

Jefferson in Montreal: The Unusual Intervention of a Long-Deceased American President into the Debate over Québec's Charter of Values

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The last Québec election campaign featured an interesting (if unusual) injection of a long-dead American president into the heated public-policy debate over the Parti québécois's proposed "charter of values," which if adopted would have imposed certain restrictions on the manner in which civil servants and some others would be permitted to give symbolic expression to their religious convictions while functioning in the public sphere. The president was Thomas Jefferson, and his involvement in the contemporary domestic political arena was invoked by two Québec cabinet ministers, Bernard Drainville and Jean-François Lisée, in late 2013. They sought to rebut allegations that the proposed charter represented a retrograde and anti-democratic attack upon civil liberties; to do so, they invoked the author of the Declaration of Independence and a major source of inspiration for the Bill of Rights. This article assesses the Drainville-Lisée thesis by examining what American scholars have claimed about Jefferson's famous metaphorical wall. It concludes that Jefferson, were he alive today, would likely have opposed rather than favored the charter.

Avant l'élection de 2014, la politique québécoise a été le théâtre d'une intervention plutôt inusitée d'un président américain revenu d'entre les morts pour prendre part au débat politique sur "la charte des valeurs" proposée par le gouvernement du Parti québécois. Si elle avait été adoptée, la charte aurait imposé certaines restrictions à la manière dont les employés de l'État québécois peuvent afficher leurs convictions religieuses dans l'exercice de leurs fonctions. Thomas Jefferson a été invoqué publiquement dans à l'automne 2013 par deux ministres importants, Bernard Drainville et Jean-François Lisée. Dans le but de réfuter certaines allégations selon lesquelles la charte représentait un affront rétrograde et antidémocratique aux libertés civiles, ils ont appelé à la barre des témoins l'auteur de la Déclaration d'Indépendance et inspirateur du Bill of

Rights. Le présent article évalue la thèse présentée par Lisée et Drainville en examinant attentivement ce que les spécialistes de la pensée jeffersonienne ont affirmé à propos du sens qu'on peut attribuer à cette fameuse métaphore du "mur." Cette analyse nous porte à conclure que si Jefferson était parmi nous aujourd'hui, il aurait pu s'exprimer sur la charte des valeurs, mais probablement pas dans le sens souhaité par Lisée et Drainville.

Introduction

Although it is hardly unusual for sitting American presidents to animate lively discussions pertaining to Canada's and Québec's public policy agenda, it is certainly less common to witness a long-dead chief executive conscripted by both sides in a provincial contestation of great policy import. Yet this is precisely what occurred during the run-up to the most recent provincial election, which took place in early April 2014 and brought to power a majority Liberal government headed by Philippe Couillard. The former government, headed by Pauline Marois of the Parti Québécois, had gambled, in the year leading up to the election, that there would be great electoral advantage if it could successively appeal to what had been an ongoing public discussion regarding Quebecers' "identity." Specifically, the PQ pinned its hopes upon the introduction of a "charter of values" that, should it be returned to power in the upcoming election, it could proceed to enshrine in legislation.

The charter debate made its entrance into the domestic political arena on 10 September 2013, with the introduction of a bill that took aim at religious accommodations being extended to government workers, with the rationale that such accommodations constituted an affront to the secular principle undergirding democratic governance. Most significantly, the measure at the time of its tabling sought to prohibit government employees from wearing overt religious symbols in the workplace, though some government entities would have been exempted from the new legislation for a five-year period and elected members of the provincial legislature (the Assemblée nationale) would be wholly exempt from the charter's restrictions. Additionally, the measure would leave untouched tax exemptions for religious buildings, subsidies to parochial and religious private schools, the offering of prayers to open meetings of city councils, as well as those

“religious symbols and elements considered ‘emblematic of Québec’s cultural heritage’” (CBC News 2013).¹ Two months later, though, the PQ made the proposed legislation more restrictive, when on 11 November it removed the five-year exemption in favor of limited transition periods and required that government contractors also comply with the charter’s provisions (Laframboise 2013).

