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## **Communiqué**

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Embargo: For release *Tuesday, September 30, 1997.*

### ***Canada needs contingency plan for aftermath of Quebec secession, says C.D. Howe Institute study***

Canada needs a contingency plan to deal with the immediate aftermath of a Quebec secession, a possibility for which Canadians and their governments outside Quebec are completely unprepared, says a *C.D. Howe Institute Commentary* released today.

The study, entitled *Looking into the Abyss: The Need for a Plan C*, was written by Alan C. Cairns, a law professor at the University of Saskatchewan.

Cairns argues that a “Plan C” is needed that would maintain the existing constitutional framework and relationships among Canada’s nine provinces, with Quebec removed, for a period of, say, three to five years, during which Canadians would establish a constitutional renewal process for Canada without Quebec. The plan would thus buy time while Canadians examine rival proposals for their constitutional future.

Cairns says that “Plan A,” the renewal of federalism, is a modest affair and may be insufficient to keep Quebec in Canada; “Plan B,” which combines “tough talk” deterrents to secession with attempts to establish the ground rules governing a secession attempt, is not yet well formed and ignores the fundamental question of the future of Canada without Quebec.

In Cairns’ view, predictions of what would happen following a “yes” vote in another Quebec referendum are discordant and contradictory, and Canadians face this possible future in a state of overwhelming ignorance. What is likely, however, is that a “yes” victory and Quebec’s subsequent departure would trigger panic, fear, and insecurity in the rest of Canada. For Canadians outside Quebec to try to decide on their appropriate constitutional future in the midst of such a crisis would give chance and accident an inappropriate influence on what becomes of them.

Under Plan C, Cairns says, the temporary status of the transitional regime and the accompanying uncertainty would mean that only limited, unavoidable arrangements — such as the division of the debt — would be made with an independent Quebec. All major arrangements with Quebec that presupposed the identity and continuity of the rest of Canada would have to be put on hold while the future of the territories and peoples that straddle Quebec were worked out.

Cairns argues that if Canadians and their governments outside Quebec could agree in advance of the next referendum on the viability of the constitutional status quo as an interim arrangement in the event of Quebec's exit, they would greatly reduce the harm that ignorance and lack of preparation would otherwise inflict.

This publication continues the C.D. Howe Institute's postreferendum research agenda, which comprises two *Commentary* series. One series, of which the paper by Cairns is a part, is called "The Secession Papers," examining issues relating to the terms and conditions of a possible future referendum on Quebec sovereignty; the circumstances which the country might confront after a "yes" vote and the processes by which the secession of Quebec might be addressed; and the means by which a new Canada without Quebec might be established, should Quebec leave Confederation.

"The Secession Papers" are guided by respect for democratic norms and the rule of law; the need for an authoritative decision and a stable outcome; and the need to minimize the social and economic costs of any transition. In the light of the results of the 1995 Quebec referendum, "The Secession Papers" aim to assist Canadians to "think about the unthinkable." The first in this series was *Coming to Terms with Plan B: Ten Principles Governing Secession*, by Patrick J. Monahan and Michael J. Bryant with Nancy C. Coté.

Complementing this effort is another *Commentary* series called "The Canadian Union Papers," focusing on ways to enhance Canada's political, economic, and social union. Papers already published in this series are: *Securing the Canadian Economic Union: Legal and Constitutional Options for the Federal Government*, by Robert Howse; *Drawing on Our Inner Strength: Canada's Economic Citizenship in an Era of Evolving Federalism*, by Daniel Schwanen; *Language Matters: Ensuring That the Sugar Not Dissolve in the Coffee*, by John Richards; *Time Out: Assessing Incremental Strategies for Enhancing the Canadian Political Union*, by Roger Gibbins; and *Citizen Engagement in Conflict Resolution: Lessons for Canada in International Experience*, by Janice Gross Stein, David R. Cameron, and Richard Simeon, with Alan Alexandroff.

Both series are being published under the supervision of David Cameron, a political scientist at the University of Toronto.

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*Looking into the Abyss: The Need for a Plan C*, C.D. Howe Institute Commentary 96, by Alan C. Cairns (C.D. Howe Institute, Toronto, September 1997). 32 pp.; \$6.00 (prepaid, plus postage & handling and GST — please contact the Institute for details). ISBN 0-88806-416-0.

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## **Communiqué**

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Embargo : à diffuser le *mardi* 30 septembre 1997

### ***Le Canada a besoin d'un plan d'urgence cas de séparation du Québec, affirme une étude de l'Institut C.D. Howe***

Le Canada a besoin d'un plan d'urgence pour traiter des répercussions qui suivraient immédiatement une séparation du Québec, une éventualité pour laquelle les Canadiens et leurs gouvernements respectifs hors Québec ne sont absolument pas préparés, affirme un *Commentaire de l'Institut C.D. Howe* publié aujourd'hui.

