of representation and identity which is founded on the explicit categorization of individuals into groups on the basis of race, gender, sexual orientation, class, or other groupings. The universalistic discourse responds by arguing that such categorizations are unacceptable because they have a constraining and suffocating impact on individuals.

The issue of (im-)partiality is a pivotal feature of this struggle; consequently, it will provide the empirical and analytical focus for this study. Who can legitimately speak on behalf of whom, or, to what extent do individuals have a particular "voice" which places limitations on whom
they can represent? On the one hand, underlying the universalistic discourse is the premise that human beings can act, and indeed often do act, in an impartial manner, and that all individuals have the capacity to speak or act in the interests of all other individuals regardless of the group(s) to which they belong. On the other hand, the group-difference discourse rejects the possibility of impartiality as long as relations of power and domination are group-based.

In this study, I undertake a discourse analysis of the struggle over (im-)partiality as it is manifested in Canadian constitutional politics because it is here that it receives an especially clear and powerful expression. My intention is to determine which discourse is hegemonic and to measure the strength of that hegemony and the degree to which the competing discourse represents a serious counter-hegemonic contender. In addition, I examine the underlying justifications on which these two discourses are based, as well as the strategies which they use to undermine one another. In order to do this, I utilize transcripts taken during the Charlottetown Referendum campaign derived from the CBC news programs The National, The Journal, and Sunday Report as well as from The CTV News. Included in these transcripts are all the reports that make any reference to the constitution during the seven-and-a-half week period beginning September 3, 1992, when the referendum date was officially announced, and ending on October 25, 1992, the day before the referendum vote was held.

1 I should note that while this study focuses on the tensions between these two competing discourses, there are other discourses the importance of which must not be underestimated. For example, one which may be labeled a "pre-liberal" discourse is explicitly racist, sexist, and homophobic and has a very different attitude toward (im-)partiality.

2 Including news stories, editorial essays, documentaries, interviews, debates, and "town hall meetings".

3 This amounts to fifty-two consecutive evenings of newscasts including 172 stories from The National, 39 from The Journal, 36 from Sunday Report, and 181 from the CTV News. In total,
These transcripts represent a rich source for the study of people's attitudes, beliefs, and assumptions on issues related to political representation.

In chapter two, I build a framework which is designed to measure the relative acceptance of the universalistic and group-difference positions on (im-)partiality within the referendum discourse. I begin by introducing the Gramscian concept of hegemony, which deals with the consent which people give to certain ideas, rules, and practices. Gramsci argued that hegemony is not static or fixed, but is instead in a constant state of struggle; he suggested that along with hegemony there is always the possibility of resistance or counter-hegemony. Next, I describe the concept of taxonomy (i.e. the science of categorization), by examining its hegemonic as well as counter-hegemonic implications. In particular, I demonstrate how inversion and anomaly, two common features of categoric systems, may preserve hegemonic categoric systems but may also be used to challenge and undermine them.

Finally, I undertake a preliminary categoric investigation of the universalistic as well as group-difference discourses so as to provide a framework for the more detailed discourse analysis that follows. I do this by building two continua: the first measures the degree to which "referendum actors" consider specific categories, such as gender, race, age, or province, legitimate grounds for partiality. This continuum ranges from a universalistic notion of impartiality on the one hand (where few if any
categories are considered legitimate grounds for partiality), to the group-difference notion of partiality on the other hand. Since this first continuum is intended to be dynamic rather than static, I develop a second continuum which is designed to measure the degree to which the placement or location of various categories on the first continuum is a matter of struggle and resistance. I place categories whose position on the first continuum is naturalized or unquestioned on the one side, and, on the other side, I place categories whose location is a matter of vigorous contention.

The body of this study is separated into examinations of the Charlottetown constitutional negotiations, the referendum campaign, and the Charlottetown provisions, which represent chapters three, four, and five respectively. While referendum actors often make different assumptions of (im-)partiality depending on which of the three contexts they are concerned with, my premise is that these assumptions are nevertheless connected at a deeper level in the three chapters. In addition, each of the three chapters is arranged by category beginning with federalism (including treatment of province, region, and language), and then Aboriginality, gender, and, finally, "other" categories. I should emphasize that I have no intention of taking federalism nor the provincial partiality attached to it for granted (even though Canada is a federal society). Instead, I examine province, region, and language-based categories on the same terms that I examine gender, age, race, and (dis-)ability.

In chapter three, I begin my discourse analysis by examining the Charlottetown negotiation process as reflected in the referendum texts. For institutional as well as other reasons, the negotiations were grounded in a strong form of partiality based on province, and an even stronger form of partiality based on the French language. While the existence of this
partiality is not surprising, what is notable is the degree to which referendum actors took the partiality of these categories for granted within the referendum discourse. In contrast, the inclusion of Aboriginal representatives at the constitutional bargaining table was an important legitimation of race (on the basis of "Aboriginality" at least) as a highly partial category. What is interesting here is that very few referendum actors resisted this within the referendum discourse, although Aboriginal leaders had to struggle to achieve this inclusion in the first place. In terms of other categories, most were characterized by referendum actors as highly impartial in the sense that all of the negotiators were expected to represent all members of their provincial, language, or Aboriginal communities in an impartial manner, regardless of gender, sexual orientation, (dis-)ability group, class, age, or other category. In addition, with the important exception of gender, referendum actors expressed very little resistance to the impartiality of these categories within the referendum discourse. In the case of gender, women's groups -- especially the National Action Committee on the Status of Women (NAC) and the Native Women's Association of Canada (NWAC) -- were fairly successful in putting forth their view that women must be represented by women in constitutional negotiations. Nevertheless, this position failed to have a substantial impact on the larger referendum discourse since most referendum actors portrayed the impartiality of gender in the negotiations as legitimate.

In chapter four, I examine the assumptions referendum actors made regarding (im-)partiality in the referendum campaign. I focus on the vote

5For lack of a better term, I will use the word Aboriginality to denote the Aboriginal/Non-Aboriginal distinction in the same way that the word gender denotes the male/female distinction.
tabulation processes, the access to the media which various actors were able to achieve, and the depiction of the public by the media. The degree to which most assumptions of (im-)partiality during the campaign were rooted in the vote tabulation system, as well as the constitutional amending formula on which that system was based, is quite notable. Generally, patterns similar to the negotiation process existed, although there was a general shift in the direction of greater partiality for most categories. Assumptions of partiality on the basis of province and language were pervasive during the campaign, although the latter type was more extreme than the former. However, language-based partiality was not as extreme as Aboriginal partiality, which was close to being absolute. In terms of gender, referendum actors expressed a fair amount of partiality, although gender partiality met with considerable resistance throughout the campaign. Finally, referendum actors portrayed the "other" groups in an extremely impartial manner and there was very little evidence of any resistance to this portrayal.

In chapter five, I examine parts of the referendum discourse which revolved around various provisions in the Charlottetown Accord, and the degree of (im-)partiality which they reflected. To begin with, the presence of provisions for Aboriginal self-government had clear implications for partiality based on race, although there was forceful resistance to it amongst some referendum actors. What is especially important is that this partiality was explicitly rooted in the historical maltreatment of Aboriginal peoples in Canada. The premise was that the need to express Aboriginal partiality was so great that a new order or level of government was necessary. However, the need for partiality was not portrayed as nearly as urgent in terms of the French language. For example, opponents of
language-based partiality attacked the twenty-five-percent floor for Quebec in the House of Commons, as well as other provisions. Interestingly, the reason they did this was not because these provisions were based on a partial notion of representation (considered legitimate within the federal context). Rather, it was because non-Quebecers wanted to express their provincial partiality as well, and they considered it unjust that Quebec be given "special" powers to do so. What was at issue was whether or not all the provinces would have an *equal* ability to express their own partiality. This issue was reflected in debates concerning the Senate as well. In addition, provisions which allowed for gender equality in the Senate were also included in the Accord, and four Premiers announced that they were in favour of this option. In a sense, this represented a remarkable step in the direction of a partial notion of gender. However, most referendum actors met the possibility of imposed gender equality in the Senate with massive criticism. Indeed, there was hardly even debate on the issue before the general consensus became that this type of partiality was unacceptable. Gender representation at least received debate, in contrast to "other" groups which the Chalottetown provisions portrayed as legitimate grounds for an extreme degree of impartiality, by virtue of omission.

In chapter 6, Analysis and Conclusions, I consolidate my findings based on the referendum transcripts, by locating the various categories on the two continua set out in chapter two. I argue that the universalistic discourse was clearly hegemonic but, at the same time, the group-difference discourse was successful at putting forward powerful counter-hegemonic resistance. In the second part, I show that, ironically, the universalistic discourse was hegemonic despite the widespread partiality exercised on the basis of province, language, and Aboriginality. This
hegemony was possible because the universalistic discourse was able to subsume territorial notions of partiality within itself. Referendum actors portrayed the territorialization of the universal individual as commonsensical; as a result, provincial partiality cannot be considered counter-hegemonic. In contrast, however, I argue that the exercise of Aboriginal partiality does have profound counter-hegemonic potential, dependent upon the degree to which future constitutional discourse constructs Aboriginal peoples as existing within the Canadian political universe. If they are constructed in this manner, the chances of Aboriginal partiality diffusing itself to other categories, beginning with gender, will be increased. The implications of the diffusion of partiality for Canadian democracy would be truly profound. In the third part, I discuss the use of the strategies of inversion and anomaly. On the one hand, the universalistic discourse successfully portrayed the group-difference discourse as an inversion to a dangerous feudal-style society where individuals were forced to exist within group-based categories. On the other hand, the group-difference discourse used the strategy of anomaly to demonstrate that individuals were inevitably categorized in the universalistic discourse, even though they were not supposed to be, as a result of power relations in society. In this way, impartiality was a facade for what was really a highly-partial ruling class. In examining these strategies, I demonstrate that the group-difference discourse justified its own position by making assumptions about the operation of power and dominance. Thus, impartiality was impossible not for the post-modern reason that inherent differences make representation highly problematic, but since power relations twist and manipulate the ability of representatives to act in a truly impartial manner.
At this point, several caveats are in order. First, it is misleading to think of the transcripts I analyze as a representative sample of the discourse which takes place in the Canadian public sphere. To begin with, the news media and the public sphere are far from equivalent, even though they are intricately connected. In addition, only national news -- as opposed to local or regional -- is included, and all of this is in English. Finally, and perhaps most important, all of the texts are directly related to a very specific arena: constitutional politics. Thus, the referendum texts have a very particular set of dynamics which are not necessarily generalizable to the larger arena of Canadian politics and society. For these reasons, it is best to consider these texts as representing a "rough slice" of the Canadian public sphere, which has very particularistic qualities of its own.

Second, given the descriptive flavour of this study, I bracket normative questions wherever possible. In other words, it is not my aim to examine the theoretical or epistemological validity of either the universalistic or group-difference discourse -- or any other discourse for that matter. This is not to suggest that such questions should not, or cannot, be asked. Instead, my position is that such normative questions must be founded on a practical understanding of theoretical concepts in operation. Since it is this kind of understanding that I intend to provide, I view this study as a preliminary stage of a larger theoretical project.

The third caveat has perplexing methodological implications. Given that the concept of (im-)partiality is so central to this study, where do I situate my own voice as discourse analyst? There is an important

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6 For an article which discusses these connections, see John Durham Peters and Kenneth Cmiel, "Media Ethics and the Public Sphere," Communication 12 (1991) 197-215.
7 It is true that both the CBC and the CTV provide extensive coverage in Quebec and often translate speeches and interviews which are originally in French. But this does not mean that they necessarily capture the Quebecois perspective.
connection between the degree of (im-)partiality which I assume in studying the text and the conflicting assumptions regarding (im-)partiality which the universalistic and group-difference discourses make. Viewed in this light, by locating myself on the former methodological continuum I am making a value judgment which corresponds to a specific position on the latter universalistic/group difference continuum. Inevitably, setting out my methodological position is akin to "taking sides" in the debate which I am trying to analyze. Logically, one cannot remain completely "neutral" in one's perspective even if one attempts to be.

Generally, I tend to be fairly sympathetic to the difference discourse and its perspective on (im-)partiality. However, the fact that I am carrying out this study is itself a sign that I do not completely disregard the possibility of impartiality. Clearly, one can only move so far towards partiality and subjectivism before it becomes impossible to carry out any research within the social-science tradition. While I maintain that what follows is a partial reading of the text, this is not the same thing as claiming that it is no better or worse than any other reading. Nor does it mean that my reading cannot be placed within a comparative context along with other readings carried out by researchers with different backgrounds and perspectives. What it does mean is that, to a considerable degree, my particular voice, which is a white, male, heterosexual, and able-bodied voice, is an integral part of the study which follows.
CHAPTER 2: ANALYTICAL FRAMEWORK

Those who champion such profligate pilferage tend to call it interdisciplinary research, whereas others may view it as simply undisciplined. I prefer to think of it as actively and aggressively anti-disciplinary, for I understand and intend my practice to be a form of resistance to and an act of sabotage against, a tendentious taxonomy of knowledge and its legitimating discourses.

- Bruce Lincoln

In this chapter I build an analytical framework which I will use to examine the struggles over (im-)partiality which occurred in the referendum transcripts. I begin by describing the Gramscian concept of hegemony, which will provide the theoretical foundation for this framework. I then introduce the concept of the categoric system, looking specifically at its hegemonic and counter-hegemonic implications within the context of the universalistic and group-difference discourses. Finally, I conclude the chapter by clarifying some methodological issues concerning my interpretation of the texts.

A] Gramsci, Hegemony and Discourse

Antonio Gramsci wrote his most influential work while he was a political prisoner in an Italian fascist prison from 1929 to 1937. These writings touch on a wide range of (often obscure) topics in bewildering detail. While Gramsci frequently uses the term hegemony, he does not use it in a systematic manner; in fact, he never explicitly undertakes a

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9 To make matters worse, the prison conditions were horrible and Gramsci’s health was poor at the best of times. He died at the age of forty-six, almost immediately after his prison term expired.
sustained theoretical description and analysis of hegemony. Nevertheless, a more general theory of hegemony is ever-present in Gramsci’s thought, even if merely implicit.11 Rather than analyze this theory in any detail,12 I will embark upon a more focused and practical encounter with Gramsci’s thought by drawing out those aspects that are particularly suited to the purposes of this study. This seems fitting, given Gramsci’s tendency to privilege practice over theory.

Gramsci defines hegemony as a historically-specific situation in which the ruling class elicits the “spontaneous consent” of the “great masses” to its rule.13 But this consent does not occur in the same way as a political party and its political platform gain the “generic and vague” consent of the people by virtue of winning the most seats in an election.14 Rather, hegemony is about leadership based on political, philosophical, and moral education. While the state and its actors play a significant role in the exercise of this leadership, the expression of hegemony runs much deeper, to the point where it permeates society. According to Gramsci:

Since all men [sic] are 'political beings', all are also 'legislators'...Every man, in as much as he is active, i.e. living, contributes to modifying the social environment in which he develops (to modifying certain of its characteristics or preserving others); in other words, he tends to establish 'norms', rules of living and of behaviour...15

In this way, the exercise of hegemony is infused into the everyday practices of the masses through mechanisms of civil society such as the

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13 Gramsci, 12.
14 Gramsci, 259.
15 Gramsci, 266.
education system, organized religion, the family, and the media. While these mechanisms are "legally neutral" since they operate...

...without 'sanctions' or compulsory 'obligations',...[they] nevertheless exert a collective pressure and obtain objective results in the form of an evolution of customs, ways of thinking and acting, morality, etc.16 Thus, for Gramsci, hegemony implies nothing less than the development and/or maintenance of a social, political, and economic culture. As such, it may be thought of as a "type or level of civilization" formulated by the ruling class.17

By definition then, hegemony is a form of domination, yet it is never an absolute domination. Rather, transformation is inherent within the operation of hegemony -- it occurs by way of internal struggles and counter-hegemonic resistance. Hegemony is an evolutionary process, one that is living and lived through. It is not a solid, concrete structure; it employs no fixed-rule book. According to Raymond Williams: "It has continually to be renewed, recreated, defended, and modified. It is also continually resisted, limited, altered, challenged by pressures not at all its own."18 Hegemony is never finally and ultimately "won". Indeed, it involves constant struggle, a contest without end.

Thus, hegemony has to be flexible and adaptable. Its success depends to a large extent on its ability to incorporate or appropriate varying challenges. Ideas and concepts from challenging discourses are often absorbed in such a way that they appear consistent with the logic of the hegemonic order. As Gramsci notes: "Undoubtedly the fact of hegemony presupposes that account be taken of the interests and the tendencies of

16Gramsci, 242.
17Gramsci, 247.
the groups over which hegemony is to be exercised..."\textsuperscript{19} That hegemony tends to incorporate changes in such a way that the fundamental hegemonic logic is left intact means that hegemonic compromise or even sacrifice is allowed, sometimes even encouraged. But this never occurs at the expense of those in whose interests the hegemonic order operates. Hegemony bends -- sometimes considerably -- but only to guard against snapping. Still, snapping does occur because not all hegemonic orders display the required skill when challenged. Some may become brittle by resisting change while others may melt from the friction which transformation generates.

Gramsci's project is explicitly directed toward overturning hegemonic orders. Accordingly, he states:

If the ruling class has lost its consensus, i.e. is no longer 'leading' but only 'dominant', exercising coercive force alone, this means precisely that the great masses have become detached from their traditional ideologies, and no longer believe what they used to believe previously...\textsuperscript{20}

In fact, Gramsci's work can be read as a manual for those attempting to bring about such a situation, because counter-hegemonic action must be founded on a deep understanding of the manner in which hegemony is achieved and maintained. Central to this action is the insight that hegemony occupies only one of the seats in a kind of see-saw system, with coercion and force maintaining the balance. The more weighty the hegemonic order, the less need there is to apply coercion or force. In some such situations, Gramsci says, "[i]t is possible to imagine the coercive elements of the State withering away by degrees, as ever-more

\textsuperscript{19}Gramsci, 161.
\textsuperscript{20}Gramsci, 276.
conspicuous elements of regulated society (or ethical State or civil society) make their appearance."\textsuperscript{21} It is this situation which makes resistance especially difficult, but it also points to the route which resistance must take. As Gramsci makes clear:

A social group can, and indeed must, already exercise 'leadership' before winning governmental power (this indeed is one of the principal conditions for the winning of such power); it subsequently becomes dominant when it exercises power, but even if it holds it firmly in its grasp, it must continue to 'lead' as well.\textsuperscript{22}

For this reason, the sudden seizure of state power by way of force and revolution, even if successful, is rarely long-lasting. Those who seek power must first prepare a path by winning the consent of a significant proportion of the population.

There are two central reasons for utilizing the concept of hegemony in this study, even though it was originally developed by Gramsci in the context of fascist Italy. One important advantage is that hegemony is epistemologically and normatively neutral.\textsuperscript{23} That is, there is no \textit{inherent} value in Gramsci's use of the term. For example, from Gramsci's perspective some hegemonic orders are clearly destructive and pernicious while others may be utopian; the term hegemony may be suitably applied to either. As a result of this neutrality, hegemony is particularly useful as a descriptive tool.\textsuperscript{24} Furthermore, the use of hegemony does not preclude

\textsuperscript{21}Gramsci, 263. According to the literary theorist, Terry Eagleton, "...in capitalist society in particular, the ratio between consent and coercion shifts decisively towards the former..." \textit{Ideology: An Introduction} (London: Verso, 1991), 116.