During the period of its tabling and subsequent tightening, the proposed charter legislation seemed to be a winning issue for the coming election campaign, even if some doubts were being expressed by observers who thought the PQ was overestimating the charter’s appeal to voters (for one such note of skepticism see Martin 2013). The doubters, however, were in the minority at the time, and even as late as February 2014, a few months before the party’s humbling in the balloting of 7 April, it was still possible for analysts to descry a pot of gold at the end of the PQ’s rainbow (Woods 2014). We now realize how dreadfully wrong such expectations of a PQ majority were,² and while its stunning loss to the Liberals almost certainly owed much more to an ill-considered decision to rekindle thoughts of another sovereignty referendum than it did to backlash against the charter, there was nevertheless growing controversy associated with the latter the nearer that election drew. In this context, critics and defenders alike found it useful to shelter under a Jeffersonian mantle, as if it were self-evident how Jefferson himself would have regarded the controversy. But it was far from obvious what the third president would have made of the ruckus because his views on the separation of church and state were themselves nothing if not complicated, and in America itself they have been a matter of much disagreement among the scholars for some time.

Our purpose is to shed some light on the matter of which side of the Québec *Kulturkampf* contestation possessed a more legitimate claim to be regarded as Jefferson’s true heirs. Was it the charter proponents, who styled the occasion as Québec’s “Jeffersonian moment”? Or was it their opponents, who insisted that, far from strengthening Jefferson’s metaphorical “wall of separation between church and state,” the charter fundamentally contradicted Jefferson’s principles, by sanctioning state interference in the private beliefs of individuals?

In what follows, we begin by noting how surprising Jefferson’s participation in the debate actually was because, for the most part,

whenever non-Americans (not just in the Francophone trans-Atlantic community but elsewhere) invoke United States presidents to make a point about contemporary policy matters, it is *foreign* (not domestic) affairs that serve as the context of the invocation. This, however, has not been the case with the most recent appearance of Thomas Jefferson in the contemporary policy arena, an argument developed in the section immediately below. In this article's third section, we examine the terms and stakes of the charter debate, setting out the respective positions and their contrasting usages of Thomas Jefferson. Following that, we turn to an exploration, of what it is that American historians and political scientists believe Jefferson actually *did* have in mind when he contemplated the linkages between religious and political liberty. Finally, we conclude by stating which protagonists in this dispute might most legitimately don the Jeffersonian mantle.

From James Ivory to the ivory tower ... and beyond

As noted, it is not unheard of for deceased American chief executives to continue to stimulate debates about various aspects of public policy for obvious reasons, decades and sometimes even centuries after they have passed from the scene. Nor is it unheard of for debates involving dead presidents to have echoes beyond America's political and cultural borders, even if it is true that it will be at home rather than abroad that presidential legacies continue to generate the most frequent discussions and to spark the greatest controversies. One such enduring policy legacy has been that of America's third president, Thomas Jefferson, who continues to stimulate controversy in the U.S., mostly in respect to foreign policy, concerning which the eponym "Jeffersonianism" is invoked as a useful symbolic referent for contemporary scholarly disputes – for instance disputes related to the Obama "doctrine," held by more than a few observers to be fundamentally Jeffersonian (i.e. self-constrained) in inspiration (explicitly in Aziz and Haglund 2014 and implicitly in Joffe 2014; the locus classicus for the eponym is Mead 2001; see also Tucker and Hendrickson 1990).

This is not to say that Jefferson never gets invoked for reasons related to *domestic* instead of foreign policy. He has, of course, been so invoked – illustratively for our purposes in the 1995 James Ivory film, *Jefferson in Paris*, in which an important plotline concerned miscegenation,

as portrayed through the protagonist's intimate relationship with his slave, Sally Hemings. We say "illustratively" because it is from this film that we take, *mutatis mutandis*, the title of our article, evidence that the Jefferson motif speaks to a recurring interest within that ideational precinct of the trans-Atlantic policy community that Justin Massie (2013) has suggestively labelled the "Francosphere." To say again, that interest has usually been focused upon foreign policy and diplomatic relations, best exemplified by Claude Fohlen's *Jefferson à Paris*, published in France shortly after the Ivory film premiered at the 1995 Cannes Film Festival.

Fohlen lamented that it seemed to require a motion picture to remind French audiences of what they should *never* have forgotten, namely the seminal part that Thomas Jefferson had played in fostering the diplomatic relationship between France and the United States. For Jefferson, while serving both as American ambassador to Paris between 1784 and 1789 and as chief executive from 1801 to 1809, was (or so Fohlen claimed) France's most constant diplomatic champion throughout the trans-Atlantic world. (The claim has sometimes been made in the U.S. as well, most notably in Minnigerode 1928.) Yet, distressingly, Paris seemed to have forgotten its onetime resident and great friend. While the city's streets and other public spaces preserve the memory of such vanished American political luminaries as Benjamin Franklin, George Washington, Abraham Lincoln, Woodrow Wilson, Franklin D. Roosevelt, Dwight David Eisenhower, and John F. Kennedy, there is no similar homage to America's third president. "Jefferson n'a même pas droit à une mention," complained Fohlen. "Son nom est ignoré" even though one might think that France, which sees itself as the birthplace of the rights of man, would spare some commemorative energies for the intellectual progenitor of the U.S. Bill of Rights. This was especially so, continued Fohlen, given the steadfastness of Jefferson's defense of France and French interests (13–15).³