L'étude, intitulée *Looking into the Abyss: The Need for a Plan C (Un regard dans l'abîme : le besoin d'un plan C)*, est rédigée par Alan C. Cairns, un professeur de droit à l'Université de la Saskatchewan.

M. Cairns soutient qu'il faut un « Plan C » pour conserver le cadre constitutionnel actuel et les relations entre les neuf provinces canadiennes, Québec exclu, sur une période de trois à cinq ans environ, durant laquelle les Canadiens élaboreront un processus de renouveau constitutionnel pour le Canada sans le Québec. Le plan permettrait aux Canadiens de disposer du temps nécessaire pour étudier les diverses propositions afférentes à l'avenir constitutionnel du pays.

M. Cairns indique que le « Plan A », le renouvellement du fédéralisme, n'est qu'un modeste effort qui pourrait s'avérer insuffisant pour garder le Québec au sein du Canada; le « Plan B », qui allie une approche dissuasive « au ton ferme » à une tentative d'établir les règles fondamentales régissant une tentative de séparation, n'est pas encore complètement établi et passe sous silence la question fondamentale du Canada sans le Québec.

Selon l'auteur, les prévisions de ce qui suivrait un vote du « Oui » dans le cadre d'un autre référendum québécois sont discordantes et contradictoires, et les Canadiens sont confrontés à cet avenir possible dans un état d'ignorance complète. Ce qui surviendrait probablement est qu'une victoire du « Oui » et le départ du Québec soulèveraient de la panique, de la crainte et de l'insécurité chez le reste des Canadiens. Pour les Canadiens en dehors du Québec, de décider d'un avenir constitutionnel approprié au milieu d'une telle crise serait accorder trop de place au hasard dans la prise de décision.

Dans le cadre d'un Plan C, le statut temporaire du régime transitoire et l'incertitude qui l'accompagnerait impliquent que seules des ententes limitées et inévitables — comme celle du partage de la dette — seraient conclues avec un Québec indépendant. Toutes les autres

dispositions relatives au Québec qui présument l'identité et la continuité du reste du Canada, resteront en suspens jusqu'à ce que l'avenir des territoires et des peuples qui chevauchent le Québec soit résolu.

M. Cairns soutient que si les Canadiens et les gouvernements en dehors du Québec pouvaient s'entendre d'avance sur la viabilité du *statu quo* constitutionnel en tant qu'entente intérimaire en cas de départ du Québec et ce avant le prochain référendum, ils pourraient considérablement limiter les dommages qui résulteraient autrement de l'ignorance et du manque de préparation.

Ce document poursuit le programme de recherche post-référendaire de l'Institut C.D. Howe, qui englobe deux séries de *Commentaires*. L'une des séries, dont fait partie le document de M. Cairns et qui est intitulée « Les cahiers de la sécession », se penche sur les modalités d'un éventuel référendum sur la souveraineté du Québec, les circonstances dans lesquelles pourrait se retrouver le pays après un vote du « Oui », ainsi que les processus qui permettraient de traiter de la séparation du Québec, et les moyens par lesquels on pourrait établir un nouveau Canada sans le Québec, si ce dernier décidait de quitter la confédération.

Ces documents adhèrent au respect des normes démocratiques et la primauté du droit, au besoin d'une décision qui fasse autorité et d'un dénouement stable, et à la minimisation des coûts sociaux et économiques de la transition. À la lumière des résultats du référendum québécois de 1995, « Les cahiers de la sécession » se veulent d'aider les Canadiens à « concevoir l'inconcevable ». Le premier cahier de cette série, écrit par Patrick J. Monahan et Michael J. Bryant avec Nancy C. Coté, s'intitulait *Coming to Terms with Plan B: Ten Principles Governing Secession*.

Parallèlement à cette série, en figure une autre intitulée « Les cahiers de l'union canadienne », qui porte sur les moyens d'améliorer l'union politique, sociale et économique du Canada. Parmi les documents déjà publiés, figurent les suivants : *Securing the Canadian Economic Union: Legal and Constitutional Options for the Federal Government*, par Robert Howse, *Drawing on Our Inner Strength: Canada's Economic Citizenship in an Era of Evolving Federalism*, par Daniel Schwanen, *Language Matters: Ensuring That the Sugar Not Dissolve in the Coffee* par John Richards, *Time Out: Assessing Incremental Strategies for Enhancing the Canadian Political Union* par Roger Gibbins, et *La participation des citoyens au règlement des conflits : les leçons de l'expérience internationale pour le Canada*, par Janice Gross Stein, David R. Cameron et Richard Simeon, avec la collaboration d'Alan Alexandroff.