\textsuperscript{22}Gramsci, 57-58.

\textsuperscript{23} This is in contrast with the term ideology, which often carries a highly negative connotation. For further discussion on this point, as well as the epistemological foundation of the term discourse, see Michele Barrett, \textit{The Politics of Truth: From Marx to Foucault} (Stanford: Stanford University Press, 1991) and John B. Thompson, \textit{Ideology and Modern Culture} (Stanford: Stanford University Press, 1991).

\textsuperscript{24} This is not to say that value judgments \textit{cannot} be made of specific hegemonic orders. In fact, it is essential to ask certain questions, such as: In whose interest is hegemony operating?
individual or group agency. For example, Gramsci stresses that "...the will and initiative of men [sic] themselves cannot be left out of account..." 25 As a result, it is easy to understand how the resistance to hegemony which is so central to Gramsci's thought may come about -- through human action and leadership. The issue of agency is especially important when comparing Gramsci with the post-modernist, Michel Foucault. 26 Like most post-modernists, Foucault denies the possibility of individual or group agency, 27 making it difficult to imagine how resistance can occur. 28 Yet the possibility of resistance is just as central to Foucault's thought as it is to Gramsci, and it is probably one of the main reasons why Foucault's theories have achieved such prominence. As a result, the struggles under study cannot be considered post-modern since resistance through group-based agency is integral to the group-difference discourse in theory as well as in practice.

B) Categoric Systems and Hegemonic Discourse

In the previous section, I set out a general theoretical framework based on the Gramscian notion of hegemonic and counter-hegemonic discourse within which I will examine the findings of this study. However, since Gramsci never developed the tools necessary to undertake such an

25 Gramsci, 244.
26 I make this comparison because it is often assumed that the group-difference discourse is rooted in the post-modern ideas of scholars such as Foucault.
28 It is a flaw which has received a great deal of attention. See Nancy Fraser, Unruly Practices: Power, Discourse and Gender in Contemporary Social Theory (Minneapolis: University of Minnesota Press, 1989) ch. 1; Charles Taylor, "Foucault on Freedom and Truth," in Foucault: A Critical Reader David Couzens-Hoy, ed. (Oxford: Basil Blackwell, 1986), and Eagleton, 47, for a sampling of the criticism which follows this line of argument. Also, see Jana Sawicki, Disciplining Foucault: Feminism, Power, and the Body (New York: Routledge, 1991) who attempts to illustrate the possibilities for resistance in Foucault.
examination, I borrow from the methodological approach developed by Bruce Lincoln. His work is especially suitable for my purposes since it has a Gramscian flavour. Lincoln is able to draw out the hegemonic as well as counter-hegemonic struggles that take place in a diverse group of discursive fields. Following Foucault, Lincoln puts forward the concept of taxonomy (what I shall refer to as a "categoric system") as an important type of discourse that serves an epistemological function by sorting and categorizing the information that people amass. Such categorizations are an integral part of our daily attempt to understand the world and render it livable. But, as Lincoln demonstrates, categoric systems, also have important hegemonic implications, since every category is to a considerable degree socially determined. Thus, categoric systems do not hold a position of neutrality, but instead tend to reproduce and reaffirm the hegemonic systems of which they are a product. This is because existing hierarchies are coded, stabilized, and secured as categoric systems integrate them. As Lincoln says,

...categorizers come to be categorized according to their own categories. Taxonomy is thus not only a means for organizing information, but also -- as it comes to organize the organizers -- an instrument for the classification and manipulation of society...

This is not to imply that the importance of a categoric discourse is limited to its reflective and determined nature. While it is true that such discourses are rooted in existing social formations to a considerable extent, they have the potential to reconstruct, recreate, and realign those formations. This

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29 Interestingly, while Lincoln cites Gramsci in several instances, his debt to Gramsci remains implicit.
31Lincoln, 8-9.
32Lincoln, 137.
most often occurs in a way which serves the interests of hegemonic orders, but categoric systems can also be used as tools of resistance by destabilizing, undermining, and even overturning such orders.

Categoric discourse can take many forms. Sometimes, it is fully discernible to those whom it categorizes. However, it is far more likely to remain implicit, masked, or even invisible to them. Sometimes categoric discourse is clearly a human invention, yet it is also common for it to be perceived as natural, eternal, and ahistorical. As Lincoln puts it:

More than legitimate, arbitrary social hierarchies are thus represented as if given by nature, and agitation against their inequities -- which tends to come from those who have been subordinated and marginalized by these systems -- is made to seem but the raving of lunatics.\textsuperscript{33}

Categoric systems often operate according to a series of ranked binary oppositions based on one or more categories such as age or gender.\textsuperscript{34} What a particular culture deems a "category" depends on the relative importance of certain attributes and characteristics within that culture.\textsuperscript{35} Thus, in a racist society, the colour of one's skin would be a category of the highest order, but would not \textit{necessarily} be the case in societies where skin colour has little social or political importance or is uniform.

In this study, I portray the universalistic and group-difference discourses as competing categoric systems. They are categoric systems in that each is rooted in a particular method of categorizing human beings. I portray them as competing because the categoric systems on which they are based are fundamentally in conflict with one another. While the

\textsuperscript{33}Lincoln, 141.
\textsuperscript{34}Lincoln, 139, n. 13.
\textsuperscript{35}Lincoln, 133.
universalistic discourse eschews most group-based categories, the group-difference discourse, as its name suggests, views group-based categories as essential.

In addition to the categories themselves, there are two other features of categoric discourse that are especially helpful in understanding the strategies which the universalistic and group-difference discourses use. These features are "inversion" and "anomaly". Inversion involves a reversal or overturning of a categoric system. When carried out properly, inversion can have important counter-hegemonic implications, but it can also be utilized to maintain hegemonic orders. As I will demonstrate, the universalistic discourse was very successful at using inversion by depicting the group-difference discourse as a risky and dangerous inversion to a pre-liberal era where individuals would be oppressed as a result of their group-based characteristics. Unlike inversion, anomalies are far more likely to threaten a hegemonic order than to serve it. There is nothing inherent in an entity to make it anomalous. Rather, whether it is or is not considered so is dependent upon the effectiveness and strength of the categoric system in question. On the one hand, a specific entity may appear to defy the rules of a particular categoric system, causing it to be disregarded, marginalized, distorted, and considered deviant. On the other hand, the existence of such an anomaly may demonstrate the arbitrary nature of a categoric system so that it is adjusted accordingly or abandoned altogether. The main strategy of the group-difference discourse is to point out anomalies in the universalistic discourse. For example, the group-difference discourse attempts to demonstrate the degree to which individuals are in fact grouped within the universalistic discourse according

36Lincoln, 165.
to their location in the structures of power and domination in society. In this way, through the use of anomaly, the group-difference discourse has the potential to undermine the universalistic discourse. According to Lincoln, "...just as taxonomy can encode and legitimate, indeed, help construct sociopolitical and economic orders, so conversely can anomaly be used to de- legitimate and deconstruct those same sociotaxonomic orders."37

C] The Universalistic and Group-Difference Discourses

At this point, I undertake a preliminary categoric examination of the universalistic and group-difference discourses. In subsequent chapters, I demonstrate that the universalistic discourse was hegemonic and the group-difference discourse counter-hegemonic in the referendum transcripts. However, my purpose here is simply to provide a basic map for the more detailed investigation that follows.38 To begin with, the universalistic discourse is based on the liberal39 premise that all individuals must be politically equal. All individuals are representationally and legally of equivalent value with the result that no individual may have any official rights or privileges that other individuals lack. Thus, there is a uniformity of political worth (e.g. one person, one vote). Furthermore, the grouping of individuals -- in terms of rights, voting, or political worth generally -- is unacceptable since this is believed to have a constraining and limiting effect on them. Thus, those groups which do exist within society are

37Lincoln, 166.
38Instead of surveying the rich body of theoretical literature related to these discourses, I will rely on the texts under study for guidance. Thus, I am interested in the discursive struggle as it occurs in practice as opposed to theory, although I acknowledge that there is a connection between the two.
39It should be emphasized that not all universalistic discourses are based in liberalism. For example, many forms of Marxism and neo-Marxism (as represented by Jurgen Habermas) have a strong universalistic flavour. What is important is that, within the Canadian context, the universalistic discourse is liberal.
considered politically insignificant. At the root of this attitude toward groups is an assumption regarding the potential impartiality of individuals.\textsuperscript{40} Groups are politically insignificant because it is entirely possible for individuals to make decisions which are in the interests of the entire community, no matter what group they belong to. At the root of this is the assumption that individuals have an inherent capacity to empathize with one another. Thus, there is nothing in the "nature" of individuals which restricts them from acting in the interests of any other individual.\textsuperscript{41} Rather, there is an intrinsic commonality in all people so that anyone can potentially speak for anyone or even everyone. In this way, the impartial-individual subject is the fundamental unit -- in fact, the only unit -- within the universal discourse on representation. This creates a dilemma, at the very least, in attempting to think of this discourse in categoric terms. After all, if categoric systems are intended to categorize people, then surely the universalistic discourse must, by definition, be acategorical because in the universal discourse there is only one category, and all members of the community are placed firmly, explicitly, and unequivocally within it.

Conversely, the group-difference discourse challenges the universal discourse by arguing that groups must be allowed to express themselves. Individuals experience the world in fundamentally different ways depending, to a considerable extent, on the group(s) to which they belong. As a result, there is no universally-impartial individual who can make decisions on behalf of all others. Regardless of group affiliation, all voices are partial. This is not to say that all voices are necessarily or inherently

\textsuperscript{40} The significance of the notion of impartiality is discussed in Iris Marion Young, Justice and the Politics of Difference (Princeton: Princeton University Press, 1990) ch. 4.

\textsuperscript{41} This does not mean all individuals will in fact make decisions in the interests of individuals who belong to other groups. Rather, whether they do or not is generally seen to be unrelated to their own group identity.
partial, but that they are partial because power relations in society are partial or group-based. Thus, even if it is the case that individuals have an inherent capacity to empathize, this capacity is manipulated and twisted as a result of these power relations. According to the group-difference discourse, the universal discourse "brackets" existing relations of power and domination to the point that politics becomes, in essence, apolitical. While the universal discourse is explicitly based on a polity which is blind to categories such as class, race, gender, and sexual orientation, the group-difference discourse considers this assumption incongruent with the existing operation of power and domination which, to a large extent, "sees the world" along these categoric lines.

It is important to emphasize, as I did when comparing Gramsci with Foucault, that despite similarities the group-difference discourse is not rooted in post-modern assumptions. Certainly, the distinction between post-modern and group-difference discourses is more easily made in theory, where there are fundamental philosophical differences between them, than in practice. However, while relations of group power and domination are of central importance to the group-difference discourse, they are often considered derivative in post-modernism. Since the transcripts demonstrate that relations of power and domination are the primary motivation behind those putting forward claims of partiality, especially on the basis of Aboriginality and gender, it is fair to conclude that they are not acting on the basis of post-modern assumptions.42

In order to analyze the universalistic and group-difference discourses, I will proceed to develop the two continua which provide the

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analytical focus of this study. The first continuum is designed to measure the extent to which specific categories\textsuperscript{43} were considered legitimate (or illegitimate) grounds for political partiality within the referendum discourse. Note that I am interested in the assumptions of (im-)partiality which existed at the root of discussions revolving around both elected and unelected forms of political representation.\textsuperscript{44} That is, what assumptions were made about whether men could and/or should speak or act for women, adults for children, Ontarians for Albertans, non-Aboriginal peoples for Aboriginal peoples, right-handers for left-handers, and so on? For example, a category such as "shoe size" could not be considered partial since it was obviously illegitimate to suggest that a person with small feet must be represented by other people with similarly small feet, at least in Canadian political discourse. However, a category such as territory was far more likely to be considered a legitimate basis for partiality because many people considered it unacceptable for an individual in one region to speak on behalf of an individual in another region. My central aim is to locate the various categories along a continuum: on one side, I place all categories the partiality of which was legitimimized in the referendum discourse; on the other side, I place all categories the partiality of which was considered illegitimate within the referendum discourse (See the horizontal axis of chart 1).

\textsuperscript{43}The list of categories I examine includes: gender, sexual orientation, race, Aboriginality, language, religion, class, education, age, (dis-)ability, province, and region.

\textsuperscript{44}Both the universalistic and the group-difference discourses operate on the democratic assumption that political representatives must be elected.
Even if a category was legitimately partial, however, it may exist alongside another category in any particular individual. In other words, the more legitimately partial a category is, the more likely that category will exhaust a given individual's political identity. For example, on the one hand, I demonstrate that while provincial partiality was entrenched in the referendum discourse, it was only a moderate brand of partiality in the sense that the provincial identity of most individuals was offset by other identities such as a pan-Canadian identity. However, on the other hand, I show that Aboriginal partiality was more extreme because it usually consumed more of an Aboriginal person's identity in terms of representation. Thus, when I speak of a partial category, I do not necessarily mean that all of an individual's political needs were exhausted by that category.
One of the common weaknesses of continua is that they tend to be static in operation, leading to difficulties when they are used to measure phenomena dynamic in character as are those under study here. In the case of the first continuum, there was often a lack of consensus in the referendum discourse as to whether or not a specific category represented suitable grounds for partiality. In order to capture this, I will use a second continuum to attempt to measure the degree to which the location of specific categories on the first continuum was a matter of struggle within the referendum discourse (See the vertical axis of Chart 1). To put it another way, I will try to determine whether the status of a specific category (i.e. legitimately or illegitimately partial) was a matter of contention and resistance. Thus, on the top end of this continuum I place all categories whose status (whether legitimately or illegitimately partial) was a matter of great debate. Gender would likely fall somewhere in this category, since it was a matter of tremendous struggle. On the bottom end of the continuum I place all categories whose status was portrayed as natural, unquestioned, or a matter of common sense. Shoe size is located here since its status as an impartial category was not challenged in any way in the referendum discourse.

My premise is that by examining the placement of all of these categories along the horizontal continuum, I will be able to make a more general statement about the relative hegemony of the universalistic and group-difference discourses in the transcripts. For example, the greater the number of categories located on the illegitimate side of the continuum, the more hegemonic the universalistic discourse would be. In addition, I will also be able to measure the extent to which the hegemonic discourse was being resisted; the greater the number of categories placed on the
upper end of the vertical continuum, the more vigorous the
hegemonic/counter-hegemonic struggle.

Some further methodological considerations are necessary at this
juncture. My analysis is based on a thorough and comprehensive reading
of the referendum transcripts. Thus, it is by no means statistical or
quantitative in design, even though I began this study with the expectation
that I would utilize statistics derived from a content analysis undertaken by
the National Media Archives on the same transcripts. However, I soon
realized that the statistics were not suited to measuring the kind of struggle
that I focus on even though they yielded some interesting information.45
Thus, I undertake a discourse analysis, as opposed to a content analysis,
in this study. Since the arguments I make are explicitly based on the
transcripts, I will quote from them wherever possible. In fact, there are
times when I will include especially long excerpts in order to demonstrate a
particular point.

Still, to undertake a discourse analysis is anything but a simple
matter. This is largely a result of a very large array of methodological
approaches from which one might choose. Notwithstanding their diversity,
it is possible to distinguish between two general schools of discourse
analysis.46 The first is distinctly linguistic in nature, and takes as its
premise the idea that language does not simply communicate meaning but
is itself a creator and constructor of meaning. The study of the text
becomes an end in itself according to this approach, which is often highly
formalistic and technical in nature.47 A second approach is the one put

45 I make a minor exception to this in chapter 4, where I cite these statistics briefly.
46 As Michele Barrett does, 124-127.
forth by Foucault; it is explicitly anti-formalistic in the sense that it insists that discourse be analyzed within its social and political context. Here, the focus is placed on the "what" of discourse rather than the "how".

The approach I shall utilize is eclectic. I do not limit myself to a single technique but instead borrow methodological tools from a variety of sources. While my analysis is dependent on an intensive and detailed reading of the transcripts, it is far from linguistically formalistic in nature. Rather, it is set firmly within the context of recent Canadian constitutional politics in particular, and Canadian politics and society in general. As such, I align myself far more with the contextual than the linguistic approach, although the latter is the inspiration for several aspects of my analysis.

However, I should emphasize that I distinguish myself from both the linguistic and the contextual schools of discourse analysis in that I do not suggest that discourse should always be privileged or favoured over material realities such as poverty or violence — especially as these are related to the operation of power and domination. Thus, while I focus explicitly on the discursive level, I do so with caution. My premise is that discourse has a profound influence on many aspects of social, economic, and political life, and is worth studying for this reason.

My aim, then, is to locate, describe, and explain manifestations of what referendum actors viewed as natural and obvious. Rather than take for granted what they took for granted, I will instead question what they

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49 For an attempt to bridge the two approaches by placing discourse analysis firmly within its context, see Thompson, ch. 6.
50 Barrett, 126.
51 Especially semiotics, as put forward by Barthes.
52 Among the most notable examples of this approach (especially given their Marxist roots) are Ernesto Laclau and Chantal Mouffe, Hegemony and Socialist Strategy (London: Verso, 1992).
viewed as commonsensical and reasonable. Rather than accept the
behaviour of referendum actors as simply habitual and routine, I seek to
decipher and deconstruct their customs and norms. Rather than assume
that such ideas, attitudes, and behaviours are intrinsic to the Canadian
way, I operate under the assumption that there is nothing inherently
natural, commonsensical, or obvious about the Canadian way. Taken
together, these aspects of the Canadian way are often the signposts of
hegemony in operation. Thus, the reader may sometimes find the results
of my analysis odd or disconcerting, but, let her or him be assured, this is
precisely the point.
CHAPTER 3: THE NEGOTIATIONS

...We have a national proposal that is genuinely a Canada round. It's been decided at the most inclusive negotiating table ever in Canadian history, and we need the reaction of the public to it. —Joe Clark, Federal Constitutional Affairs Minister

The negotiation process undertaken in pre-Charlottetown rounds of constitutional talks became a potent and effective target for many citizens who were disillusioned with Canada's democratic institutions in general and executive federalism in particular. For example, process-related criticisms played a pivotal role in the decline of the Meech Lake Accord, and there is little doubt that many of these criticisms shaped the Charlottetown negotiation process. I begin my analysis of the referendum transcripts in this chapter by examining the latter process in order to uncover the assumptions of (im-)partiality that were rooted in it. I am especially interested in the degree to which those assumptions were portrayed as legitimate (or illegitimate) in the ensuing referendum discourse. Although process-related issues were not as prominent during the Charlottetown referendum campaign as they were during the Meech Lake ratification period, they were still a source of vigorous struggle and contention. Unfortunately, since the transcripts begin a week after the negotiations ended, much of the initial process-related reaction and discussion was not recorded in them. Nevertheless, as with Meech Lake, certain process-related issues lingered on well after the negotiations ended. I focus my attention on these issues.