The French are hardly the only non-Americans to name public places after American presidents, or to engage in debates over particular administrations' meaning for their own interests. Canadians, too, have done both, and indeed have engaged in deep discussion regarding the impact of certain presidents upon their own "national" interest, even during the lifetimes of the president in question. But as hinted above, their doing so has almost always been inspired by concerns about

foreign rather than domestic policy. Sometimes the focus comes close to fawning – as perhaps was the case most famously with Canadians’ collective assessment of Franklin D. Roosevelt – considered by one writer to have been “a gem for Canada” Martin 1983, 8) – but it is not unknown for other, less flattering, assessments to be on offer, more redolent (in keeping with this mineralogical trope) of lumps of coal than of precious stones. In this latter regard, two presidents in particular have been subject of Canadians’ greatest disapprobation: James Madison, in office at the time of the War of 1812, and George W. Bush (Adams 2005). Quebecers’ emotions were so singularly aroused by the latter’s foreign policy that it was not uncommon, a decade or so ago, to hear it being said that their province had become a very “anti-American” piece of real estate, at a time when throughout the trans-Atlantic world there was a growing worry about the spread of what one writer called “friendly fire anti-Americanism” (Sweig 2006; on Québec and anti-Americanism in the George W. Bush years see Haglund and Massie 2009).

Thus it comes as something of a surprise to contemplate the way in which Thomas Jefferson made his own recent, if forced, march into policy discussions in Québec, and this, for two reasons. The first surprising element is actually refreshing, and it certainly contradicts the image of Québec as a supposedly anti-American place, for whereas George W. Bush may have been widely regarded in the province as Satan’s helper, Thomas Jefferson has been affectionately (if controversially) placed on the side of the angels, invoked as a “role model” able to offer, from the grave, invaluable counsel to Quebecers as they confronted the need to make an agonizing public policy choice. The second surprising element, of course, is that the choice being confronted involved profound matters of *domestic* not foreign policy. Almost out of the blue, Jefferson would briefly become a central player in the controversy surrounding the charter of values that the Parti Québécois proposed to elevate from the realm of aspiration to that of legislation.

Malgré lui: Jefferson barges into the Québec debate

On 12 November 2013, Martin Patriquin, *Maclean’s* Québec bureau chief, opened a second front in the culture war that had broken out

over the PQ's secular charter of values. Writing in the *New York Times*, Patriquin denounced the introduction of the charter as a cynical ploy by the PQ to exploit what were often taken to be the anti-immigrant leanings of its Francophone base, so as to increase its likelihood of forming a majority government after the next provincial election, expected to be held sometime in the first half of 2014. As we noted earlier, it was widely thought that this might be a winning strategy, not only elevating the PQ government from its minority status, but perhaps even giving a fillip to the stalled momentum for sovereignty. Patriquin did not appreciate the maneuver, seeing in it the kind of disreputable populist demagoguery so often associated with America's Tea Party phenomenon.

The battle was quickly joined, with two of the charter's leading enthusiasts taking their case to the very same newspaper, in a bid to distance it, themselves, and the PQ from the taint of being closet right-wingers – and even worse, Tea Partiers! In doing so, these two policy advocates, Bernard Drainville and Jean-François Lisée (Québec's cabinet ministers responsible, respectively, for issues of citizenship and of international relations), introduced a different American analogy, placing matters squarely in the lap of a much more congenial political figure than any Tea Partier could possibly be, to either social democrats in the PQ or the vast majority of the *Times*'s readers. That figure was none other than Thomas Jefferson, considered by more than a few Americans as having been among their country's greatest leaders.⁴ Writing a few days after Patriquin, the two cabinet ministers retorted that far from undergoing a "Tea Party moment," Québec was actually experiencing a Jeffersonian one and was going to "enshrine into law Jefferson's 'wall of separation between church and state'" (Drainville and Lisée 2013).

This claim was a bit much as far as observers less enamored of the charter were concerned. Hardly had the ink dried on the Drainville-Lisée response when the debate was joined, this time by voices outside of the province. Toronto's *Globe and Mail* condemned the conscription of Jefferson to the cause of the charter as "laughable and self-incriminating." A *Globe* editorial, published on 20 November, thundered that far from being Jeffersonian in inspiration, the charter represented "exactly the kind of state meddling in religious freedom that Thomas Jefferson sought to prevent," and went on to criticize the two cabinet

ministers for being ignorant of precisely what Jefferson meant by the separation of church and state.

Lisée, for one, did not back down and continued to press his claims about the Jeffersonian nature of the PQ enterprise, repeating them two months later in another *Times* contribution headlined “Quebec’s Latest Stand.” Starting from the position that multiculturalism had proven to be a failure in Québec – a view that has much support in the province, where multiculturalism has for many years been regarded by sovereigntists and other nationalists as being principally aimed at minimizing and otherwise undercutting Québec’s claim to constitute a “distinct society”⁵ – Lisée presented the charter as a repudiation of the ethic of multiculturalism, which he held to be antithetical to, and corrosive of, a much higher political value: secularism. Addressing one of the charter’s most controversial aspects, its proposed ban on government employees being permitted to express their religious beliefs through their attire while working, Lisée again summoned Jefferson to the PQ’s aid, stating that “a truly secular state should not permit the symbols of any religion, whether of the majority or a minority, to breach the wall between church and state advocated by no less than Thomas Jefferson” (2014).

While the question of whether Jefferson really would have stood alongside Lisée (and Drainville) is open to dispute, there cannot be any disagreement as to the impact of Patriquin’s having imported an American referent into what had been, until that time, a distinctly domestic, and mainly provincial, debate. In “Americanizing” that Québec debate, however inadvertently, Patriquin embroiled it within an age-old discussion *in U.S. circles* as to how best to interpret Thomas Jefferson’s beliefs regarding religious freedom and the separation of church and state. Below we turn to that American discussion, so necessary for coming to grips, however counterfactually, with the query expressed in our concluding section, “What would Thomas Jefferson say about the charter?”

Jefferson’s “wall of separation”

In assessing Jefferson’s views regarding religious liberty in the political arena, scholars can be divided into two camps. In the first camp are those who support the position that Jefferson was strictly committed

to policing the metaphorical “wall” separating church and state. In contrast, members of the second camp maintain that, as understood by Jefferson, the boundaries between church and state were much more porous than is suggested by the enclosure trope.

Let us begin this survey of scholarly opinion with the first camp, whom we might label the “enclosers.” According to their perspective, Jefferson truly did understand the First Amendment to the U.S. Constitution as having, in his own words, “buil[t] a wall of separation between church and state” (Jefferson quoted in Morone 1199). Support for this position is found, say the enclosers, not only in Jefferson’s speeches and writings, but also in his own behavior as president, notably in his discontinuation of President George Washington’s practice of calling for special days of national prayer. Jefferson justified this departure from practice with the rationale that the federal government should not busy itself, even “indirectly [...] recommend[ing] religious exercises” (Morone 1199).

This interpretation of Jefferson as sedulously observant of the need to keep the state out of religious affairs is echoed by his leading biographer, the late University of Virginia historian Merrill Peterson, who counsels that close attention be paid to what was written by Jefferson in chapter 17 of his *Notes on the State of Virginia*, first published in 1782.⁶ There can be no question, asserts Peterson, about Jefferson’s commitment to the “institution of a new order of religious life founded on the twin principles of absolute religious freedom and separation of Church and State.” Allying himself with minority Christian sects, Jefferson fought for the disestablishment of the Anglican Church in Virginia. He invoked history in his condemnation of religious establishments, cataloguing the harms they occasioned and the unjust legal penalties they had sanctioned, in both the Old World and the New. Proceeding from John Locke’s understanding of religious freedom as a natural right wholly independent of any government authority, Jefferson argued that the state lacked the right to adopt any opinion regarding religious matters. As a pluralist who considered competition between religious sects to be healthy for religion, he went on to characterize state-enforced religions as harming the interests of religion itself, by virtue of their tendency to breed ignorance and hypocrisy. His 1777 “Bill for Establishing Religious Freedom” (which eventually passed into Virginia law in 1786) provides further evidence

of his firm belief in separation of church and state. In the preamble, Jefferson made it clear that state and church were two distinct spheres, and “that our civil rights have no dependence on our religious opinions.” The only justification for governmental interference with religion could be if there were overt challenges to peace and domestic order emanating from religious entities. Otherwise, according to Jefferson, “all shall be free to hold and exercise their religious beliefs without affecting their civil capacities” (quoted in Peterson 1994).