54 I limit my analysis to the negotiations and not the constitutional conferences which preceded them, because there was very little discussion of these conferences during the referendum campaign.
A] FEDERALISM AND THE NEGOTIATIONS

1. Province

The negotiation process at Charlottetown was rooted in partial assumptions of provincial representation. To begin with, each leader present was chosen by a territorially-defined group of people (i.e. people based in a specific province). Presumably, the people of each province would select someone who was "one of their own", someone sharing a common set of values and perspectives with them. It was also taken for granted that the role of each leader was to ensure that the particular needs and interests of his or her province were expressed and protected when it came to the constitutional negotiations. In this way, all of the conditions of partiality would be met; a group of people chose one of its own members to represent its interests. Of course, the Premiers had to concern themselves with the national interest as well, but each Premier was expected to express the national interests from the explicitly partial perspective of his or her own province. Thus, the Premier of Manitoba, as a Manitoban, was expected to express a "Manitoban" vision of Canada during the negotiations rather than to portray himself as speaking for, or making decisions on behalf of, any other province.

Even though many forms of partiality were vigorously challenged in the referendum discourse, referendum actors rarely expressed concern over the existence of provincial partiality in the negotiations. Granted, there was considerable debate over whether or not the Premiers were

55My analysis here is limited to the ten Premiers and the two territorial Government Leaders, who I will refer to as the "Premiers". I discuss the inclusion of Aboriginal leaders below.
56At Charlottetown, nine of the eleven Premiers were born in the province or territory in which they were elected. The other two, Mike Harcourt (born in Alberta) and Don Getty (born in Quebec) have each spent virtually all of their adult lives in British Columbia and Alberta respectively.
expressing too partial a vision, either separately or collectively, to the point where they were losing sight of national interests. While several referendum actors made such assertions, in doing so they assumed that a certain degree of partiality was legitimate and even expected from the Premiers. They only challenged the extent of the partiality which the Premiers expressed, assuming that this would be largely offset by the impartial and universal vision expressed by the Prime Minister. In other words, referendum actors took for granted a mixture of provincial partiality and impartiality.

The existence of this type of territorially-defined partiality is not, in itself, particularly notable. After all, Canada's entire federal system is based on it. The constitutional amending formula, which shaped the negotiation process to a considerable degree, is in turn rooted in this federal system. Provincial partiality represented an anomaly for the universalistic discourse's position on impartiality. At least, it was an anomaly in theory; in practice, the referendum transcripts indicate that the existence of partiality based on the provinces appeared natural. Its status as an anomaly remained unacknowledged because it was taken for granted that the universal citizen must also be a territorialized citizen or a federal citizen. The transcripts depict provincial partiality not as an anomaly or an exception to the universalistic discourse but as a matter of common sense, as the way things had always been and would continue to be. Rather than weakening the universalistic discourse, this form of partiality seemed integral to its existence.

5However, the inclusion of representatives from the Northwest Territories and the Yukon was not rooted in the amending formula since neither territory had a constitutional veto.
Interestingly, while the negotiation process reflected powerful assumptions of provincial partiality, regional partiality received only limited expression. Generally, whether or not regional partiality was expressed depended on the issue under negotiation. For example, on certain issues the four Western Premiers were expected to speak or act "as Westerners", and the same was true for the Atlantic Premiers. But, for the most part, regional partiality was drowned out by provincial partiality. This is understandable given that the amending formula is rooted in assumptions of provincial, as opposed to regional, partiality.

2. Language and Quebec

While assumptions of provincial partiality were quite evident in the negotiations, far more extreme and dramatic assumptions of language-based partiality were exercised by Premier Bourassa of Quebec. He was expected to express the voice of Quebecers in the negotiations and, furthermore, it was incomprehensible that another Premier would attempt to do so. Although Prime Minister Mulroney, as a Quebecker, was able to play a moderately partial role in the negotiations, this partiality was far less extreme than that exercised by Premier Bourassa. The people of Quebec demanded to have a Quebecker at the negotiations who was elected only by, and accountable exclusively to, Quebecers.

Quebec's expectations of partial representation were most obvious in the decision by Premier Bourassa to boycott all constitutional negotiations. Of course the Quebec National Assembly would have eventually had to give its consent to any major constitutional change

59 This boycott lasted from the fall of the Meech Lake Accord to July 30, 1992.
because of the need for unanimity in the amending formula. Even so, there was a vacuum in the negotiations which preceded Premier Bourassa's re-entry and at no time was there any sense that it could be filled by any Premier, or even by the Prime Minister, speaking for, or making decisions on behalf of, Quebecers. Rather, these leaders could only come to a tentative agreement on behalf of the rest of Canada, which they could then propose to Quebec. Once again, only when someone was at the negotiations who represented, explicitly and with partiality, Quebec's interests could Quebecers be sufficiently satisfied.

**B] ABORIGINALITY AND THE NEGOTIATIONS**

Leading up to Charlottetown, Aboriginal leaders held a number of public rallies to gain support for their inclusion in the negotiations. These public rallies were deemed necessary because Aboriginal leaders had been demanding inclusion in constitutional negotiations for well over a decade prior to Charlottetown. They could not safely assume that the renewal of these demands would result in their being met leading up to Charlottetown. The eventual inclusion of Aboriginal leaders in the Charlottetown negotiations marked a legitimation of the group-difference discourse and its partial position on representation. Many Canadians believed that the process utilized in pre-Charlottetown constitutional rounds, whereby the First Ministers were collectively thought to represent all Canadians regardless of Aboriginality, was no longer acceptable. The inclusion of Aboriginal people demonstrated that the First Ministers were no longer perceived to be the true representatives of all Canadians in constitutional matters, even though they were Canada's foremost elected

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60The Journal, October 13; Placement 1.
leaders. The message -- only Aboriginals could represent Aboriginals -- was a clear acknowledgment, and indeed a legitimation, of the group-difference discourse.

As it turned out, Aboriginal inclusion came only after a vigorous struggle between several key constitutional actors. Most notably, Premier Bob Rae of Ontario actively supported Aboriginal inclusion, and his position eventually prevailed. Still, Federal Constitutional Affairs Minister Joe Clark was a vociferous opponent, so much so that Ovide Mercredi, Grand Chief of the Assembly of First Nations said, "What surprised me was not our inclusion ultimately, but Joe Clark's passion for our exclusion."61 The motivation behind Clark's resistance was especially critical, because it was founded on largely practical, as opposed to philosophical, concerns -- or, at least, this was how he portrayed it. Clark, as well as other constitutional actors, argued that increasing the number of negotiators would decrease the chances of reaching an agreement. And, Quebec Premier Robert Bourassa felt that Aboriginal representation would so diffuse the focus of the negotiations that Quebec's concerns would receive less attention.

It is difficult to say exactly why the First Ministers eventually consented to Aboriginal inclusion, except that it may have been an anticipatory response to the impending creation of a third-order of government run by Aboriginal peoples. What is important is that neither Clark nor Bourassa expressed particular unease with the shift toward partiality which Aboriginal inclusion represented. Nor did they give any attention to the subsequent reduction in the potential for First Minister impartiality which that shift logically entailed. After all, the inclusion of Aboriginal leaders meant that only they, and not the First Ministers, could

legitimately speak and act on behalf of Aboriginal peoples. At the same time, the voice of the First Ministers became partial because, as a result of Aboriginal partiality, they could only represent non-Aboriginal peoples in constitutional negotiations. Thus, the universal discourse, which condemns the expression of partiality, was surprisingly weak and ineffective in this context. The need for Aboriginals to speak for themselves, to express their own partial voice, clearly prevailed in the discourse surrounding the Charlottetown negotiations. Furthermore, the inclusion of Aboriginal leaders in the negotiations was widely publicized and celebrated during the referendum campaign.

While the clear distinction made on the basis of Aboriginality throughout the Charlottetown negotiation process represented an endorsement of the group-difference discourse, the process went beyond expressing this kind of partiality. It demonstrated the legitimacy of *intra-*Aboriginal partiality as well. In what follows, I discuss intra-Aboriginal struggles over (im-)partiality, yet I do not claim to be in a position to fully understand the intricacies of these struggles. The transcripts merely recorded these struggles as they took place within the mainstream media, not as they were manifested within Aboriginal communities. During the Charlottetown negotiations, four Aboriginal groups -- the Assembly of First Nations, the Inuit Tapirisat, the Native Council of Canada, and the Metis National Council62 -- were included, since they felt that no single Aboriginal leader could legitimately speak or act with impartiality for all Aboriginal peoples. Each of the four groups demanded and received the right to have its own voice heard in the negotiations. Despite this, there continued to be

62The negotiators were Ovide Mercredi of the AFN, Rosemarie Kuptana of the Inuit Tapirisat, Ron George of the NCC, and Marc LeClair representing the MNC.
deep tensions amongst the leaders for fear that one group (especially the AFN) would threaten the ability of the others to represent themselves in and outside of the negotiations.

While the four Aboriginal groups were apprehensive about being silenced by one another, similar concerns emerged from within Aboriginal sub-communities as well. This was most pronounced within the Status-Indian community, and Ovide Mercredi expressed noteworthy ambivalence over it. On the one hand, the following excerpt illustrated Ovide Mercredi's discomfort with the burden of representing the entire Status-Indian population during the negotiations:

I can't represent all the Indian people. It's impossible and I don't want to be put into a position of being the person who compromised the rights of my people. I want to make sure there's ten, fifteen, thirty other people who'll be there.63

On the other hand, Mercredi was not always supportive of demands for partiality coming from within the Status-Indian community. Quite the opposite; he would often speak in terms of "my people" or, "the people I represent" as if Status-Indians were a homogeneous entity. The following exchange between Mohawk chief Billy Two Rivers and Mercredi as the negotiations were taking place is an illuminating example of this:

CHIEF BILLY TWO RIVERS: "It's not good for the Mohawks."

CHIEF OVIDE MERCREDI: "It's good for the Mohawks."

TWO RIVERS: "No sir, you can't say that, Ovide, because you don't have the authority or the jurisdiction to say that for the Mohawk people."

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Thus, Mercredi frequently displayed a universalistic attitude towards Aboriginal peoples.

Mercredi also took a universalistic position on the basis of gender, since he was consistently unwilling to make distinctions according to this category. As far as Mercredi was concerned, he could legitimately represent both Status-Indian men and women. This attitude was reflected in the following statement by Mercredi:

The Assembly of First Nations represents Indian people, regardless of their gender, men, women, and children, and at the table we represent the interests of all our people....The Assembly of First Nations as an organization, represents all these people and the women who belong to our societies can participate in that process and that's how we conducted our affairs so far.

The Native Women's Association of Canada (NWAC), however, put forward strong opposition to this assumption of gender impartiality by taking legal action to stop the referendum vote from taking place. This action received considerable coverage on both the CBC and the CTV. The CTV first reported it as follows: "...Aboriginal women say they will go to

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64 The Journal, October 14, 1992, Placement 1.
court to try to stop the vote. They say the agreement people are voting on is illegal because Native women were not allowed to participate directly in the constitutional talks."66 Furthermore, Mary Eberts, one of NWAC’s lawyers, stated:

They [NWAC] were given a court order August 20th, saying they were entitled to participate, they have been ignored since then by the Federal government, and we say that the violation of their rights continues down to the present day.67

Throughout the referendum campaign, NWAC was successful at infusing their demand for gender partiality into the referendum discourse.

An interesting feature of the NWAC protest was that it was made despite the presence of two Aboriginal women at the negotiation table; Rosemarie Kuptana represented the Inuit Tapirisat and Nellie Cournoyee the Northwest Territories. However, NWAC must have felt that neither Kuptana nor Cournoyee could legitimately represent Status-Indian women since each had specific communities which they were representing. As well, the presence of both Kuptana and Cournoyee was rooted in an impartial notion of gender representation. Neither individual was selected to sit at the negotiations because she was a woman. It was a partial form of representation that NWAC was demanding so as to ensure that the interests of Status-Indian women would be protected.

C] GENDER AND THE NEGOTIATIONS

While the NWAC protest achieved a fair degree of prominence, the extreme gender imbalance amongst all of the negotiators (fifteen men and

two woman) only arose as an issue periodically. This lack of debate over
gender representation was a notable departure from Meech Lake, where
the all-male negotiation process provided a target for women's groups and
others. It was also surprising since NAC had actively campaigned for its
own inclusion in the negotiations and it appeared at times that its demands
might be granted. There were several reasons for the lack of gender-
based criticism of the process. To begin with, there was a concerted effort
amongst politicians and others on the "YES" side to emphasize that the
process was open and inclusive.\textsuperscript{68} The presence of Aboriginal peoples at
the negotiations was often used to demonstrate this inclusiveness. But
more than anything, the presence of two women at the negotiations served
to pre-empt most gender-based criticisms of the process. The following
statement by Judy Rebick demonstrates the impact this marginal female
representation had for those struggling for a partial vision of gender
representation:

\begin{quote}
The elitist method we have of amending the constitution doesn't
work. You know, those mostly men in that closed-door situation
don't reflect or understand very well, I think, the realities of most
Canadians lives...\textsuperscript{69}
\end{quote}

Clearly, the phrase "mostly men" was unlikely to rouse the same kind of
reaction as did the all-male process at Meech Lake.

While gender-based criticisms of the process were not prominent in
the referendum transcripts, it is nevertheless useful to distinguish between
two types of criticisms which referendum actors did express. First, most of
the criticisms sprang from the belief that the lack of female representation

\textsuperscript{68}The quotation at the top of this chapter reflects this. \textit{The Journal}, September 3, 1992,
Placement 1.
\textsuperscript{69}\textit{The Journal}, September 15, 1992, Placement 1.
demonstrated the existence of systemic gender biases in Canada’s democratic processes. The point, then, was to ensure that more women gained access to political power, but it was not necessarily to place them into a partial construct based on their gender once they got there. Therefore, this position was moderately partial because it assumed that it was unacceptable for women to be underrepresented since there was a distinctive women's voice which only women could express. But it was not an entirely partial position because it did not assume that only women could speak for women once gender imbalances were addressed.

There is a subtle, but important, distinction between this and a second more extreme position which referendum actors expressed less frequently. The more extreme position was that women had to have an equal opportunity to attain political office and there also had to be provisions to ensure that there were women elected by women and, most important, that their actions explicitly reflected the concerns of women. The following account of an exchange between NAC president Judy Rebick and Federal Fisheries Minister John Crosbie more than halfway into the campaign reflected this position:

KEVIN NEWMAN: "...Judy Rebick was asked at a forum in Halifax last night why she's so worried about women's rights in the Charlottetown Agreement, so Rebick referred to the chat with John Crosbie, and how he explained why women's groups weren't at the negotiating table."

REBICK: "He says, 'Well, you know, he says we can't have women there representing women, then we'd have to have cripples and coloured people'...And I told this story as an example of why we don't trust politicians to defend our equality rights."
...CROSBIE: "I mean, you can only describe it as deplorable, inaccurate, vicious in their intent."

NEWMAN: "An enraged Crosbie accused Rebick of twisting what he thought was a private explanation of why he thinks constitution-drafting is the work of elected politicians."

CROSBIE: "Special interest groups such as those involving crippled people or coloured people or ethnic groups could hardly be expected to be invited to a constitutional conference. The proper people to be there are the people elected to represent all of the public."  

What is relevant to this discussion is not the allegations of sexism, racism, and ableism that Rebick made nor Crosbie’s initial defense, but the conflicting theoretical assumptions regarding (im-)partiality which underpinned their positions. Rebick was not simply targeting the under-representation of women in the negotiations. She was going one step further to suggest that the negotiations must include women’s groups since it was necessary to have women’s interests represented by women. Only then could women challenge existing relations of domination. In this way, Rebick was putting forward a partial view of gender representation.

Crosbie had two criticisms of this position. First, politicians could legitimately and impartially "represent all of the public" since everyone elected them. The same could not be said of Judy Rebick who was not elected, at least not in the parliamentary sense. But Judy Rebick’s very struggle largely resulted because there were not enough women representing women in politics. Institutional structures to enable this situation to change did not exist, and it was precisely these sorts of structures that Rebick was agitating for.

70 The National, October 9, 1992, Placement 2  A similar report aired on The CTV News, October 9, 1992, Placement 3.
71 The issue of NAC and who it represented receives extensive treatment in the section on gender in chapter 4.
Second, and far more important, Crosbie's position represented an attack on the notion of partiality as it pertained to gender as well as race and (dis-)ability. Not only was there the issue of election, but there was also the problem of including negotiators rooted in a partial notion of representation. Thus, politicians were not just elected, they were also impartial in that they were expected to represent all citizens who elected them. Judy Rebick was not simply unelected, she also expressed an inherently partial vision. It followed that women’s groups would still not be welcomed at constitutional negotiations because of their partiality even if their leaders were elected in the traditional sense. While this second criticism is distinct from the first, Crosbie was able to conflate the two and, in doing so, he was successful at undermining the group-difference discourse on gender partiality.

The negotiation process and the discourse which surrounded that process indicated that gender was still considered impartial grounds for representation. It was also a sign that the status of gender as an impartial category was deeply embedded in the democratic process which elected Canada’s First Ministers. Fifteen of seventeen negotiators were male, and rarely did referendum actors express concerns that the constitution would be amended by a group consisting mostly of men. Certainly, if the negotiations had been held a year or so later, there might have been a female Premier and/or Prime Minister at the negotiations. But, even if this had been the case, their presence would have stemmed from an impartial conception of gender representation. In other words, the scope of a woman First Ministers’ representation would not have been determined by her gender-based characteristics. While an Albertan or a Status-Indian would be there to represent Albertans or Status-Indians respectively,
regardless of gender, the referendum actors did not accept that a woman should be present if her role was to represent only women.

D) "OTHER" CATEGORIES AND THE NEGOTIATIONS

Thus far, I have demonstrated the partial status of the territorial, language, and Aboriginal categories and the generally impartial status of the gender category. The referendum discourse portrayed all of the "other" categories under study in an extremely impartial fashion. Aside from their territorial diversity, and with the exception of NWT leader Nellie Cournoyea, the First Ministers at Charlottetown were a remarkably homogeneous group of people. All were able-bodied white heterosexual men of the same generation, of either a Protestant or a Catholic background, and at least of upper middle-class status. In addition, they were far better educated than most Canadians, averaging two university degrees each. The fact that they did not at all represent the population demonstrated that the referendum discourse assumed an impartial notion of representation since referendum actors made no distinctions concerning their ethnicity/race, sexuality, age, class, (dis-)ability, or religion. They obviously viewed these characteristics as politically irrelevant since they did not explicitly categorize the First Ministers according to any of them.