In his understanding of Jefferson, Peterson firmly dismisses as a misconception the popular notion that “nothing in the statute was meant to exclude governmental intrusion in matters of religion as long as the intrusion is on a neutral or non-preferential basis.” That approach, he insists, “is precisely what was rejected in Virginia, where Jefferson’s bill defeated a rival measure that would have taxed all Virginians and distributed those taxes among all Christian ministers, effectively creating multiple religious establishments on a non-preferential basis” (Peterson 2014). In this assessment, Peterson was echoing a view advanced by scholars a generation earlier.

Writing in 1947, Professor Henry Foote of the Harvard Divinity School had taken a similar measure of Jefferson’s thinking about the separation of church and state. Around the same time that he was agitating for the disestablishment of the Anglican Church in Virginia, Jefferson also penned a draft constitution for the 1776 Virginia convention. Tellingly, this draft included the following words: “All persons shall have full and free liberty of religious opinion; nor shall any be compelled to frequent or maintain any religious institution.” When he wrote this passage, Virginia still had on its statute books (though it had ceased to enforce) various laws criminalizing heresy, penalties for which ranged from disqualification from holding public office to incarceration (in the case of repeat offenders). That all such laws would be invalidated under Jefferson’s proposed constitution points, once more, to his adherence to the principle that “our civil rights have no dependence on our religious opinions” – no matter whether the civil right being curtailed was the right to work as a government employee or to administer the estate of another (Foote 20–1).

Jefferson viewed any and all restrictions on freethinking as detrimental to good public administration: “Subject opinion to coercion [...] whom will you make your inquisitors? Fallible men,

governed by bad passions, by private as well as public reasons.” By coercing opinion, the state only reduces the quality of its civil servants. He saw little to fear in the free expression of opinion because he believed, as he wrote in the preamble of the abovementioned Virginia statute for religious freedom, that the “truth is great and will prevail if left to herself [...]. [She] has nothing to fear from conflict, unless by human interposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them.” Jefferson was emphatic that free expression of religious opinion should not be considered threatening, convinced as he was that the “legitimate powers of government extend to such acts only as are injurious to others. But it does me no injury for my neighbor to say there are twenty gods, or no God” (Foote 24, 38).

In contrast to the enclosers, members of the second interpretive camp are much less comfortable with the claim that Jefferson did endorse an absolute wall of separation between church and state; let us call them the “gatekeepers” who take the wall as implying an arrangement permitting numerous points of passage from one side to the other, enabling church-state interaction rather than its absolute prohibition. Thomas Kidd, a senior fellow at the Institute for Studies of Religion at Baylor University, concedes that Jefferson’s use of the term “wall of separation” in an 1802 letter to the Baptists of Danbury, Connecticut, might appear to convey a belief in strict enclosure. Yet he argues that “neither [the Danbury Baptists] nor Jefferson envisioned church-state separation as meaning the total elimination of religion from American public life.” Instead, Kidd believes that while Jefferson was certainly opposed to state-supported churches, he countenanced many other activities that might be held, in the judgment of today’s scholarly analysts, to have breached the enclosers’ wall. To take just one example, while he was president Jefferson attended a sermon delivered by a New England Baptist clergyman (and political supporter of his), Elder John Leland, who preached before a joint session of Congress. Moreover, notes Kidd (n.d.), Jefferson regularly allowed government buildings to be used for church services.

Also challenging the view of Jefferson as advocating an enclosers’ wall is American University Professor Daniel Dreisbach. In place of the modern understanding of the wall of separation, Dreisbach argues that the metaphor should be more properly comprehended as being

related more to (lower-case) federalism than to religion.⁷ If this is so, he tells us, then the wall is better understood as being

erected between the national and state governments on matters pertaining to religion, and not, more generally, between the church and all civil government. In other words, Jefferson placed the federal government on one side of his wall and state governments and churches on the other.

He did this, according to Dreisbach (2006) to “delineate the constitutional jurisdictions of the national and state governments, respectively, on religious concerns.”

Dreisbach supports this claim by recasting Jefferson’s refusal to proclaim national days of fasting and thanksgiving in terms of political (federalism) concerns, rather than of religious ones; after all, as governor of Virginia, Jefferson had promoted a “Bill for Appointing Days of Public Fasting and Thanksgiving” and had, in 1779, designated a day for “public and solemn thanksgiving and prayer to Almighty God.” Dreisbach quotes Jefferson’s second presidential inaugural address of 4 March 1805 as evidence further substantiating the claim that the wall primarily separated levels of government *from each other*, rather than the “state” from the church. Said Jefferson on that occasion,

I have considered that [religion’s] free exercise is placed by the constitution independent of the powers of the general [i.e. federal] government. I have therefore [...] left them [...] under the direction and discipline of State or Church authorities acknowledged by the several religious societies. (Quoted in Dreisbach 2006)

Nor is there any shortage of evidence to back up the gatekeepers’ interpretation. For instance, in 1808 Jefferson wrote to a friend of his, the Presbyterian clergyman Samuel Miller of Princeton, that “[c]ertainly no power to prescribe any religious exercise, or to assume authority in religious discipline, has been delegated to the general government. It must then rest with the states, as far as it can be in any human authority” (Boles and Hall 145). Moreover, there is the matter of Jefferson’s approval of the Ohio constitution of 1803, held by gatekeepers to support their understanding of the wall’s *political* rather than religious function. Article 8 of this constitution’s bill of rights borrowed from the Northwest Ordinance of 1787, whose terms governed the transition of Ohio from territorial status to statehood.⁸

What is significant about this state constitution, approved by Jefferson in February 1803 a month prior to Ohio's admission to the Union, is that the president seems hardly to have objected to wording in Article 8 that held out the prospect of government funding of religious instruction in public schools, a practice that had been established under the Northwest Ordinance and which the drafters of the new state's constitution wanted to see continued. Jefferson did express some misgivings about the constitutional makeup of the new state, but these were related to the structure of Ohio's judiciary and its exclusion of slavery, not to the question of state-supported religious instruction. As a result, some gatekeepers see the Ohio case as further demonstrating that the wall must be regarded as speaking more to federalist than to secularist principles (see Scott 2014).

John Ragosta, a resident fellow at the Virginia Foundation for the Humanities, has recently staged a qualified counterattack on the gatekeepers' position, accepting some of their critique while going along with the enclosers on the main point of the debate, namely how much of a barrier the "wall of separation" really was intended, by Jefferson, to be. Yes, he concedes, there were times in which Jefferson attended church services in the House of Representatives, but he cautions that those services lacked any official status, and that it was practicality rather than principles that prompted use of the House chambers for services: there were simply no other large halls available in the early days of the new capital city. Thus, Ragosta writes, rather than these services being taken to constitute "joint sessions of Congress (as sometimes claimed) [...] they had no official status, and use of their facilities was apparently simply authorized by the House leadership" (Ragosta 196).

Similarly, Ragosta challenges views that Jefferson's commitment to states' rights translated into willingness to accept interference in religious matters by state governments. Far from turning a blind eye to such exercises of powers reserved to the states, Jefferson actually "complained about the failure to implement the principle of religious freedom in its full breadth." Even though Jefferson might recognize there was a lack of universal recognition for the principle of religious freedom, he valued it nonetheless – and for principled rather than merely expedient reasons (Ragosta 218). Certainly, Jefferson himself, as the gatekeepers point out, was known to employ religious language

in some of his proclamations, but he was always careful to police both the content and context on such occasions. As Ragosta notes, when Jefferson did invoke religious language, he did so in broad-brush terms, always solicitous to avoid any hint of compelling or even encouraging piety. Thus Jefferson only spoke in religious terms at voluntary functions where no one was forced to attend, and he studiously avoided actually asking his audience to pray with him. Jefferson also strictly distinguished between his role as a public official and his role as a private citizen, being careful to speak in religious terms only in this latter capacity (Ragosta 192).

Ragosta's Jefferson, therefore, takes the wall of separation seriously, as the enclosers say he did. But this Jefferson also draws a sharp distinction between religion in general and *organized* religion. So while Jefferson did firmly advocate the separation of church and state insofar as concerned actions of clergymen and "institutionalized" religion, he "never suggested that refusing to endorse religion officially means purging the public square of religious symbols" (Ragosta 220). Furthermore, Jefferson was even permissive of such private speech and action when it occurred in government spaces:

Jefferson did not attempt to purge the public square of religious activity, even on government property, carried on without government endorsement and with no apparent governmental favoritism [...]. Jefferson was willing to accept nondiscriminatory access to public facilities when not being used for governmental purposes. (Ragosta 197)

So, on the basis of this brief historical survey, can anything be ventured regarding the central question animating this article? We think there is something worth saying, mindful of just how counterfactual our task is and must remain.

Conclusions: what would Jefferson have said (about the charter)?