What is especially notable here is that the discourse surrounding the negotiations did not reflect very much resistance to this extreme assumption of impartiality. This is not to say that such resistance did not occur outside of the transcripts, only that those resisting did not gain

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72 Their ages ranged from forty-four to fifty-nine.
73 This is not to say that they were necessarily brought up in middle-class homes.
74 All have at least one degree and two have three degrees.
access to the national television media with their objections. However, there was a single instance where a referendum actor was able to express resistance to group-based impartiality. This occurred on a CBC series entitled "My Vote", where "average" citizens were given an opportunity to express their views. In one segment of that series, Lillian Allen, a dub poet, made several comments. I cite these comments at considerable length not because they reflected a common or typical position depicted in the mainstream media but, on the contrary, because they represent a rare expression of a perspective which is central to this study. Allen stated:

[READING]Indifference passes through the wind, the wind that reigns and you breathe, breathe a new passion of inaction, the inaction of politicians, the art of avoiding issues. The issues of culture, the culture of exclusion, the exclusion of the political and the powerlessness. BONG BONG, BONG BONG, BONG BONG; somewhere in this our country, in our government chambers, a watershed of in delight of muted niceties, unctuous, CLICK, CLICK, CLICK, CLICK, CLICK, CLICK, CLICK, CLICK, CLICK, CLICK, CLICK, CLICK, CLICK ET CETERA. (END OF READING) ...My vote is a vote of courage. It's a 'NO' vote...It's a vote of no confidence in the process, and no confidence in the political leadership of this country. Being a black person in Canada, being an artist, and being part of the group or groupings that have traditionally been excluded from power, there was some kind of hope that with a kind of knowledge that we have, and the kind of strides that we have been making, that more and more people would be brought to the table, that the whole process will be inclusive, that the constitution will at least acknowledge the realities and the aspirations of various communities. After Meech Lake, we were promised an open process. We were told that things would not be done in the same old way. Well, a process started, and at some point it was closed off...

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75 Dub poetry is a highly political form of poetry, emanating from the Caribbean, which is often accompanied by a beat and/or music.
Lillian Allen's statement was a powerful expression of group-based partiality. She denied the possibility of the race-based assumptions of impartiality which the negotiations implied. In doing so, she attempted to place the entire discourse of impartiality in question. Furthermore, she based her challenge in the relations of power and domination which exist in society by implicating impartiality in the operation and maintenance of those power relations. Thus, in order to overcome dominance and oppression, the discourse of impartiality also had to be eradicated; one fed the other.

Nonetheless, as mentioned above, Allen expressed a kind of resistance which was extremely uncommon in the transcripts. The universal discourse position on representation clearly prevailed to the point where the transcripts portrayed the impartiality of these "other" categories as natural and commonsensical. The referendum actors were persuaded that these categories were not politically relevant, whereas territory, language, Aboriginality, and, in some cases, gender, were.

5] CONCLUSION

The Charlottetown constitutional negotiations reflected diverse assumptions of both impartiality and partiality, depending on the category in question. The amending formula was an important factor in these results. For example, provincial partiality was almost certainly reinforced as a result of the unanimity rule. That is, Premiers were allowed to express provincial partiality because the approval of each province was necessary in order for an agreement to be reached. In the same way, the impartiality of gender and "other" categories was likely influenced by the lack of any veto power which would have allowed these categories to express
themselves. However, the (im-)partiality of a specific category cannot simply be reduced to the amending formula. For example, regional concerns had no veto, yet regional partiality existed, and the same is even more true for Aboriginal partiality. Both these types of partiality evolved outside the context of the amending formula. In the next chapter, I apply a similar analysis to the discourse surrounding the referendum campaign process. I demonstrate that assumptions of partiality were somewhat stronger for most categories as compared to the negotiations.
CHAPTER 4: THE CAMPAIGN PROCESS:

My fear is that too many of us are going to be voting as little Canadians...What do I mean by little Canadians? I'm talking about little English Canadians, little French Canadians, little Native Canadians, little new Canadians, little any kind of Canadians...Everybody is missing the forest for the trees and indeed in many cases, I'm not even sure they see the trees. They see a little bush that represents their special vested interests and they're kind of saying, 'What's in this for me or my group', not what's in it for Canada.

- John Crispo, Professor of Economics

The purpose of this chapter is to examine assumptions of (im-)partiality from which the processes of the Charlottetown referendum campaign evolved. I base this examination on the premise that the public sphere is an integral component of Canadian democracy, and that the referendum campaign is a notable example of the public sphere in operation. As such, it is essential to explore how the referendum actors struggled over representation in the campaign. For example, who was represented in the campaign and on what basis did the referendum actors justify that representation? In order to answer these questions, I analyze several aspects of the campaign process, such as the implications of the vote-tabulation system and the media portrayal of politicians, leaders, and members of the public who gained access to it.

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A] FEDERALISM AND THE CAMPAIGN:

1. Province:

To a considerable degree, provincialized processes were evident in the referendum campaign. Instances of provincial partiality -- whether in voting, the activity of politicians, or the media coverage -- flavoured many aspects of the campaign. This is not to say that provincial partiality was extreme or absolute, since assumptions of pan-Canadian impartiality were also prevalent. What it does mean is that provincial partiality was deeply ingrained in the campaign discourse.

The media's portrayal of politicians and their audiences was an example of the provincial partiality which infused the campaign. Not surprisingly, this was most often the case with provincial politicians who usually limited their audiences to their provincial constituents. Even when they made national appearances, they clearly did so from an explicitly partial provincial perspective. Nevertheless, in several instances, the Premiers attempted to move beyond the bounds of provincial partiality in order to express an impartial and distinctly national vision. Perhaps Clyde Wells, the Premier of Newfoundland, illustrated this best when he left his province to sell Charlottetown. During the Meech Lake ratification process, Wells was viewed by many as a protector of the pan-Canadian rights of individuals entrenched in the Charter of Rights. This was reflected in the following report:

BRENDA CRAIG: "Two years ago, Wells was a lighting rod in the Meech Lake debate, the iron Premier who galvanized opposition to the Accord, demanding equality for all people, all regions, all provinces, and special status for none."
It seemed appropriate, therefore, that as the Charlottetown referendum progressed Canadians would call for Wells to express his support for the agreement across Canada.

While Wells' actions were derived from an impartial (or at least, a non-provincialized) vision, it is a matter of some interest that commentators considered this so notable. That is, there was a feeling that because he moved beyond Newfoundland into other provinces, this was somewhat irregular or problematic because of his otherwise partial provincial voice. B.C. Liberal leader Gordon Wilson, in reacting to the actions of Wells and other premiers, stated: "I found it a little offensive to have a whole troupe of Eastern Premiers come into British Columbia to tell British Columbians what we ought to have." In this way, criticism met the attempt by Wells to act impartially in the larger Canadian sense since he was also acting from a partial provincial perspective.

While the activity of politicians and spokespeople was a focal point of the campaign, the media also attempted to capture the attitudes, beliefs, and reactions of the public, and these attempts also reflected provincial partiality. For example, journalists often reported on the mood in a "typical" Canadian setting such as a factory, a marketplace, or a street corner, and "typical" Canadians were asked to comment on various aspects of the referendum. Thus, there was a sense of individualistic randomness surrounding these stories, as if the media chose members of the public to speak by lottery. Still, to the extent that these people were chosen randomly, this obviously occurred within clear provincial boundaries.

78 The National, September 24, 1992, Placement 11.
Reporters did not simply go to just any factories, market places, or street corners. Rather, they went to an "Ontarian" factory, an "Albertan" marketplace, or a "New Brunswick" street corner. And, in tapping into the mood of randomly chosen individuals, reporters were usually more interested in making provincial generalizations so as to capture the essence of a provincial vision. For example, Peter Mansbridge introduced a report as follows:

The politicians are spanning the length of the country, campaigning for the 'YES' or 'No' teams in the referendum. But, what they'll find from one end to the other are some drastically different visions of the agreement reached in Charlottetown. We have two stories tonight, the first one from the west, from the small, rural town of Hanna, Alberta.80

After the story from Alberta, Mansbridge introduced the next story saying:

It's an entirely different picture to the East, in the Maritimes in New Brunswick, some see it [the referendum] as a matter of their own survival, a view that's found across the spectrum from students to Senior citizens.81

This last comment is especially important; in terms of cohesive political identities, group attachments were less important than provincial affiliations. Instead, referendum actors emphasized provincial identities, provincial cultures, and provincial attitudes. The following report, introduced by CBC anchor Knowlton Nash, further demonstrated this emphasis:

On the surface, it's a simple enough choice -- 'YES' or 'NO'. But, when Canadians make that choice their reasons will be as diverse as the country itself. In British Columbia, polls consistently show the province leaning toward a 'NO' vote. That's made it a key battleground in this referendum, and to a certain extent, a unique one. The province is growing at a very fast pace. It's unemployment is below the national average. And its trade is heavily offshore. Those factors and others have helped shape the way B.C. thinks, and it thinks very independently. The CBC's Joe Schlesinger reports tonight on the mood in the province, a place that's increasingly looking West.

JOE SCHLESINGER: "The buzz of success: this mill at Chemainus, on Vancouver Island, has been prospering...It has no customers in Canada East of the Rockies. In that, the mill reflects the province. Neither is dependent on its business with the rest of Canada and that's part of the reason why, when it comes to the referendum, B.C. is different...Distinct or not, B.C. is certainly distinctive. It does not have the deep historic wounds of the prairies, yet it voices many of the same resentments."82

In this way, referendum actors portrayed the provinces as cohesive political units with "distinctive" mind sets and unified visions. In addition, they portrayed the categorization of individuals by province as not only reasonable, but also politically essential. This provincialization also carried over into the polling coverage. With few exceptions, the media broke down polls by province. For example, in describing the results of a poll, CTV anchor Lloyd Robertson stated: "A new poll today shows that Quebec and British Columbia will be the main battlegrounds for the referendum."83

Only rarely did the media categorize polls in non-provincial ways. Thus, the media consistently depicted public opinion in a provincially partial manner.

82The National, October 16, 1992, Placement 17.
Much of this provincialization was a result of the system used to tabulate the referendum vote. The potential for Canadians to express a universal political voice via voting was effectively nullified since each vote was, in effect, counted as a provincial vote. According to Craig Oliver of the CTV, "It's a disaster for them all if one province, particularly Quebec, defeats this referendum, then we're back to square one."\(^{84}\) Here, an individual's vote mattered only to the extent that it impacted on the outcome of provincial tabulations. Joe Clark described the mechanism for such tabulations in the following exchange:

BILL CAMERON: "I'm not quite sure how we score this? Do you have to win it all, everywhere, ten provinces out of ten?

JOE CLARK: "I think that would be the ideal, and certainly, we want it to be clear that we wouldn't try to use a national referendum result in a particular province. So our goal will try to be to get support for this agreement everywhere."\(^{85}\)

For Clark, "everywhere" was limited to all of the provinces since non-provincial categorizations of individuals were not politically relevant with the exception of Aboriginality.

As a result, it was a Canadian's provincial identity (as opposed to any other identity) which obtained priority in the voting system. There is little doubt that the amending formula played a pivotal role in the provincialization of the referendum campaign. The fact that each province had to consent to the Charlottetown Accord for it to pass meant that each vote was, in essence, a provincial vote. Both the vote tabulation system, and the amending formula on which the vote tabulation system was based, were derived from the explicitly partial assumption that provincialized

\(^{84}\)The CTV News, September 8, 1992, Placement 3.
\(^{85}\)The Journal, October 8, 1992, Placement 1.
voices were of primary importance and had to express themselves. In this way, the amending formula was itself the product of a provincialized constitutional culture. Not surprisingly then, neither the amending formula nor the provincialization of the campaign were seen as particularly notable issues during the campaign. Neither issue represented a point of struggle; referendum actors portrayed both as natural components of the referendum process.

2. Language and Quebec:

Language-based partiality in the context of Quebec was more extreme and even more extensive than the provincial partiality described thus far. Of course, the transcripts did not include any of the French-language media, which makes it difficult to examine the campaign on language-based grounds. However, this factor underlines the extent to which many Canadians experienced the campaign differently on the basis of language.

An interesting institutional feature of the campaign in Quebec was that Quebec subjected the referendum vote to different rules and regulations than the "Rest of Canada". This difference was evident in the following comment by reporter Alan Fryer: "...but the referendum won't be on sovereignty. Quebecers will vote on the same day as the rest of Canada, on renewed federalism."86 Despite the commonality in scheduling which Fryer was attempting to point out, there was a strong assumption of difference underlying his comment. The image was of two separate nations attempting to co-ordinate a process through which each would decide their future relationship with one another. It followed that

86 The CTV News, September 3, 1992, Placement 2
partiality, on the basis of language, had to be a critical element of such a process.

Beyond Francophone-based partiality, the uneasy relationship between Francophones and ethnic minorities was one of the major themes in the campaign. One of the most dramatic examples of this unease involved a controversy over how votes would be tabulated in Quebec. During the campaign, Bernard Landry, President of the Parti Quebecois, asserted that fifty-percent of Quebec Francophones would have to vote ‘YES’ in order for the Charlottetown Accord to pass in Quebec. His comments, which were widely publicized, went as follows:

NEIL MACDONALD: "What would it take for a ‘YES’ victory next month? Would 50-percent plus one be enough? Quebec’s premier won’t be any more specific than this:"

ROBERT BOURASSA: "I will respect democracy."

MACDONALD: "But democracy is a fluid concept, not always 50-percent plus one."

BERNARD LANDRY: "The ‘YES’ side to win something legitimate must have about 58 to take into account the block vote of what we call, respectfully, ‘Anglo-Allo.’"

MACDONALD: "By that, Landry meant Anglophones and other minority groups, most of whom are expected to vote ‘yes’. Landry believes their votes should not count in deciding who truly won. Because to truly win, Landry says the ‘YES’ side must have a majority of the Francophone vote. Nationalists made the same argument during the last referendum. But Jacques Parizeau says he wasn’t one of them."87

87The National, September 24, 1992, Placement 2.
These statements illustrated the vigor with which Quebecers struggled over language-based (im-)partiality. Still, most Francophones as well as Anglophones reacted highly critically to Landry's comments. For example, Parti Quebecois leader Jacques Parizeau distanced himself from Landry by stating: "I say 50-percent plus one, that is the rule of referendums. That's how it works." These and other comments illustrated that Quebecers considered the extreme notion of language-based partiality put forward by Landry unacceptable and illegitimate.

Despite this, the media often focused on ethnic minorities in Quebec, as in the following report:

NEIL MACDONALD: "The motives of Quebec's 'NO' coalition are as diverse as its members. But it's fair to say that most share one mother tongue -- French, and one colour -- white. And that's going to be a problem for them, at least in Montreal. Because this is Montreal, hundreds of thousands of ethnic voters; make that hundreds of thousands of probable 'YES' votes. Polls suggest that by far the majority of ethnic Quebecers are strongly federalist."

Man: [speaking French]

NEIL MACDONALD: "'As a visible minority,' says this man, 'I'm very, very, very frightened of a sovereign Quebec.' Not everyone is frightened, but there is concern..."

In this way, ethnic minorities in Quebec gained widespread access to the media during the referendum campaign. Furthermore, this access evolved on the basis of a partial notion of ethnic representation. That is, ethnicity was integral to the voices that were heard. What is especially noteworthy is that virtually all of the explicit displays of ethnically-partial voices were

set firmly within the context of Quebec, with the exception of Acadians and Aboriginal peoples. Whereas ethnic minorities outside of Quebec only rarely gained access to the media as ethnic minorities, those in Quebec received a significant amount of coverage. The message here is that individuals might be forced to express partial voices when a larger partial framework stunts or constrains their individuality. Thus, the expression of ethnic partiality in Quebec was a legitimate reaction to the demands of the larger Francophone community to express its partiality. Furthermore, Canadians outside Quebec did not stunt ethnic minorities in this manner, and thus did not force them to assume the role of impartial universal citizens. As a result, ethnic partiality in Quebec was legitimate within the universalistic discourse because its purpose was to challenge the partiality which Quebec Francophones were attempting to express.

B] ABORIGINALITY AND THE CAMPAIGN:

In chapter three, I demonstrated how the referendum actors treated Aboriginal representation in a partial manner in the negotiations. Aboriginal partiality also carried over into the referendum campaign to the extent that special vote tabulation procedures were developed. A week into the campaign, the CBC announced that:

Voting on Indian reserves will be counted separately in the referendum. That's a victory of sorts for Ovide Mercredi. He's the head of the Assembly of First Nations, and he says it's important to know whether Aboriginal People accept or reject the package. Today, Elections Canada decided to go along.90

Since many Aboriginal people do not live on reserves, Elections Canada acknowledged that this tabulation procedure could only provide a rough measure of Aboriginal voting patterns. As a result, Elections Canada made efforts to surmount this practical difficulty. In particular, it attempted to develop a system which would allow them to separate the votes of Aboriginal people living off reserve from non-Aboriginals.\textsuperscript{91} As it turned out, this was not possible. Nevertheless, what is critical here is the unequivocal discursive support referendum actors gave to separate Aboriginal vote tabulation. This support was an acknowledgment that the democratic voice of Aboriginal peoples must receive distinctive treatment for the identical reason that Aboriginal people must be represented by Aboriginals in constitutional negotiations.

In addition to separate vote tabulations, the referendum discourse contained numerous assumptions of Aboriginal partiality. For example, the media took great care to ensure that Aboriginals were included in virtually all the discussions on Aboriginal issues.\textsuperscript{92} When an Aboriginal person was included in a discussion, the obvious premise was that he or she spoke \textit{as an Aboriginal} person and not as an unattached individual. The following statement by Katherine Sorbey of the Native Council of Nova Scotia was an example of this partiality:

\begin{quote}
I'm a Migmo person from the Atlantic region. I have to say that after the 'NO' vote, it really doesn't much matter to our Migmo people. They're gonna go on with their lives. Yes, I'm speaking as a Migmo,
\end{quote}

\textsuperscript{91}The CTV News, September 11, 1992, Placement 4.
\textsuperscript{92}This is not to suggest that non-Aboriginals were excluded from all discussions revolving around Aboriginal issues. Rather, when they were included, they were assumed to speak from a non-Aboriginal, and hence partial, perspective.
not as a politician nor representative of anyone. I'm speaking strictly for myself as a human being with a different culture.93

Aboriginal opinions, beliefs, and concerns were thus almost exclusively conveyed through Aboriginal voices, implying that non-Aboriginals who purported to speak on behalf of Aboriginal peoples did so with considerably less legitimacy. This was reinforced in many instances when a person's Aboriginal identity was clearly labeled when they were introduced for an interview or discussion in the media. For example, the CBC made the following introduction: "...Mary Ellen Turpel, legal advisor to the Assembly of First Nations...she is also part Cree."94 This information was particularly critical in this case because it would not be at all clear that Turpel had the legitimacy to portray herself as a "true" Aboriginal representative in the media discourse without the explicit labeling. Ironically, although Turpel is predominantly of European descent, the label "part Cree" successfully identified her voice as an Aboriginal voice.95

Furthermore, rarely, if ever, did an Aboriginal individual speak as if his or her Aboriginal background did not create a distinctive voice for him or her. In other words, Aboriginals did not attempt to participate in the campaign simply as universal Canadians without regard to their Aboriginal background. In this way, the infusion of Aboriginal partiality into the Charlottetown process was complete; the democratic voice of Aboriginals was a different voice distinct from other, non-Aboriginal, voices in all

93Sunday Report, October 18, 1992, Placement 10. Interestingly, Sorbey also locates her voice in territorial terms here.
95The racial or ethnic identity of William Johnson, the person with whom Turpel was about to debate, was left unmentioned. The assumption here, and in other similar cases, is that a non-Aboriginal voice is otherwise universal within the non-Aboriginal community because it is left uncharacterized.
aspects of constitutional politics. Previously, this kind of distinction usually prevailed only in terms of province and language.