We reach two conclusions in this article, one fairly simple and the other a bit more complex. The first conclusion that we can, without too much risk of gainsaying, advance regarding Jefferson's insertion into the recent disputation over the charter, is that those who dragged him into this debate cannot and should not be chided, as

did the editors of the *Globe and Mail* back in November 2013, for being abysmally ignorant of what truly was entailed in the “wall-of-separation” metaphor. Whether Bernard Drainville and Jean-François Lisée really did fumble this particular symbolic football is not the question for, as we have shown, American scholars *themselves* have expressed radically divergent opinions regarding this exact same matter as to what Jefferson intended by proposing the wall imagery in that 1802 letter to the Danbury Baptists. Thus there is nothing illegitimate, even if there is something odd, about Jefferson’s having been conscripted into the charter wrangle.

Our second conclusion concerns a more important point, namely whether it can be reasonably maintained that the Jeffersonian “moment” conveyed any obvious political guidance to current-day Quebecers, and if so, in what did it consist? Here the PQ’s involvement of Jefferson might be suggestive of the well-known “principle of the opposite effect” in operation, for it is not at all clear to us that, even and especially if one takes to heart the enclosers’ understanding of the wall, it advances the purposes of secularization, which the sponsors of the charter claimed was their objective. Let it be recalled that Jefferson may not have been the most religiously zealous of American leaders, and that he is generally considered to have been something of a “Deist,” which is to say that his understanding of religion was probably inspired more by cosmology than by theology – and certainly not the theological orthodoxy of much of early America, with its stress upon the divinity of Christ.⁹

Illustratively, Joseph Loconte, a conservative Christian historian at King’s College in New York, relates how, on one Sunday morning during Jefferson’s presidency, he was stopped by a friend while making his way to Christ Church, which in those days was holding its services on Capitol Hill. The president, Loconte recounts,

had a prayer book tucked under his arm. The man was incredulous. “You do not believe a word in it,” he said. Jefferson, pilloried as the village atheist during his first presidential campaign, was unruffled. “Sir,” he replied, “no nation has ever yet existed or been governed without religion. Nor can be.”

Jefferson followed up this statement with the explanation that, as president, he was “obliged to give religion its public due.”

For Loconte, the episode demonstrates the *accommodative* nature of Jefferson's thinking on church-state relations.

When Jefferson remarked that no nation could be governed without religion, he did not have in mind the corrupted variety of government churches. In this, he argued exactly as most pious Founders did: Religious belief – freely chosen and given wide public space – nurtured morality and thus supported a free society. (Loconte 2001)

We take from our analysis the conclusion that neither the strict (enclosers') nor the more relaxed (gatekeepers') understandings of how Jefferson viewed the "wall of separation" offers the kind of unambiguous support of the PQ's charter that its proponents desired. From the perspective of enclosers, Jefferson looks to be someone who would have ardently opposed taking into account a citizen's religious preferences in order to curtail his or her civic opportunities. Such state meddling in individual action, in Jefferson's view, was justified only when the individual action being curtailed was a source of injury to one's fellow citizens.

Further, it seems reasonable to suspect that Jefferson would oppose the requirements imposed by the charter on government employees and contractors. Given his appreciation for religious pluralism and his conviction that the truth would triumph through the course of free and open debate, it also seems unlikely that Jefferson would regard personal expressions of religious affiliation as the kind of injury that would warrant state intervention. This analysis, however, is open to the question of whether Jefferson equated freedom of conscience with freedom of expression. That is, was Jefferson opposed to civic restrictions based on the *expression* of religious opinions, or merely based on the holding of religious opinions? If the latter was the case, as might be inferred from Jefferson's careful policing of his own *public* expressions of religious sentiment, then it could be possible to extrapolate a modicum of Jeffersonian sympathy for the Québec charter, which targeted the displaying, not the holding, of religious viewpoints. Even here, it has to be said that there could hardly be a guarantee of Jefferson's drawing such a distinction in favor of restriction. After all, if the gatekeepers are correct in claiming that Jefferson accepted religious services in public spaces and invoked religious language in his own public addresses, it seems hard to

imagine he would object to religious attire alone, no matter where it was being worn or by whom.

Finally, and this on the assumption that the gatekeepers have a more accurate sense of the wall's signification than the enclosers, and that what was *really* being separated by the metaphorical structure were two levels of government, with priority being accorded to the subnational over the national level, we are left with this parting irony. The most credible manner in which Jefferson could be conscripted as a charter ally (as opposed to the opponent he most likely would have been in our view) depends upon those who would conscript him doing so not on behalf of secularism but of a different political value altogether, namely *federalism*. Sparing the sovereigntists the illogicality of having to justify the charter as a Jeffersonian interlude by dint of the virtues of federalism was the decision of the Québec electorate in April 2014.