Reminiscent of the negotiation process, there were strong tensions among the main Aboriginal communities during the campaign. For example, some Aboriginal communities insisted on separate vote tabulations, and Ovide Mercredi eventually supported them. As the CTV reported "...Mercredi...said he will support those Native leaders who want to hold their own vote on the Accord. The important thing is to ensure that Native people express their opinions."96 Further tension was reflected in the following segment taken from the CBC:

ERIC RANKIN: ".Other Aboriginal leaders who negotiated the deal are dismayed at the public attention focused on the Assembly of First Nations. Mary Simon is the Native member of the National "YES' Committee."

MARY SIMON: [Inuit Tapirisat]"The AFN is portrayed as the spokespersons for Native Peoples in Canada, and it's not accurate. AFN does not represent Inuit of Canada at all, in whatever form at all and that's -- and that's something that isn't coming out across. It's -- I'm not blaming the media, it's just not getting out there."97

Simon's concern was not without cause. The media were often careless or even negligent when it came to making intra-Aboriginal distinctions, despite the fact that they were careful to draw distinctions on the basis of Aboriginality.

I described the success of NWAC in challenging the exclusion of Status-Indian women from the negotiations in chapter three. Nevertheless, this success was muted as a result of the claim that NWAC was itself

acting illegitimately in bringing forth its protest, on the basis that it could not speak for all Status-Indian women. According to the CTV: "...there are other Aboriginals who say the Native Women's Association does not speak for the traditional Native women," and on the CBC, Wendy Grant, Chief of the Musqueam Nation stated: "...the Native Women's Association, although they have concerns, do not speak on behalf of the traditional women within our societies." These assertions are ironic given that they portrayed NWAC as doing exactly what it was criticizing the AFN for doing, that is, professing an impartial position.

It is debatable whether NWAC was ever attempting to speak for all Native women, or even for all Status-Indian women. However, it is worth delving deeper into this struggle over gender partiality. Rather than stimulating debate over whether the negotiations should have included NWAC to act on behalf of Aboriginal women, the NWAC protest resulted in a struggle over who could legitimately represent Aboriginal women during the referendum campaign. As a result of the resistance to NWAC that some Aboriginal women put forward, the very notion of partiality was inverted. A very different type of partiality offset the initial demand for gender partiality that NWAC put forward. The women resisting NWAC refused to bound themselves within the gender-based constraints which characterized NWAC. Thus, these women, as Status-Indians, considered Ovide Mercredi a far more legitimate representative of their interests than NWAC.

A final aspect of the NWAC protest offers additional perplexing implications. As often as not, non-Aboriginal women represented NWAC in

98 The situation with NAC was similar, as I will demonstrate below.
100 The National, October 13, Placement 3.
putting forth its protest in the media. Mary Eberts, a prominent feminist lawyer, and Anne Bayefsky, a constitutional-law professor, both non-Aboriginal, spoke on behalf of NWAC on several occasions. This was clearly a counter-intuitive situation. In putting forth their claim to partiality based on gender, one would assume that NWAC would also exercise its claim to partiality based on race. It is possible that NWAC used Eberts and Bayefsky because few other women lawyers or constitutional experts enjoyed the respect and prominence which both Eberts and Bayefsky had, whether Aboriginal or otherwise. Another possible explanation is that the dominant voice of a group like NWAC changes depending on the context. Thus, in constitutional politics, gender may be a more important category than race for NWAC, so that it felt more comfortable being represented by non-Aboriginal women in the Charlottetown discourse than by Ovide Mercredi. This may be a result of NWAC's position on the Charter, which connected it with the non-Aboriginal feminist community. However, NWAC might be more adamant about being represented only by Aboriginal women in other contexts, a feminist conference for example.

C] GENDER AND THE CAMPAIGN:

The referendum campaign was replete with assumptions of gender-based partiality just as it was with Aboriginal partiality. This was evident in the wide array of women's organizations which gained access to the referendum discourse. Most of these groups were active on the "YES" side and were created specifically to take part in the referendum campaign. Two of the groups were introduced in the following excerpts: "In another part of the country, there was another example of upbeat symbolism in support of the "YES" campaign. Women from Quebec and Ontario met on
a bridge linking the two provinces..."101 and "They call themselves 'Women for the YES' but these aren't just any women. They're political wives: Mila Mulroney, Andree Bourassa, and Helene Chretien..."102 In addition, many other groups of a more permanent nature expressed their views on the Accord, including a group representing Quebec business women,103 and The National Federation of French Canadian Women Outside of Quebec.104 The single element connecting the activities of all of these groups was that they were all composed of women expressing themselves as women.

Underlying much of this gender-based activity was the assumption that women represented a distinctive, yet very diverse, political voice during the referendum campaign. Women figured prominently in all aspects of the referendum discourse, but they were particularly active in the more substantive discussions. It was often quite evident that their participation in a particular part of the discourse was connected with their gender. Not surprisingly, this was especially the case on issues which were in some sense of more direct concern to women than men. For example, women dominated discussions and debates on gender equality in the Senate and the "hierarchy of rights" in the Canada Clause. Men only had minimal access to the media discourse on these issues whether they were politicians, academics, or "average" citizens. In this way, the legitimacy of a commentator was often directly tied to his or her gender. Only rarely would a man claim to know what was in the best interests of

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103The National, September 25, 1992, Placement 3.
women, and when men did speak on women's issues they did so clearly as men.

Of all the women's groups which gained access to the media during the referendum, NAC was by far the most prominent. In fact, Judy Rebick, the leader of NAC, was the most prominent "NO" spokesperson in the entire referendum transcripts, and the fourth most prominent spokesperson overall.\(^{105}\) On the "NO" side, Rebick gained more access to the media than Preston Manning of the Reform Party or former Prime Minister Pierre Trudeau. How does one best explain the prominence of NAC? As noted above, women founded NAC quite explicitly on a partial notion of gender representation; it is an organization run explicitly to represent women. Therefore, underlying the tremendous access which NAC achieved was an assumption on the part of the media and others that was derived from a partial notion of gender representation. This assumption was that in the referendum discourse women had to have the opportunity to express themselves as women. The presence of several female politicians who achieved prominence during the campaign, such as Kim Campbell, Sharon Carstairs,\(^{106}\) Sheila Copps, and Audrey McLaughlin, reinforced this assumption. Since the discourse indicated their gender as an important factor (e.g. they would usually speak on "women's" issues), the question is: why was NAC given so much exposure when there were several female politicians available to speak on both sides of the referendum debate?

One possible explanation was that Canadians expected elected women to display a far more impartial position on gender representation than

\(^{105}\) These assertions are based on statistics derived from a content analysis performed on the referendum transcripts by the National Media Archives. NMA, National Referendum Summary Data.

\(^{106}\) Campbell was the third most prominent individual in the referendum transcripts while Carstairs was seventh. Carstairs was the third most prominent "NO" spokesperson. NMA.
someone like Judy Rebick. That is, politicians represented "all Canadians" (sometimes, with certain territorial limits) while NAC was exclusively concerned with the interests of women. The inclusion of NAC was therefore an acceptance of its extremely partial position on gender representation.

Interestingly, while on the one hand NAC was given large-scale media access because it was rooted in a partial notion of gender representation, on the other hand referendum actors often portrayed it as a selfish "interest" group for the same reason. The following excerpt from the CTV, dealing with the "problems" of interest-group activity, focused specifically on NAC:

...CRAIG OLIVER: "Not often does the NDP Premier of Ontario disagree with the militant women's organization, but he says their analysis is flawed.

BOB RAE: "I regret very much their decision, but look it's a free country. It's the public that's going to decide. It's the common sense of ordinary citizens, not governments, not interest groups."

CRAIG OLIVER: "Constitutional Affairs Minister Joe Clark warns that if interest group politics takes over the referendum campaign, it's in trouble."

JOE CLARK: "The problem with an interest group is that it focuses so narrowly on its narrow interests, that it can lose sight of the country. In my view, that is what NAC has done here."107

The implication was that while NAC voluntarily limited itself to struggling for women, Joe Clark and other politicians were able to maintain the interests of all Canadians equally. That is, they were able to make

decisions in an impartial manner without regard to group-based characteristics such as gender, even if they were almost all men. While emphasizing that politicians were impartial in the gendered sense, Clark failed to point out that many politicians were expected to express visions which were explicitly partial in the provincial sense. Thus, the form of partiality based on gender was selfish and "narrow" while the form of partiality based on territory was legitimate and reasonable.

Ironically, referendum actors often challenged NAC, just as they challenged NWAC, on the grounds that it could not legitimately represent all women. The following report was characteristic of this challenge:

PETER MANSBRIDGE: "The 'YES' forces in the referendum campaign are reflecting tonight on a setback. The National Action Committee on the Status of Women, a group they'd like to have on side, will instead be an opponent. NAC is voting 'NO'. The group announced its decision yesterday. But a lot of people wonder just who NAC speaks for, and how much influence it might have in the campaign."

...KATHLEEN MAHONEY: "I don't think it's a bad deal for women. I think it could be better."

KAREN WEBB: "Some women, such as law professor and feminist, Kathleen Mahoney, say NAC doesn't speak for them on this issue. She says although the deal could be better, its problems aren't big ones."

KAREN WEBB: "It's not clear NAC can deliver the votes of the half-million Canadians it says it represents. It has the organization, but very little money. And many well-known feminists, including those in the major political parties, appear to be lining up on the other side."108

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Similar reports, asking who NAC speaks for aired throughout the referendum campaign. In virtually every case the media asked women to answer that question, and many prominent women did just that. Some of those answers were given as follows:

PETER MANSBRIDGE: "NDP Leader, Audrey McLaughlin...[was advising] Vancouver high school students to support the `YES' campaign. McLaughlin challenged feminists who oppose the package."

AUDREY MCLAUGHLIN: "If I believed in any way, that this Accord were a step backward for women, I would not be supporting it."109

And in another instance:

KEVIN NEWMAN:...[Sheila Copps] also defended the agreement's protection of women's rights."

SHEILA COPPS "Why is Iona Campagnolo supporting it? Why is June Callwood in favour of this agreement? Because we think that this agreement provides the framework for us to get on with real issues."110

Clearly, the prominent women and women's groups described above (i.e., the women crossing the bridge and the "political wives", etc.) expressed vigorous resistance to NAC. While it is certainly doubtful that NAC attempted to represent all women during the referendum, what is clear is that it was an organization run by women, for women, and explicitly interested in the conditions of women's lives. Many women challenged the notion that their gender should define their relationship to the political world. Others disagreed with the manner in which NAC defined that relationship. For the most part, it was not that NAC was not partial enough

110 The National, October 9, 1992, Placement 2.
for these women -- far from it -- it was that NAC was too partial. For this reason, many women preferred that elected politicians, whose basis of representation they viewed as impartial with respect to gender, represent them.

Still, one cannot interpret all challenges to NAC in this manner. A few challenges to NAC were derived from an even more extreme form of partiality. According to this view, the problem with NAC was that it universalized the category "women" instead of breaking it down according to other categories such as race, class, language, sexual orientation, and so on. The following excerpt is an example of this view:

KAREN WEBB"...other groups, like New Brunswick's Advisory Council on the Status of Women, aren't so certain [about whether NAC represents them]. Jeanne D'Arc-Gaudet likes much of the Accord's guarantees of minority language rights, important for the women of New Brunswick, so her group will wait to canvass its members."

D'ARC-GAUDET "We're looking as women, francophone women or Native women, part of the culture..."111

However, it is extremely unlikely that this kind of position was at the root of most of the challenges to NAC. Rather, most challenges developed from a rejection of the gender partiality on which NAC was based.

D] "OTHER" CATEGORIES AND THE CAMPAIGN:

In this section, I shift my focus away from gender toward other modes of categorization such as disability, ethnicity, age, and class. All of these categories were portrayed with varying degrees of impartiality during the referendum campaign. None were considered particularly relevant in

terms of campaign representation and access. Still, each of these sources of group-identity were discussed in the context of representation over the course of the campaign.

1. (Dis-)ability:

Throughout the campaign, there were several short news reports depicting disabled people protesting their exclusion from the provisions outlined in the Canada Clause. The following excerpt was a dramatic example of this:

JOE SCHLESINGER: "In the Commons, where the constitutional accord has for once brought cozy agreement among the three major parties, the first shots of dissent were heard."

VOICE FROM THE GALLERY: "Why are the people at this assembly...?"

SCHLESINGER: "Unheeded by MPs, its source ignored by the cameras, the voice from the visitor's gallery protested the exclusion of the rights of the handicapped from the constitutional deal. The man behind the voice, John Feld, who has multiple sclerosis, was quickly hustled out."112

When disabled groups gained access to the media during the referendum campaign, such access originated primarily in protests over their lack of inclusion in the Canada Clause. Furthermore, while their exclusion from this clause was frequently discussed during the campaign, such discussions usually took place amongst able-bodied politicians and commentators. The following statement by Premier Bob Rae of Ontario was typical of this:

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The Canada Clause that's there...when you read it in the context of the Charter of Rights, which is, which is now in place, in my view, does not at all take away from the rights of, of Disabled people. In fact, when it refers to the individual and collective freedoms of all Canadians, I think quite specifically it's referring to people with disabilities.113

This was an example of an able-bodied person making impartial statements on behalf of disabled people. As a result of the lack of direct media access for disabled people, this assumption of impartiality on the part of Rae and others dominated the referendum campaign. Thus, in the media, disabled people did not have an opportunity to express their own judgments on the Accord.

2. Ethnicity:

Ethnicity was another categorization which received little media treatment.114 Ethnic voices only gained access to the campaign as ethnic voices in a few instances. For the most part, such access was limited to brief announcements made by several ethnic organizations. For example: "The Canadian Ethnocultural Council, which says it speaks for 37 ethnic groups, will support the constitutional deal."115 This statement suggests that ethnic minorities in Canada presumed to speak from a somewhat partial voice; otherwise such announcements would be unnecessary. Still, the "37 ethnic groups" were still subsumed under the single identity "ethnic" by the Canadian Ethnocultural Council.

114 That is, aside from the extensive discussion surrounding the issue of ethnicity within Quebec discussed above.
In addition to straight-forward announcements, there were several short reports that depicted ethnic minorities expressing their support for Charlottetown. For example, according to Knowlton Nash of the CBC:

As demonstrations go, this one was definitely on the small side. Rakesh Khasha got all decked out and went solo for eight hours today through the streets of Halifax and Dartmouth. He says one person can have an impact.

RAKESH KHASHA: "Because I think that people like to see ordinary Canadians, ordinary people with a cause to go somewhere and when they see people walking, walking hurts, and they think that perhaps there is something good in this. That's why this fellow is doing it." 116

What is relevant about this report was that Rakesh Khasha, despite belonging to an ethnic minority group, portrayed himself as an "ordinary" Canadian. This does not mean that his ethnicity was unimportant to the report; on the contrary, it was integral to its very objective, which was to depict an individual from a minority group attempting to downplay his group membership by adopting a universalistic tone. Thus, far from identifying himself as a member of a group with a partial vision, Khasha emphasized his desire to express an impartial view of Canada instead.

3. Age:

As was the case with ethnicity, there was little sense during the campaign that age was a category which should legitimately receive attention to the media. In fact, the voices of senior citizens and youths were largely absent. This was even the case when an age-related controversy erupted in Quebec. According to CBC anchor Wendy Mesley:

The 'NO' side in Quebec apologized today for remarks made at a rally last night. Actress Diane Jules suggested elderly people would side with the 'YES' campaign out of fear. Quebec Premier, Robert Bourassa, said today the 'NO' forces were showing contempt for seniors. Jules says she was misinterpreted. But she's sorry if anyone was offended.\textsuperscript{117}

Although both networks covered this controversy, at no time did either station include any direct reaction from a senior citizen to the statement made by Diane Jules. Rather, the media showed numerous middle-aged politicians condemning the statement. Generally, similar silence existed where the voices of youths were concerned. The following introduction to a CTV report was an exception to this:

This will be the first chance to take part in a national vote [for those under 22]. CTV's Mike Duffy went back to class, to a leading big city high school to get the views of students on the constitutional agreement...as a younger generation debates the country's future.\textsuperscript{118}

Aside from this report, the referendum discourse portrayed age as a largely impartial category.

4. Class:

Class-based identifications were also treated as legitimately impartial during the referendum campaign with few exceptions. Class simply was not an issue where representation was concerned. When issues of poverty or inequality did arise, referendum actors almost always expressed them via other group-based categories such as gender or Aboriginality. One exception to this concerned voting. In pre-referendum elections, many homeless people were de facto disenfranchised because Elections Canada

\textsuperscript{117} Sunday Report, October 3, 1992, Placement 8.
did not attempt to enumerate them. Leading up to the referendum, Elections Canada made attempts to overcome this problem, as the following report suggests:

PETER MURPHY "For the first time, homeless people are being enumerated. In Vancouver's Downtown East Side, enumerators visited 20 locations such as the central city mission. The response was enthusiastic and indicated that the program will be a success."\(^{119}\)

In another report, several homeless people gained access to the media so that they might express their feeling about voting:

IAN HANAMANSING: "Until now, Robert Laroche had never been registered for an election."

ROBERT LAROCHE: "It's my first time I vote...So I don't know how to do it. I know nothing."

HANAMANSING: "What are you going to do to get ready to vote?"

LAROCHE: "I don't know."

HOMELESS PERSON: "I've gotta get a little bit more information about it, yeah."

HANAMANSING: "Where are you gonna get the information from?"

HOMELESS PERSON: Maybe paper or something or pamphlet somewhere."

HANAMANSING: "But some say they're so used to having their opinions ignored they can't imagine why anyone would care about their vote."

HOMELESS PERSON: "Why should it, you know, make any difference?"

\(^{119}\)The CTV News, October 2, 1992, Placement 4.
HANAMANSING: "So you don't think it's important for you to be voting?"

HOMELESS PERSON: "Well I'm gonna vote, oh yeah, but it's not gonna make any difference."\footnote{The National, October 2, 1992, Placement 5.}

This report represented virtually the only instance where poor people expressed their voices explicitly from the perspective of their poverty. Beyond this, the voice of the poor was invisible during the campaign.

5. **Prison Inmates:**\footnote{Prison inmates may also be evaluated within the larger categorization of class since it is indisputable that crime and imprisonment are class issues.}

While it would have been difficult for a homeless person to vote prior to Charlottetown, it would have been impossible for prison inmates, since they were prohibited from doing so. This changed prior to the Charlottetown vote, as the following reports illustrated:

SANDIE RINALDO: Ballot boxes were set up in jails and penitentiaries so that almost 30,000 inmates could have their say. Last February, courts ruled that to prohibit inmates from voting would be a violation of the Charter of Rights. Some said they were voting not for themselves, but for the future of their children.\footnote{The CTV News, October 16, 1992, Placement 6.}

And, in another report:

Knowlton Nash: "Prison inmates in many parts of Canada voted today. It's a right they earned in a challenge before the Supreme Court of Canada."

INMATE: "I am proud actually to still vote as a Canadian, because I was born in Canada, so I feel I still have that right."\footnote{The National, October 16, 1992, Placement 5.}
In the cases of both homeless people and prison inmates, the government terminated a situation where certain individuals were officially or unofficially unable to exercise their democratic rights. Thus, the political worth of certain individuals was equal to that of all other individuals whether homeless or imprisoned. The result was that homeless people and prisoners were set within an impartial and universalistic framework, where their group-based identities were no longer considered relevant in the context of voting.

As with the categorizations considered here, impartiality was the rule during the referendum campaign for other sources of identity such as sexual orientation, religion, and education. The referendum discourse portrayed all of these categories as legitimately impartial; none were considered important enough, in terms of political representation, to merit explicit access to the referendum discourse.

E] CONCLUSION

Of the three contexts examined in this study, assumptions of partiality were most prevalent during the referendum campaign. As with the negotiations, the amending formula was an important factor in leading to provincial, regional, and language-based partiality, because the vote tabulation system was based on the unanimity requirement in the amending formula. Thus, provinces were portrayed as partial because a majority of voters in each province had to vote 'YES' for the Accord to pass. But, once again, the amending formula did not contain the expression of other types of partiality such as those based on Aboriginality and, to a lesser extent, gender. In the next chapter, I examine assumptions of
(im-)partiality in the Charlottetown provisions. In doing so, I demonstrate that similar patterns existed although partiality was less prevalent.
CHAPTER 5: THE PROVISIONS

We should have one Canada, indivisible, in which every Canadian is equal to every other Canadian regardless of their race, colour, creed, language, religion, gender or the province in which they live.

-Gordon Wilson, B.C. Liberal leader

Had the Charlottetown Accord passed in the referendum vote, it would have prompted a significant transformation in the operation of Canadian democracy. Most notably, the Senate would have been thoroughly revamped, and a new order of government operated by Aboriginal peoples would have emerged. In this chapter, I examine the discourses surrounding these provisions as well as other provisions concerning the House of Commons. I should emphasize that I am far less interested in the provisions themselves than in revealing certain assumptions of (im-)partiality which exist at their foundations. Furthermore, I am interested in assumptions rooted in the referendum discourses which surrounded these provisions.

A] FEDERALISM AND THE PROVISIONS

In chapters three and four, I demonstrated the extent to which the Charlottetown negotiations and the referendum campaign encompassed notions of provincial and language-based partiality. Similar assumptions of partiality provided the foundation for many of the substantive provisions in the Charlottetown Accord. In this section, I focus on several of the most

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125 I should emphasize that I am only interested in provisions related to Canada's democratic institutions. Thus, I omit many provisions from this analysis, including those contained in the Canada Clause, even though these provisions may have received wide discursive treatment.
widely debated Charlottetown provisions, including provincial equality in the Senate, the double-majority rule on French-language issues, and the 25% minimum for Quebec in the House of Commons.

1. Provincial Equality in the Senate:

During the campaign, referendum actors spent considerable time debating the proposed "Triple-E" Senate; much of that debate centered on its potential effectiveness in checking the powers of the House of Commons. However, referendum actors also discussed other Senate provisions including the provision guaranteeing each province equal representation.126 Constitutional scholar Peter Meekison justified provincial equality in the Senate on the following grounds:

...Now what does equal mean? It means that we have representation from across Canada. The west will now have 40% of the seats which they do not have today...Representation by population is a reasonable thing [in the House of Commons]. But representation by equality of provinces in the Upper House I think is more important.127

Although it was traditionally an important aspect of most proposals for Senate reform, representation by province was a significant departure from a universalistic notion of representation by population where each Canadian vote was expected, more or less, to have equal political weight. In the proposed Senate, the province rather than the individual would be the fundamental political unit. In this way, Charlottetown would have thoroughly provincialized an individual's political identity to the extent that

126Section 21 of the Charlottetown Accord states "(1) The Senate shall consist of sixty-two senators of whom (a) six shall be elected from each province...(b)one shall be elected for each territory...(c)[Aboriginal Representation]." The number of Aboriginal representative would be decided at a later time. Draft Legal Text, October 9, 1992.
the Senate would have been an important component of it. An individual's political voice would, in effect, have been a partial provincial voice.

As such, the provisions designed the proposed Senate was designed so as to offset the more universalistic, and provincially impartial, assumptions underlying the House of Commons. Interestingly, referendum actors did not resist provincial partiality in the Senate. One exception to this was the desire on the part of some people to replace provincial partiality with regional partiality through a regionally-elected Senate. Still, what was most important was that referendum actors rarely challenged the need for some form of territorial partiality -- whether provincially or regionally-defined.

While referendum actors did not challenge provincial partiality, they did discuss the extent of provincial partiality which Senators would express. The following exchange between interviewer Bill Cameron and historian Michael Bliss was one example:

BILL CAMERON: "...Michael, the American Senate is regionally based. There are two Senators per state. But they don't wind up being regionally loyal. Now, how's it gonna work here?"

MICHAEL BLISS: "We don't know. Because we don't know whether the Senators will identify with the province and the region from which they come, or whether they'll identify with political parties." It is debatable as to how provincially-partial Senators would have behaved if the Accord had passed. Nevertheless, it is indisputable that the Senate provisions assumed that Senators would express a largely partial provincial voice. Otherwise, on what basis did the struggle to ensure equal provincial

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128 This is in contrast with the strong resistance to gender partiality in the Senate which I discuss below.  
representation rest? Those demanding an equal Senate justified their
demands on the ground that explicitly partial provincial voices had to
express themselves at the federal level.

2. Double Majority on French Language Issues:

In addition to provincial partiality, the proposed Senate also
contained provisions rooted in language-based partiality. A double-majority
vote in the Senate would decide all issues of material concern to French
language and culture. Thus, on top of the normal majority of Senators
required to pass legislation, a majority of Francophone Senators would also
have to give its assent.\textsuperscript{130} Clearly, the double-majority rule was an
extreme example of language-based partiality, but not because it would
lead Francophone Senators to vote as Francophones -- people assumed
that they would do so anyway. Rather, what was especially interesting was
that these Francophone votes would represent a collective veto over
Anglophone votes on certain issues. The message was that non-
Francophones could not purport to represent Francophones on issues
which were of particular concern to the latter.

To the extent that referendum actors debated the double-majority
rule, there was very little extreme reaction in favour or in opposition to this
proposal. Sandy Rinaldo, anchor for the CTV, first announced the creation
of the provision as follows:

[The Accord] could mean in effect that some Canadians would have
more democratic rights than others...the legal text will require a
double majority of Senators and French-speaking Senators to

\textsuperscript{130} Section 36 (1) of the Charlottetown Accord states: "A bill that materially affects the French
language or culture in Canada must, in order to be passed by the Senate, be approved by a
majority of senators voting and a majority of French-speaking senators voting."\textit{Draft Legal Text,
October 9, 1992.}
approve legislation materially affecting French language and
culture.131

Rinaldo's initial phrase is interesting in that it assumed a universal norm
where all Canadians had the same, or should have had the same,
democratic rights. In this way, she implicitly portrayed the double-majority
rule as a disturbing departure from this norm.

Beyond this kind of tacit resistance, only rarely did critics challenge
the provision on the grounds that it was derived from a partial notion of
language representation. Rather, referendum actors were far more likely to
dispute the provision on more practical grounds. For example, after being
asked whether he liked the double-majority provision, constitutional lawyer
Brian Schwartz responded: "No. My anxiety is that there's gonna be some
important bills which will get caught up with this double majority."132 In
addition, the question of how a Senator qualified as French-speaking was
another practical problem, as the following exchange suggests:133

JACQUES FREEMONT: "[there needs to be a majority] of
Francophones or Senators who declare themselves as
Francophones. There's a tricky little problem about who is a
Francophone Senator."

BILL CAMERON: "Well, if I ran for the Senate, could I declare myself
Francophone which I'm certainly I'm afraid I'm not?"

JACQUES FREEMONT: "You'll have to speak French, at least."134

131 The CTV News, October 9, 1992, Placement 1.
133 According to section 36B(1) of the Charlottetown Accord, senators are "French-speaking if
they identify themselves to the Speaker as French-speaking on first taking their seats in the
Senate." Draft Legal Text, October 9, 1992.
It is important to note that the rules designating who qualified as a Francophone Senator, as proposed in the Charlottetown provisions, reflected language-based and not provincial partiality. Otherwise, there would have been a requirement for a majority of Senators to be from Quebec, instead of the requirement for a Francophone majority as contained in Charlottetown. But a Francophone Senator was not necessarily a Quebec Senator, according to the Charlottetown provision (although it is assumed that most often he or she would be). This was an important distinction because the provision acknowledged that language-based partiality existed beyond the provincial (i.e. Quebec) boundary which was often set for Francophones in Canada.

3. **25% Minimum for Quebec in the House of Commons:**

   Some referendum actors saw the provincial partiality inherent within the proposed Senate as an attempt to offset the universalism of the House of Commons. However, the discourse surrounding the substantive provisions on the House of Commons demonstrated significant problems with this view. This was because the structure and composition of the House of Commons also evolved from significant provincial and language-based partiality as reflected in the debates over their proposed modification. Thus, the relevant question was: to what extent was the House of Commons truly universalistic?

   The provision in the Charlottetown Accord which guaranteed Quebec a minimum of 25% of the seats in the House of Commons\textsuperscript{135} was one of the issues referendum actors most vigorously debated during the entire campaign. Furthermore, commentators were far more likely to criticize the

\textsuperscript{135}Section 51A(2)(b) of the Charlottetown Accord states "Quebec shall always be entitled to a number of members in the House of Commons that is no fewer than twenty-five per cent of the total number of members in the House of Commons." \textit{Draft Legal Text}, October 9, 1992.
provision than to support it. I distinguish between two general types of criticism. First, many commentators objected to the provision because it was antithetical to the notion of representation by population on which the House of Commons was based. This objection is apparent in the following exchange, where a member of the public was asked about the Quebec guarantee of seats:

JERRY THOMPSON: "First-aid attendant, Eileen Bonagaroo likes 90-percent of the deal and wants to vote 'YES'...But, there are things she really doesn't like. She says Quebec should not be more equal than the rest of Canada."

EILEEN BONAGARO: "I feel very strongly that each person in Canada should have exactly the same say in the government, and at the moment with Quebec getting 25-percent of the collective votes, the person in Quebec at the moment has more say than I do, and I don't think that anyone, regardless of their nationality, creed, whatever, should have any more say than anyone else in Canada, whether they be French or Indian or German or Japanese, or me."136

The representation-by-population position that Bonagaroo took was a powerful reflection of the universalistic discourse. All individuals had to be politically equal. In response, those supporting the provision argued that Canada has never really had true representation by population. The case of P.E.I. and its historical over-representation in the House of Commons in relation to its population was consistently used to support this claim.137 Thus, the guaranteed minimum for Quebec was legitimate because it did not depart from prior practice.

137 The Journal, October 2, 1992, Placement 2.
The second line of criticism was grounded in the argument that Quebec's guarantee of seats was simply unfair. This criticism emanated most noticeably from B.C. For example, in the following report, two members of the public from B.C. were asked to comment on the provision:

LAWRENCE BELLMORE: "I think B.C here is getting the rotten end of the stick."

ALISON SMITH: "Why is that?"

LAWRENCE BELLMORE: "Why is that? Well, why should Quebec get 25-percent of the representatives? What's so special about them?"

BOB BOBACK: "I don't like what Quebec's trying to get out of the deal, about that 25-percent representative, that's not fair to me."

...ALISON SMITH: "In a province that's growing quickly, many people want to be able to flex the political muscle they believe should come with growth. And many are still trying to decide if the constitutional agreement assures them of that."138

The last comment by reporter Alison Smith illustrated why some people considered the Quebec guarantee unfair. The point was not that there was anything inherently wrong with Quebec MPs expressing a partial vision, but that these MPs had an artificially-enhanced ability to express that partial vision which British Columbian MPs lacked.

A similar attitude was expressed by B.C. radio commentator Rafe Mair, a prominent spokesperson for the "NO" side:

Quebec has got special status...The 25% for Quebec in the House of Commons, that means something very much to people in British Columbia. We see ourselves in the next 25 or 30 years as being as

big as Quebec, and the fact that we have not got the same seats or anywhere near the same seats in the Commons is a problem.139 Thus, Mair was demanding that B.C. be given the ability to express its own partiality in accordance with its increasing size and prominence. Whereas the first criticism based on representation by population was rooted in a universalistic or individualistic claim, the second criticism was thoroughly provincialized. According to Mair, there was no inherent problem with Quebec partiality. Problems emerged for him when Quebec's opportunity to express its partiality was greater than that of other provinces.

In response to this second argument, many referendum actors commonly defended the provision on the grounds that Quebec's culture was fragile and thus in need of protection in a way that distinguished it from other provinces such as B.C. As Prime Minister Mulroney put it: "If you do not have these kinds of arrangement in a confederation, French Canadians inevitably will become Cajuns and they don't want to become dancers in Louisiana, with Banjos."140 Some of the most notable arguments both favouring and opposing the Quebec guarantee appears in the following exchange between Jim Nielson, former B.C. politician, and the then federal Justice Minister Kim Campbell:

JIM NIELSEN: "I think it would be dreadfully wrong for the country to introduce a system whereby the provinces and the people of the country are not to be treated equally..."

KIM CAMPBELL: "But they've never been treated equally...The whole, the whole principle of Canadian confederation...is that we treat people differently to ensure that they can be equal. And that is the great fallacy in this debate, that somehow equality is sameness. It's not sameness."

139The Journal, September 17, 1992, Placement 2.
JIM NIELSEN: "Of course it's not sameness, it's..."

KIM CAMPBELL: "If you treat me the way you are treated, as a woman...the result will be that I will be unequal in many, many circumstances."

JIM NIELSEN: "No, I appreciate that, but we have to be practical too. We can't obviously give someone a distinct advantage. We and other parts of the country are distinct too."141

In his first statement, Nielson managed to subsume provincial partiality within the rubric of universalism. He did this by equating the equality of individuals with the equality of provinces. In this way, provinces become a legitimate unit within the universalistic discourse even though, theoretically, the fundamental unit, indeed the only unit, is the individual. As a result, just as it was considered problematic when one individual was given more political weight than another, Nielsen was able to portray a situation when a province received more political weight than another as equally problematic. Campbell responded to Nielsen by employing a clear group-difference argument. Her point was that if Quebec was treated the same as the other provinces the results would disadvantage Quebec. Consequently, Quebec deserves additional representation; otherwise its distinctiveness could be jeopardized. What Nielsen viewed as a competition of interests in which everybody had to be treated equally, Campbell saw as a situation where power relations meant that such equal treatment would lead to unequal outcomes.

What is interesting is that individuals arguing for the equal representation of all the provinces were most likely to come from Alberta and B.C., two of the "have" provinces. The premise was that their relatively

strong economies and great potential for growth should reflect their ability to represent themselves. This latter position attained much greater prominence in the referendum debates than the position put forward by Campbell.

**B] ABORIGINAL SELF-GOVERNMENT**

In chapters three and four, I delineated a shift toward partiality on the basis of origin in both the negotiations as well as in the referendum campaign. In this section, I examine the discussions which revolved around the Charlottetown provisions on Aboriginal self-government. Aboriginal self-government was, by definition, an extreme expression of partiality. The term "self" is crucial here; Canadians could theoretically call themselves "self"-governing to the extent that each individual has a democratic voice. Nevertheless, it is only the universalized and individualized voice, albeit also territorialized, which is intended to gain democratic expression in Canada. Aboriginal self-government was different in that it involved an explicitly group-identified voice, an "Aboriginal self". As a result, Canadians would be categorized according to Aboriginality in addition to being categorized according to province or language. It follows that the possibility of impartiality on the basis of Aboriginality would be negated just as it was now often negated on the basis of province or language.

In supporting self-government during the referendum campaign, Aboriginals invariably emphasized the need to express their partiality.

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142Section 29 (1) of the Charlottetown Accord states: "The Aboriginal peoples of Canada have the inherent right of self-government within Canada." Draft Legal Text, October 9, 1992. Note that there are many other substantive provisions which are rooted in Aboriginal partiality. I limit my analysis to Aboriginal self-government.
Typical of this emphasis was the following excerpt from an interview with a Cree man: "We have the self-government in place, I think we can do better in looking after ourselves."\textsuperscript{143} In another instance, Mary Ellen Turpell, advisor to the Assembly of First Nations, argued on The Journal that "self-government is the only way you can empower people to begin to solve problems."\textsuperscript{144} A further example aired on The National, where Blain Favel, chief of the Poundmaker reserve in Saskatchewan, stated:

> What the Constitution does for our people is it provides us with a shield, not a sword, a shield which we can [use to] protect our culture, so that we can determine and develop our own laws according to our culture...A lot of this stuff has happened because we haven't had the right to say, 'look, we have the right to control our lives on the reserve.'\textsuperscript{145}

This type of argument was repeated numerous times throughout the referendum campaign. For Aboriginal people, Aboriginal self-government was about the kind of political power that came from being able to speak and act for oneself or one's group.

It is well known that Aboriginal communities gave mixed reviews to self-government; support from within the Status-Indian community was especially weak. Except in rare circumstances, this lack of support did not evolve because Aboriginals did not want self-government. Rather, Aboriginal people expressed concern that the process moved too quickly and did not allow enough time for rigorous study of the complex issues involved.\textsuperscript{146} Thus, there was the kind of hesitancy one might expect when such important decisions were made under pressure. A more common

\textsuperscript{143}The CTV News, October 2, 1992, Placement 3.  
\textsuperscript{144}The Journal, October 7, 1992, Placement 1.  
\textsuperscript{145}The National, October 19, 1992, Placement 5.  
\textsuperscript{146}For this reason, Elijah Harper advised Aboriginal people not to vote. Also, The CTV News, October 2, 1992, Placement 3.
criticism was that the Charlottetown provisions did not go far enough toward the road to self-government, that the provisions were too weak. For the purpose of this study however, what was important was that at no point was there any indication of concern on the part of individual Aboriginals that their political voice would be constrained within the category "Aboriginal" as a result of self-government. At no time did an Aboriginal person suggest that a universalistic or impartial framework where Aboriginals would be politically identified simply as "Canadians" or "Albertans" would be preferable to the partiality of which self-government was an expression.

The notable exception to this was the criticism of Aboriginal self-government put forward by some Native women, and NWAC in particular, as demonstrated in the following excerpts:

LLOYD ROBERTSON: "Well, will there even be a vote on October 26th? The one group representing Native women launched legal proceedings today to block the referendum. The Native Women’s Association says it is concerned that parts of the proposed unity deal will allow male-dominated Aboriginal governments to override sections of the Charter of Rights."