Notes

1 In April 2015, the Supreme Court of Canada, in the case of *Mouvement laïque québécois v. Saguenay [City]*, ruled unanimously that the Québec city of Saguenay could not open the meetings of its municipal council with a Christian prayer. — Editor's Note.

2 Philippe Couillard's Liberals registered nearly a 700,000-vote margin of victory over Pauline Marois and the PQ, taking 70 seats to the latter's 30, and forming a majority government. Of the remaining 25 seats, 22 were won by the Coalition Avenir Québec and 3 by Québec Solidaire.

3 Interestingly, Fohlen drew attention to another U.S. president who he thought had been similarly ill-used in France's collective memory, yet who had also been a champion of France while in high office: "Dans ce rôle, il [Jefferson] est à égalité avec un de ses lointaines successeurs à la présidence des États-Unis, Theodore Roosevelt, qui, lui non plus, n'a droit à aucune voie, à aucun signe de reconnaissance dans la capitale." Fohlen may have been overstating Jefferson's attachment to French interests, but he seems to have gotten Theodore Roosevelt's accurately enough; see Haglund 2007. See also the memoirs of the long-serving French ambassador to the United States in the first two decades of the twentieth century, Jusserand 1933.

4 This is not a ranking that is universally maintained in American opinion, however. For a demurral, see the overall "score" rendered on Jefferson by one recent assessor of presidential effectiveness, in Felzenberg 2008. This source rates Jefferson among the better, but not the best, presidents, placing him in a six-way tie for fourteenth place, with John Adams, James Monroe, John Quincy Adams, Woodrow Wilson and George H. W. Bush.

5 For a good discussion of the Québec perspective on multiculturalism, see McRoberts 2001 and Bouchard 2015.

6 Available at www.thefederalistpapers.org (accessed October 2014).

7 We say “lower-case” federalism here to distinguish an action motivated by political philosophy from one motivated by political expediency, as would be the case, for instance, if Jefferson’s primary concern had been to weaken the *Federalists*, his great political foes, rather than to promote the principle of federalism (and states’ rights).

8 Ohio became the first of the six Northwest Territories to make the transition to statehood.

9 For a good discussion of Deism in the early republic, see Preston 2012.

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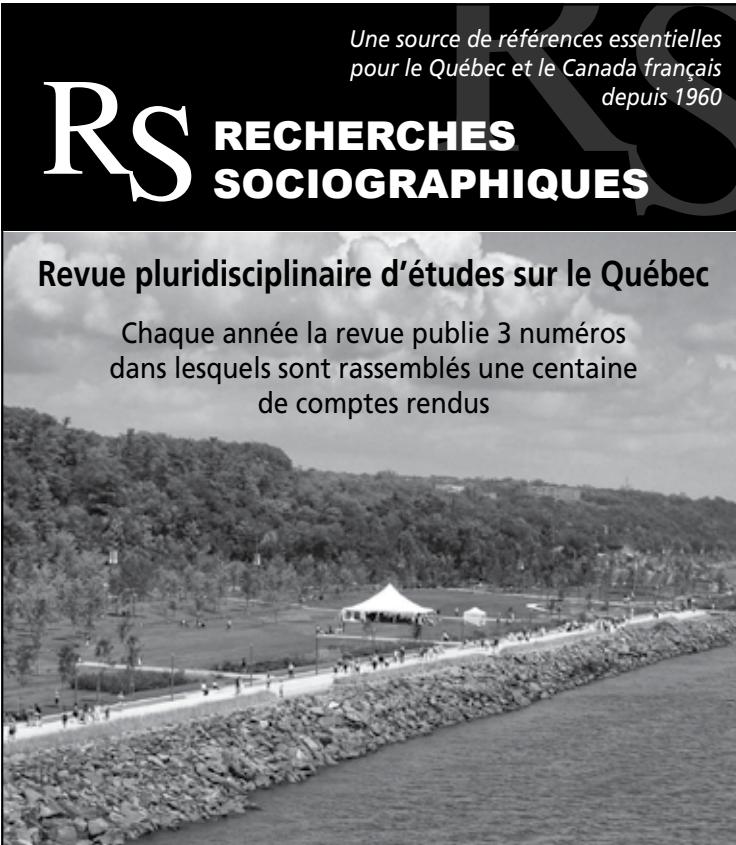
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