MARY EBERTS [NWAC LAWYER]: "The framework for negotiating Aboriginal Self-Government is being set up at this time and that framework does not accept equality principles and does not include representation from Aboriginal women."147

In another report, problems with Aboriginal self-government were portrayed as follows:

KAREN WEBB: "Zellah MacDonald is an Aboriginal woman, who says her experience with the Native justice system has convinced her that Self-Government could be bad for women. She says she

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was told by Native men to forget about laying a sexual assault charge. She's afraid that if Self-Government perpetuates that attitude, women like her could lose their legal rights to Canadian justice."

ZELLAH MCDONALD"...and if we make the choice that we want it through the criminal justice system of Canada, as it pertains to everyone else in Canada, that's our choice."

Elsewhere in the same report:

GAIL STACEY-MOORE [NWAC] "For Aboriginal women, the protection of the Charter is essential."

KAREN WEBB: "The Native Women's Association says that male-dominated Aboriginal organizations can't be counted on to protect women's rights..."148

These Aboriginal women argued that the provisions for Aboriginal self-government would jeopardize the protections they had in the Charter of Rights. In a sense, they were suggesting that the Aboriginal partiality which would result from Aboriginal self-government would threaten the ability of Aboriginal women to express their own partiality. Thus, it was not that NWAC opposed Aboriginal peoples being able to speak and act for themselves per se. Rather, they implied that any adequate model for self-government had to include provisions which allowed Aboriginal women to speak and act for themselves within the Aboriginal community. The assumption underlying this argument is critical. NWAC was arguing that the real problem with Aboriginal self-government was the potential that Aboriginal men would dominate Aboriginal women. The implication was that the ideal situation would be a system of Aboriginal self-government which would guarantee women's representation, although this was never

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explicitly proposed in the transcripts. Otherwise, Aboriginal women would rather rely on notions of individual impartiality where the Charter would protect them. Thus, they felt as if they would have a more powerful voice within the court system in the era of the Charter than they would in an era of Charlottetown-style Aboriginal self-government.

Amongst non-Aboriginals however, Aboriginal self-government received tremendous support during the Charlottetown referendum campaign. It is informative to examine the major assumptions which underlay that support. Throughout the campaign, proponents defended the need for Aboriginal self-government on grounds of justice, as the following excerpts showed:

CRAIG OLIVER: "As he left the event, Mulroney was told by a waiting bystander that Self-Government for Natives is a mistake."

BRIAN MULRONEY: "You want to say "NO" to justice for Aboriginal peoples? I don't think you should...The Aboriginal peoples have fought for justice for 125 years, and now it's their turn."

In addition:

KEN ERNHOFER: "Canada's Aboriginal People', he [Mulroney] says, 'have suffered a litany of tragedy, from suicide to alcoholism under Federal authority. They couldn't do worse under Self-Government."

During the campaign, several referendum actors referred to the need for justice for Aboriginal peoples as if it were obvious, a simple matter of common sense. For example, during an interview, Peter Mansbridge,
anchorperson on The National, phrased part of a question in the following manner:

I think if there's one thing...that we've witnessed over these past few years, especially since the death of Meech Lake, the realization on the part of most Canadians that the Native Canadian population has been the most oppressed in the country...152

There was also a consensus in the discourse that this oppression developed, to a large extent, as a result of the presumed impartiality of non-Aboriginals who spoke and acted on behalf of Aboriginals, and thus controlled most aspects of their lives. According to the then Justice Minister, Kim Campbell:

...the Charlottetown Accord...empowers people, it brings people fully to the table of participation in Canadian governance. It provides an opportunity for Native people for the first time to do what other Canadians have been doing for a long time, mainly governing themselves, and I can tell you as a, you know, former Minister in the Department of Indian Affairs, the existing paternalistic relationship between the government of Canada and Aboriginal people is one that is a complete anomaly in this day and age and is demeaning to both parties.153

In this way, Campbell made the point that Aboriginal peoples had always been treated distinctly in Canada. The following exchanges also reflected this attitude:

PETER MANSBRIDGE: "I live next door, say, to Elijah Harper. Will he have different agreement than I do? Does he live under a different set of laws...?"

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152 The National, October 11, 1992, Placement 11.
IAN SCOTT: "...The thing to note about Elijah Harper is that for 200 years his people have been living under a regime of different rights and lesser rights than we've had...".154

And Brian Mulroney made a similar point:

BILL CAMERON: "...you have to say it's [Aboriginal self-government] anything but, "everybody's being treated the same". Do you have trouble balancing it?"

BRIAN MULRONEY: "The Native Package -- this is an historic advance for the Aboriginal people, a genuinely historic advance. It's about time -- when you consider the 95% unemployment rates on some reserves, alcoholism, conjugal violence, more young Natives in jail per capita than anywhere, or any other group in our society. This is a disgrace for Canada, and we now have an opportunity to begin the process of rectifying that, by saying 'YES' to Ovide Mercredi and his genuinely impressive efforts on behalf of his people."155

In both exchanges, the interviewer asked a question which had a "but isn't difference dangerous" tone to it, and both respondents argued that Aboriginals had always been subjected to special laws and conditions. The difference with Aboriginal self-government was in who would wield control. Thus, the need to express a partial Aboriginal voice developed as a result of the historical oppression and silencing of that voice, and was not simply a matter of group difference, of Aboriginals having a "different voice". Rather, it was a matter of power, of oppression, and the way in which representation was linked to power and oppression. This is especially interesting because it is something which the universalistic discourse was usually unwilling to acknowledge.

The group-difference discourse was certainly hegemonic in the context of Aboriginal self-government, but the universalistic discourse did

154 The National, October 11, 1992, Placement 11.
express strong resistance to the self-government provisions on several occasions. While this resistance took diverse forms, arguments deeply rooted in the assumptions of the universalistic discourse kept reappearing. The following excerpt from the historian Michael Bliss was a notable example:

It's an enormous leap of faith to establish an order of government which is clearly in part based on race, and that bothers those of us who've worried about the idea of using race as a basis for something in a way, you know, South Africa went into the homelands.

Later, in the same interview, Bliss goes on to say:

Does our feeling that the Natives of Canada have had a bad deal justify us making this kind of leap, and do we have the faith and the trust necessary, or, are we gonna wake up 40 years from now and find out that we've got an order of government based on race, that Aboriginal people are more separate than ever before. It's a very, very, tough call and the problem with this whole document is that you have to keep constantly making these leaps and filling in the gaps and not knowing.156

A similar argument was made by the newspaper columnist, William Johnson:

...rather than do away with the colonialism of the Indian Act, what it [Aboriginal Self-Government] does is it perpetuates forever a form of apartheid and a form of colonialism where the different laws, different governments, only now it's natives who are giving the orders and doling out the welfare.157

Certainly, this kind of argument was a clear expression of the universalistic discourse and reflected most of the resistance to Aboriginal self-government put forward by non-Aboriginals.158 What was especially

158 At no point was such an argument put forward by an Aboriginal person in the transcripts.
striking was the way both Bliss and Johnson utilized inversion to undermine the group-difference discourse of which Aboriginal self-government was a reflection. By making a connection between Aboriginal self-government and apartheid, they were able to portray the group-difference discourse as a dangerous inversion to "pre"-liberalism. Bliss and Johnson depicted it as a throwback to an era when individuals were forced into group categories which subsequently restricted, constrained, and oppressed them. Thus, as a result of Aboriginal self-government, an Aboriginal person would be unable to express his or her full individuality. Consequently, the universalistic discourse portrayed itself as attempting to "save" the Aboriginal individual from being oppressively forced to express his or her political identities within this category.

While the universalistic discourse put forward several effective arguments, notions of partiality on the basis of Aboriginality nevertheless dominated the discussions surrounding Aboriginal self-government just as they did in the negotiations and the referendum campaign. The universalistic discourse resisted this partiality in several areas, but was unable to gain acceptance for impartiality. In chapter six, I move on to examine the implications of Aboriginal partiality in the context of the larger struggle between the universalistic and group difference discourses. I answer the question: to what extent does Aboriginal partiality represent a real counter-hegemonic challenge to the universalistic discourse?

C] GENDER EQUALITY IN THE SENATE

In this section, I explore the discourse surrounding the gender-equality provisions in the Charlottetown Accord. According to these
provisions, the Premiers would be in a position to institute rules guaranteeing gender equality for their province in the Senate if they so decided. Four provincial governments, Ontario, Nova Scotia, Saskatchewan, and British Columbia, had already expressed a desire to do this before the referendum campaign officially began. Interestingly, while there was a considerable amount of pre-referendum campaign debate on this issue, it was brought up only sporadically once the campaign began. Nevertheless, to the extent that it was discussed, it was far more likely to be criticized than supported and, as the campaign progressed, the media characterized the gender-equality provision as having been thoroughly rejected by the public. The CTV reported, "[Premier Harcourt's] suggestion that B.C.'s six Senate seat should be split by law between men and women brought a storm of protest", and the following statement was made on the CBC:

...then came Harcourt's announcement that voting 'YES' in the referendum would mean voting for a guarantee that half of B.C.'s Senators would be women. Again, criticism was swift and strong, and the Premier appeared to back off the Senate plan.

Thus, while criticism of the gender equality provision was frequent and harsh, instances of active support were rare and usually confined to women's groups like NAC and to several female politicians. Indeed, one of the few major discussions on gender equality in the Senate during the referendum campaign took place between Senator Pat Carney and Nova Scotia NDP leader Alexa McDonough. I focus my attention on excerpts

159 Section 23 (2) of the Charlottetown Accord states: "Subject to this Act, the legislature of any province or the legislative authority of any territory may provide for (b) any special measures to provide for equal representation of male and female persons..." Draft Legal Text, October 9, 1992.
from their discussion as it was characteristic of the larger discourse on this issue:

CARNEY: "I don't like it [the gender equality proposal] because I find the whole idea of quotas is repugnant to me, a quota system for women confines women, restricts women. It ensures that people think that women couldn't get there on their own and, you know, I've served as a member of parliament in the House of Commons. It never occurred to me that I was the woman MP or that, even sitting in the Senate that I'm the woman Senator."

MCDONOUGH: "[first]...surely what's unfair to women is to continue to have them severely under-represented. Secondly...there is a way to ensure that every voter has not one choice, not no choice, but actually two choices. They'll get to vote on two ballots. There'll be a ballot with the male candidate running, a ballot with the female candidates running."

CARNEY: "I think one of the biggest thrills in public life is the knowledge when the votes are counted that people voted for you...not your opponents, men or women and one of the aspects of that thrill is that you know you were chosen to represent them, everybody, not just men or women..."

MCDONOUGH: "But may I ask you, and I don't intend this to be disrespectful, do you actually think that the personal thrill of being chosen by men and women outstrips the right of women to have better representation in this country? I mean, surely it would be as thrilling to be elected as one of two candidates from your constituency, alongside a man who was elected, both being chosen by men and women?..."

CARNEY: "Well, the personal thrill is the foundation of our democracy, because our democracy is founded on freedom of choice, that the voter has the right to choose the best person...I personally wouldn't care to serve in a Senate where I had to run on the 'B' list. One thing that comes from that is the inference that women deal with so-called women's issues and men deal with the hard macho issues like finance. If I am running for the Senate, I
want to run as a British Columbian. I want to represent British
Columbia, men and women. I want to represent all of the various
ethnic communities in my province. I do not want to run, and I never
have run, as a woman.”162

These excerpts were interesting for several reasons. First, underlying the
gender equality provision, and McDonough’s support of it, was the
assumption that the Senators could not be completely impartial.
Otherwise, the fact that approximately eighty-seven percent of them were
male would have been irrelevant in terms of representation. It would not
really matter if most Senators were male if they had shown that they could
represent both genders impartially. Nevertheless, the gender equality
provision did not necessarily imply an extreme position on gender partiality
either. This was because the provision did not ensure that women would
be elected by women to represent only women. Second, for Carney, the
important question was whether or not gender should have been a relevant
category in the context of representation. She argued that instituting "...a
quota system for women confines women, restricts women." In this way,
she took the universalistic position of portraying the group-difference
discourse on partiality as a dangerous inversion to pre-liberal times. At the
same time, McDonough responded with the group-difference position by
implying that women are grouped, whether they liked it or not, as a result of
their extreme under-representation in the Senate. Thus, she brought the
issue of power relations into the discussion over representation; the
purpose of the gender equality provision in the Senate was to change
these power relations so as to make the grouping of women unnecessary
in the future.

Third, on the one hand, Carney was adamant about not limiting the scope of her potential electoral success. She could only respect herself as a politician if she had an opportunity to run against the "best person" and the voter, in turn, deserved this kind of contest. On the other hand, she was willing to limit herself, as well as the voters, on the basis of her provincial status. She says, "I want to run as a British Columbian. I want to represent British Columbia, men and women." However, as a candidate for a British Columbian seat in the Senate, Carney only had the opportunity to run against a small part of the Canadian population. In other words, she would not necessarily have been able to run against "the best" in the larger Canadian context. Nor would British Columbian voters have had an opportunity to vote for "the best". So, while she was fiercely opposed to quotas on the basis of gender, she took for granted provincial quotas in the Senate.

A similar point was made in the following statement by June Callwood, novelist and Co-Chair of the YES Committee:

I'm somewhat uneasy about all this pressure for gender equality, which deals only with genitalia and not with content. I've known some anti-feminist women, lots of them, and I've known some really fine pro-feminist men. There's something simplistic about thinking that one's gender defines character...I've always found my provincial government is more responsive than the federal government it's closer to the people, closer to the issues of the communities in which I live.\(^\text{163}\)

This represented another strong criticism of the group-difference discourse. Like Carney, Callwood was willing, even eager, to place herself within a

provincial category. At the same time, however, she was "somewhat uneasy" about doing the same thing on the basis of gender.

While many women attacked the gender-equality provisions, Judy Rebick was one of very few people cited in the referendum transcripts who supported gender equality in the Senate on the basis of a partial view of gender representation. Another exception was Lillian Allen, the dub poet quoted in chapter three. She stated:

If we're reforming the Senate...why don't we do it properly? Why don't we do it right? Why don't we ensure representation of women? Why don't we ensure representation that will reflect the diversity of Canadian society? Why don't we include people from the various communities, the Black communities, the Asian communities, and all the people that have been presenting their views? The document is based on exclusion and the time has come for us to reject exclusion...164

Here, Allen is demanding partiality on the basis of gender and race. If a particular group was not explicitly represented in the Senate (i.e. women representing women), then "the document is based on exclusion". This was an example of an extreme position of partial representation. What is notable, however, is that it was rarely expressed in the referendum transcripts.

D) "OTHER" CATEGORIZATIONS

As in the negotiations and the campaign, the Charlottetown provisions were derived from extremely impartial assumptions regarding representation on the basis of "other" categories. That is, there was little mention of categories such as (dis-)ability, age, ethnicity, sexual orientation, education, religion, and class in the context of

representation.165 The Charlottetown provisions did not design or modify any of the major representative bodies such as the Senate or the House of Commons with any of these categories in mind. Perhaps even more important, with the exception of the comments made by Lillian Allen, there was virtually no resistance to this during the referendum campaign. Thus, impartiality on the basis of "other" categories was taken for granted.

**E] CONCLUSION**

Had the Charlottetown Accord passed, it would have altered several of Canada's most important democratic institutions. In doing so, it would have perpetuated the expression of provincial partiality, increased the potential for language-based partiality, and allowed for the expression of an extreme form of Aboriginal partiality. At the same time, it would have put in place provisions allowing for the expression of gender partiality in the Senate. However, in terms of "other" categories, only impartiality was evident in the provisions and the discussions surrounding them. With my discourse analysis now complete, I shift to an analysis of the findings in the final chapter.

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165 Certainly, some of these categories were mentioned in the Canada Clause.
CHAPTER 6: ANALYSIS

I began this study by building an analytical framework based on the Gramscian concepts of hegemony and counter-hegemony, and I conclude by examining the findings with these concepts in mind. First, I summarize and consolidate the findings for each category by incorporating them into the two continua developed in chapter 2. I follow this with a discussion of the hegemonic and counter-hegemonic implications of these findings, with particular emphasis on provincial and Aboriginal partiality. Finally, I examine the main strategies which the universalistic and group-difference discourses use to undermine one another.

A] LOCATING THE CATEGORIES ON THE CONTINUA

It is appropriate to begin by consolidating the results of the discourse analysis in order to integrate them into the two continua set out in chapter two. To reiterate, I use the first continuum to evaluate each category (i.e. province, gender, ethnicity, etc.) according to whether referendum actors portrayed it in an impartial or partial manner in the referendum transcripts. That is, what assumptions did referendum actors make about each category in the context of the negotiation process, the referendum campaign, and the Charlottetown provisions? I use the second continuum to evaluate the degree to which the location of a particular category on the first continuum was a matter of struggle and resistance. In other words, did referendum actors take for granted the location of a category (whether legitimately impartial or partial) in the referendum transcripts, or did they resist it? In this way, I distinguish between those categories whose position was portrayed as more or less natural and static and those categories whose position involved some degree of struggle.
Since I have examined three very different contexts in this study: the negotiations, the referendum campaign, and the provisions, a brief methodological statement is in order before completing these continua. Referendum actors made varying assumptions of (im-)partiality in each of these three contexts. For example, their assumptions of partiality were most evident in the campaign and least evident surrounding the negotiations. These differences are partly a result of the greater number of institutional barriers to partiality in the negotiations as compared with the campaign. In addition, whereas many conventions had developed around constitutional negotiations, fewer conventions existed for referenda. The result is that the referendum campaign was more flexible where the portrayal of (im-)partiality was concerned. Despite these differences, however, what is significant is that each context reflected remarkably similar patterns of (im-)partiality for the various categories. Thus, I am able to take a rough average of these assumptions of (im-)partiality across the three contexts. What is especially important, then, is not so much where each category is located on the continua, but rather where it is located in relation to the other categories.

1. Province

In designing this study, I could have taken federalism for granted by simply acknowledging that Canada is a federal society; I could have then put federalism aside with the aim of concentrating on other categories, such as Aboriginality, gender, or ethnicity. However, instead of sequestering federalism from other categories on the basis that federalism is a Canadian reality, I compared and contrasted the main categories within federalism (i.e. province, region, and language) on the same terms as other
categories. In other words, I attempted to "level the playing field" where federalism was concerned.

Having said this, from the perspective of this "level playing field", the fact that referendum actors assumed so much provincial partiality in the referendum discourse is quite striking; Charlottetown had a thoroughly provincialized flavour to it, and this provincialism prevailed throughout the transcripts. Still, although it was pervasive and striking, it is clear that provincial partiality was not extreme. Instead, referendum actors assumed a moderate brand of provincial partiality in the sense that they often balanced or intermingled it with impartiality as well. In other words, most Canadian voices had both provincial and pan-Canadian components to them, and most referendum actors appeared comfortable with that balance. This comfort level meant that referendum actors did not resist provincial partiality very much; rather, they portrayed it as a natural feature of the Canadian way of "doing politics". Therefore, to resist or challenge provincial partiality was to misunderstand the Canadian way. It was to impose upon Canada a construct which was foreign and unsuited to it. Of course, this is not to say that provincial partiality had always been depicted in this manner, but merely that it had reached this stage at Charlottetown. Nor is it to suggest that the extent of the partiality which referendum actors expressed was not challenged at all, only that a certain amount of provincial partiality was a given. Thus, as a result of the moderate but comprehensive degree of provincial partiality and the minimal resistance to it, I place the provincial category near the bottom-right quadrant of the chart (See chart 2).
2. Regional

The expression of regional partiality was also fairly common during the campaign. For the most part, however, regional partiality was usually overshadowed and smothered by expressions of provincial partiality. Still, to the extent that regional partiality was expressed, it met with very little resistance in the transcripts. For these reasons, I place the regional category to the left of the provincial category on the chart.

3. Language and Quebec

Like provincial partiality, language-based partiality pervaded most elements of Charlottetown. However, it was far more extreme than provincial partiality and it was also the target of extensive struggle and resistance from those putting forward a universalistic perspective. Language partiality was more extreme in the sense that it was less likely to be balanced by strong notions of impartiality, but language was not
completely partial. In addition, while referendum actors resisted it more than provincial partiality, they did this only to the extent that Quebec's exercise of language-based partiality overstepped the bounds of partiality which other provinces traditionally exercised. Referendum actors thus heavily debated demands for extreme language-based partiality. For these reasons, I place language toward the top-right corner of the chart.

4. Aboriginality

While language-based partiality was extreme, partiality on the basis of Aboriginality was near-complete. Certainly, it was the most absolute form of partiality expressed of any category in the referendum transcripts. There can be little doubt that this represented a dramatic shift, or at least the culmination of a such a shift, in the way Canadian political discourse conceived of Aboriginality and representation. For the first time, Canadians accepted the inherent right of Aboriginal people to self-government, acknowledging that past practices of impartiality were directly implicated in the relations of power and dominance that led to the historical oppression of Aboriginal peoples in Canada. Therefore, the development of Aboriginal partiality was the beginning of a form of liberation from that oppression, a means of empowerment. And, the degree to which both Aboriginals and non-Aboriginals welcomed and celebrated the exercise of Aboriginal partiality was quite remarkable. In fact, a number of commentators observed with surprise the degree of support Canadians gave to this issue. Still, while Aboriginal peoples supported partiality almost entirely, and while non-Aboriginals supported it for the most part, there were several small but powerful pockets that resisted it as well. As a result, I place Aboriginality to the right of the language category on the continuum.

5. Intra-Aboriginal
Beyond Aboriginal partiality, several referendum actors expressed intra-Aboriginal partiality as well, especially where Aboriginality and gender were concerned. However, these expressions were most often a reaction to the universalism and impartiality which many referendum actors from the larger Aboriginal community exhibited. For example, several Aboriginal communities and groups challenged Ovide Mercredi because he attempted to incorporate them within his scope of representation. Thus, while expressions of intra-Aboriginal partiality were not as strong as Aboriginal partiality, there was considerable resistance to it amongst many Aboriginal people. For this reason, I place intra-Aboriginal partiality toward the top of the resistance continuum and just right-of-centre on the (im-)partiality continuum.

6. Gender

In most respects, referendum actors made fairly strong assumptions of gender impartiality in the transcripts. Still, several of them expressed powerful resistance to this impartiality, favouring gender-based partiality instead. The provision allowing for guaranteed gender-equality in the Senate, despite its dramatic rejection, evolved out of a gender-partial vision. Thus, gender was clearly one of the major sites of struggle over representation in the referendum transcripts. For this reason, I place gender toward the top of the resistance continuum and just to the left-of-centre on the (im-)partiality continuum.

7. "Other" Categorizations:

While there were some emerging assumptions of partiality on the basis of gender, no such assumptions were evident in terms of sexual orientation, ethnicity, (dis-)ability, age, class, and education. To varying degrees, referendum actors portrayed all of these categories as extremely
legitimate bases for impartiality, because none were politically relevant where representation was concerned. Virtually all aspects of Charlottetown reflected this, and what is perhaps even more important is that most referendum actors did not express any misgivings about the existence of this type of impartiality. Those who did resist were merely faint sparks in a sea of impartiality which most referendum actors accepted as commonsensical and natural. Thus, I place the entire "other" category in the bottom left-hand corner of the Chart.

B) HEGEMONIC IMPLICATIONS

With the continuum complete, it is now feasible to analyze the findings of this study in the context of the theory of hegemony outlined in chapter two. To reiterate, a set of ideas, rules, and norms are hegemonic when the people over whom they operate give their consent to them. My aim in this study has been to show the nature of these hegemonic ideas as they pertain to political representation. I utilized the concept of (im-)partiality as a tool to enable me to understand what are in reality a complex and diverse range of phenomena. By examining the assumptions that were made about (im-)partiality, I was able to show how I could conceive of the struggle between the universalistic and group-difference discourses in hegemonic terms.

The universalistic discourse was hegemonic in the referendum transcripts because referendum actors broadly and comprehensively consented to notions of universalism rather than of group-difference. Universalistic assumptions of representation were deeply ingrained in the processes, activities, and behaviours of Canadian political institutions and actors, so much so that their existence remained unquestioned and
unchallenged by most people most of the time. Thus, it was the taken-for-grantedness of the universal discourse that reinforced its hegemony. Certainly, the universalistic discourse was not completely hegemonic in the referendum discourse, because counter-hegemonic resistance in the form of the group-difference discourse had a significant presence as well. Nevertheless, the universalistic discourse was stronger because the assumptions on which it was based clearly prevailed over group-difference assumptions in the active struggle over consent which took place.

The universalistic discourse, and not the group-difference discourse, was hegemonic in spite of the assumptions of provincial, regional, language, and Aboriginal partiality that were so widespread in the referendum transcripts. How is this possible? To begin with, the universalistic discourse has no fundamental objection to the territorialization of individuals when it comes to representation. Quite the contrary, virtually every manifestation of universalism is limited to some extent by a territorial boundary which defines which individuals exist within it and which individuals do not. For example, it is usually the case that only those living within a country are allowed to participate in what may otherwise be a universalized system of representation. However, it would be considered strange, even outlandish, to portray such a country's system of representation as rooted in partiality. It is taken for granted that universal notions of representation, where they do exist, are limited to such national boundaries.

In terms of the referendum discourse, the provinces were constructed as political universes in their own right. Canadians were not just Canadian citizens, but provincial citizens as well. As such, it was entirely natural and legitimate for political representation to be limited to
individuals residing within the borders of a particular province. This is the reason why strong assumptions of provincial partiality were justified and taken for granted during the referendum. Viewed in this light, referendum actors did not see provincial partiality as partiality at all in much the same way that Canada does not see itself as partial when it resists American influence. This is simply a matter of territorial common sense. Provinces were not just groups or interests. Rather, they were discrete entities, "Small Worlds" existing within the larger Canadian political universe, which in turn existed within a still larger political universe, and so on.

This portrayal explains how it was possible that referendum actors criticized gender, language, or other forms of partiality, while at the same time taking provincial partiality for granted. It explains how Pat Carney, Gordon Wilson, and Preston Manning were able to assert their demands for universal notions of representation, while failing to question their own assumptions of provincial partiality. They spoke of the representational equality of all Canadians on the basis of race and gender, yet they asserted the need for equality of the provinces at the same time. While they believed that representation must be blind to race and gender, they also presumed individuals were "equal" according to, and based on, their provincial status. Thus, they gave equal treatment to the provinces and not to individuals. For example, equal provincial representation in the Senate is much different from representation by population where individuals receive equal political weight. Thus, provincial representation rested on completely different assumptions than those put forward by the group-difference discourse in the referendum transcripts.

At least this was the portrayal. But there was nothing natural about this portrayal. The depiction of the provinces as political universes was a
discursive construction, and the incorporation of provincial partiality into the universal discourse a historical condition. There were no innate differences between provincial partiality and other forms of partiality. Rather, such distinctions were constructed. They were constructed through practice, through the development of customs, and the operation of institutions. They were fabricated by people through the evolution of norms and belief-systems, through the creation of a political logic, and the unfolding of political and social "truths".

These truths unfolded within the context of relations of power. As a result, they privileged some struggles while marginalizing others. They ensured that some sources of identity, culture, and oppression were granted institutional expression while others were silenced and steered toward the political periphery. This is why I refused to take federalism for granted. To do so would have been to reinforce its privileged status as a relevant mode, in fact the relevant mode, of political struggle in Canada. Instead, I have attempted to break down the artificial distinctions that have been constructed between federalism and non-territorial categorizations.

Due to the existence of this construct, the universalistic discourse was hegemonic despite such deeply-entrenched provincial partiality. Territorial categorizations were seen as legitimate within the universalistic framework whereas non-territorial categorizations were not. Provincial partiality did not weaken the universalistic discourse in the counter-hegemonic sense, it operated within it. It was not counter-hegemonic because it did not and could not resist the constructed reality. On the contrary, provincial partiality was itself integral to the continued operation of that reality.
Aside from provincial partiality, I have also demonstrated that language-based partiality was expressed in the transcripts. This was counter-hegemonic to the extent that it spilled over the traditional bounds of provincial partiality. In other words, demands for a certain degree of Francophone partiality were viewed as legitimate since Quebec, like all provinces, was expected to express some element of partiality. This was reflected in comments like "Quebec may be distinct or special, but so are we (i.e. Alberta or British Columbia)". Thus, the existence of language-based partiality was not, in itself, counter-hegemonic. Only when it extended beyond the partiality which other provinces were supposed to exercise did language-based partiality have counter-hegemonic implications. A limited degree of language-based partiality was acceptable and legitimate within the universalistic discourse as long as it was suitably disguised under the banner of provincial or Quebec partiality. Clearly, Quebec's demands for partiality made such a disguise impossible. This explains why the issue of Quebec partiality was so volatile in the referendum transcripts. Quebec partiality undermined the prevailing notion of a Canada based on ten "Small Worlds", and attempted to replace it with a Canada encompassing two language-based nations.

While many referendum actors resisted language-based partiality in the referendum transcripts, most of them consented to expressions of Aboriginal partiality. The question is, to what extent does this partiality represent a major threat to the universalistic discourse? Or, to what extent is it really counter-hegemonic? The answer is that whether or not Aboriginal partiality is counter-hegemonic depends on the way in which future Canadian political discourse constructs Aboriginal peoples as political entities, and how it defines Aboriginal relationships with other
Canadians. Of course, it is impossible to predict this outcome until institutional measures are developed which allow for the expression of Aboriginal partiality, such as Aboriginal self-government. Nevertheless, this relationship is likely to take one of two major paths, each having very different implications for the universal discourse.

First, future Canadian political discourse could portray Aboriginal peoples as a collective "other" in the sense of representing a distinct polity, just as if they were provinces or nations. In this way, as First Nations people Aboriginals would form their own political universe or set of universes. It is likely that Aboriginal partiality was accepted by referendum actors with this first path in mind. Aboriginal self-government would become integrated into an existing system which already allows for the expression of provincial and language-based partiality. This path would have little counter-hegemonic impact since the universalistic discourse would be able to appropriate Aboriginal partiality within itself, just as it now appropriates provincial partiality.

A second path would ensue if the actual exercise of Aboriginal partiality did not result in the creation of separate Aboriginal nations, but instead involved the expression of Aboriginal partiality within current notions of the Canadian polity. Here, Aboriginals would express a less extreme, but nevertheless partial, vision while living amongst other Canadians. In this case, Aboriginal partiality would represent a major anomaly for the universalistic discourse which would be less able to account for it. This is because, while Aboriginal partiality is easily justified within the context of nation status, it is far more difficult to justify it when it is expressed by a group of citizens within a nation.
If the first path materializes, it is unlikely that Aboriginal partiality would diffuse itself to other categories such as gender, ethnicity, or class, since these would be characterized in very different terms. In other words, none of these other categories are ever going to express their own partiality through distinct levels of government as Aboriginals would. For this reason, the first path is unlikely to have counter-hegemonic outcomes.\(^\text{166}\) It is precisely for this reason that the universalistic discourse will attempt to ensure that this path is followed, to construct Aboriginals as "others", so that it can incorporate Aboriginal partiality into its own logic without weakening its hegemonic position.

However, the second path is a more probable outcome than the first since the creation of Aboriginal peoples as a separate territorial "other" is unlikely given the non-territorial flavour of Aboriginal partiality. Aboriginal people will have to express their partiality, to a considerable degree, within communities which are often shared with non-Aboriginals. In addition, Aboriginal people themselves are an extremely heterogeneous group; thus, they are unlikely to allow themselves to be placed within a single, homogeneous entity such as an Aboriginal "nation". For these reasons, one truly separate and distinct nation is unlikely to develop.

If the second path does materialize the counter-hegemonic implications would be profound. Here, Aboriginal partiality would represent a major aberration within the operation of the universalistic discourse and would thus place the entire foundation of that discourse in question. The legitimation of Aboriginal partiality would serve to challenge the existence of impartiality for other categories such as gender or ethnicity. Aboriginal

\(^{166}\text{Note that, for the same reason, language-based partiality will not have very important counter-hegemonic implications since its expression is generally confined to the territory of Quebec, and is easily integrated into a nation-status.}\)
partiality could potentially devastate the universalistic discourse by causing similar notions of partiality to spread to other non-territorial categories. Since the distinction between Aboriginal partiality and other forms of partiality would not be as strong if this second path were taken, the diffusion of partiality would be more likely to occur throughout the Canadian polity. This diffusion would almost certainly begin with gender since gender partiality was already emerging in the transcripts. In turn, gender partiality would encourage other forms of partiality to develop.

C) STRATEGIES: INVERSION AND ANOMALY

Whether or not this diffusion of partiality occurs also depends, to a considerable degree, on the future struggles between the universalistic and group-difference discourses and, in particular, on the strategies which each uses to undermine the other. For this reason, it is appropriate to conclude with an examination of these strategies. The universalistic discourse portrays itself as representing an emancipatory project grounded in the elimination of all group-based categories since such categories inevitably constrain and oppress individuals; hence, it is blind to group-based categories.167 At the same time, it portrays the group-difference discourse as representing a potentially dangerous inversion to a pre-liberal (i.e. feudal or apartheid-style) society. The group-difference discourse is a backward step, an inversion of the universalistic discourse. This is because the universalistic discourse was itself once counter-hegemonic: it struggled against political systems where individuals were essentially slotted for life into a definitive position in the hierarchy of power as a result of being born into certain groups. The universal discourse resisted this

167As I have shown, territorially-defined categories are usually exempt from this belief.
system, and eventually overcame it by demanding that individuals no
longer be categorized in this way. Given this context, the universal
discourse undermines the difference discourse by portraying it as
equivalent to these hierarchic systems of the past, as a return to a time
when individuals were explicitly and officially unequal. As Bruce Lincoln so
eloquently puts it: "To be sure, it is a powerful act to turn the world upside
down, but a simple 180-degree rotation is not difficult to undo. An order
twice inverted is an order restored, perhaps even strengthened as a result
of the exercise."\(^{168}\) It is precisely this kind of restoration that the group-
difference discourse is accused of undertaking. The use of inversion in this
way by the universalistic discourse has indisputable discursive potential.

The group-difference discourse also has a powerful discursive
strategy. According to the universalistic discourse, all individuals are
viewed as politically equivalent and hence uncategorizable -- at least in
theory. However, the group-difference discourse points to a major
anomaly in the operation of the universalistic discourse in practice. For, in
practice, many individuals continue to occupy a disadvantaged position in
the social and political hierarchy depending, to a considerable extent, on
their gender, race, sexual orientation, and so on. Framed in this way, the
group-difference discourse does not instigate the categorization of
individuals. Instead, it reacts to a reality where individuals are already
categorized. The group-difference discourse prompts the question: if
individuals are supposed to remain uncategorized, why is it that political
representatives are consistently drawn from an extraordinarily small
segment of the population? In addition, it points out that those groups
which are consistently underrepresented are virtually always the most

\(^{168}\)Lincoln, 159.
marginalized and oppressed groups in society. The notion of the universalistic individual is thus portrayed as a front for an individual who is white, male, heterosexual, middle-class, educated, and able-bodied. Although the universalistic discourse is rooted in an impartial notion of representation in theory, in practice, men are shown speaking for women, middle class people for poor people, white people for people of colour, and so on. The group-difference discourse is able to show that impartiality is one of the tools with which the ruling class maintains its privilege and, in this way, it implicates the universalistic discourse. Thus, the group-difference discourse uses the strategy to great effect in the context of Aboriginal representation and, to a lesser extent, with gender representation.

In examining the strategy of anomaly, the underlying justification for the group-difference discourse becomes clear: its demands for partiality are based on the premise that real impartiality is impossible as long as relations of power and dominance are group-based. This is because such relations inevitably manipulate and distort the ability of people to act with real empathy for one another. This is critical because it demonstrates that the group-difference discourse does not assume the existence of inherent and intrinsic differences between people, that is, it is not a post-modern discourse. Nor does it accept the relativism which inevitably springs from such assumptions.

This explains how it is possible for referendum actors such as Ovide Mercredi to demand Aboriginal partiality on the one hand, but resist similar demands for gender partiality from Aboriginal women on the other hand. If Mercredi were acting on post-modern assumptions, he would clearly be contradicting himself. By stifling demands for partiality which Aboriginal
women put forward, he would inevitably be undermining his own demands for Aboriginal partiality. After all, why would he acknowledge the need for partiality in one context and not in another? However, since Mercredi is not post-modern, this contradiction vanishes; instead, his actions are consistent with his own location within existing relations of power and domination. Where he is a member of an oppressed group (i.e. Aboriginals), Mercredi demands to express partiality; where he is himself a member of a ruling group (i.e. men), Mercredi refuses similar demands for partiality put forward by women.

Thus, the purpose of the group-difference discourse is to ensure that partial representation is exercised wherever power and domination are likely to distort attempts at impartiality. The question then becomes: is the group-difference discourse inherently an oppositional discourse? Must it always be counter-hegemonic to the extent that its fundamental purpose is to enable groups to overcome dominance and oppression? At first, it appears that the answer can only be yes. However, it is possible to imagine the group-difference discourse in a hegemonic position where it has gained consent for the following principle: whenever some groups in society are oppressed, these groups must be given an opportunity to express their political vision in an explicitly partial manner within democratic institutions. This mechanism would be continually renewed and updated as relations of power and domination evolved or were modified. In this way, the entire system of democratic representation would be politicized. In addition, this principle would need to be hegemonic, in the sense of operating with the consent of the people. However, at the same time, the principle would carry with it powerful counter-hegemonic implications because its fundamental purpose would be to struggle against other
hegemonic ideas, rules, and norms which sustain relations of power and domination.

In conclusion, the future of the hegemonic struggle over representation largely depends on the way in which the strategies of inversion and anomaly are played out. Thus, the universal discourse will continue to draw comparisons between the group-difference discourse and apartheid and the group-difference discourse will continue to depict impartiality as a cover for domination and oppression. The outcome of this hegemonic struggle over representation will likely rest on the future ability of the competing discourses to use these strategies and to develop others. Such outcomes are critical because the direction this struggle takes will have enormous implications for the future of Canadian democracy.
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