Les deux séries sont dirigées par David Cameron, un politologue de l'Université de Toronto.

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## **Looking into the Abyss: The Need for a Plan C**

by

*Alan C. Cairns*

In the event that Quebecers vote “yes” in another referendum, Canadians and their governments outside Quebec would be completely unprepared for the breakup of Canada. So far, only two strategies have been debated to forestall such an event. Plan A, the renewal of federalism, is a modest affair and its attractions may be insufficient to keep Quebec in Canada. Plan B combines deterrents to secession in the form of “tough talk” with contingency plans to establish the ground rules that would govern a secession attempt; while its purpose is clear, as a coherent, detailed plan it is still in its infancy, and even in its most complete form, Plan B ignores the fundamental question of the future of Canada without Quebec.

What is clearly in order is a Plan C, a contingency strategy that the rest of Canada (ROC) could follow should Quebecers vote to secede. A “yes” victory and Quebec’s subsequent departure likely would trigger panic, fear, and insecurity in the ROC. For Canadians outside Quebec to decide on their appropriate constitutional future in the context

of such a crisis would give chance and accident an inappropriate influence on what becomes of them. Plan C would continue with the traditional constitutional framework, with Quebec excised, for a transition period of three to five years, during which Canadians would establish a constitutional renewal process for the ROC.

Given the temporary status of the transitional regime and the accompanying uncertainty, only very limited, unavoidable arrangements — such as the division of the debt — would be made with an independent Quebec. All major partnership arrangements that presupposed the identity and continuity of Canada without Quebec should be put on hold while the future of the territories and peoples that straddle Quebec are worked out.

If Canadians and their governments outside Quebec could agree in advance of the next referendum that the constitutional status quo was a viable interim arrangement in the event of Quebec’s exit, they would greatly reduce the harm that ignorance and unpreparedness would otherwise inflict.

## *Main Findings of the Commentary*

- Canadians and their governments outside Quebec are unprepared for the possible breakup of Canada and ignorant about the consequences of such a future.
- Plan A, the renewal of federalism, is a modest affair and its attractions may be insufficient to keep Quebec in Canada.
- Since the October 1995 Quebec referendum, Plan B has emerged, combining “tough talk” deterrents to secession with contingency plans to establish the ground rules that would govern a secession attempt. While its purpose is clear, as a coherent, detailed plan it is still in its infancy. And even in its most complete form, Plan B ignores the fundamental question of the future of Canada without Quebec. Some preparation for that possible future, Plan C, is clearly in order.
- Predictions of what would happen following a “yes” vote in another referendum are discordant and contradictory, but such a result and Quebec’s subsequent departure would likely trigger panic, fear, and insecurity in the rest of Canada (ROC). For Canadians outside Quebec to decide on their appropriate constitutional future in the midst of such a crisis would give chance and accident an inappropriate influence on what becomes of them.
- A more sensible response, Plan C, would be to maintain the established constitutional framework, with Quebec excised, for a transition period of three to five years, during which Canadians would formulate a constitutional renewal process for Canada without Quebec.
- The transitional regime would not be a panacea but a holding arrangement. Its life would be ambiguous, representing both the past and the emerging reality of rival proposals for a different constitutional future. All the alternatives, however, are inferior.
- Among the advantages of pursuing interim continuity are that: it is simply the easiest approach; it would provide stability in the face of widespread uncertainty; it would make it easier for the ROC to bargain with Quebec during the negotiations over sovereignty; and it would give the ROC time to learn more about its new neighbor.
- The temporary status of the transitional regime and the accompanying uncertainty would necessarily mean that only very limited, unavoidable arrangements — such as the division of the federal debt — would be made with an independent Quebec. All major arrangements with Quebec that presupposed the identity and continuity of the rest of Canada would have to be put on hold while the future of the territories and peoples that straddle Quebec were worked out.
- If Canadians and their governments outside Quebec were to agree in advance of the next referendum that the constitutional status quo was a viable interim arrangement in the event of Quebec’s exit, they would greatly reduce the harm that ignorance and lack of preparation would otherwise inflict.



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In his book *Impossible Nation*, Ray Conlogue writes: “The qualities that make our country so attractive to others and to ourselves — a century-and-a-half of domestic peace, a comfortable standard of living, an idealized notion of ourselves as a kind and gentle people — are the worst possible qualities for dealing with a crisis of this kind.”<sup>1</sup> He is, of course, referring to the fact that, sometime in the next decade, Canadians may face the breakup of one of the oldest continuously functioning constitutional democracies on Earth — their own. The outcome of the October 1995 Quebec referendum confirms, irrefutably, that the breakup of Canada is no longer the implausible, hypothetical future crisis that should not concern practical people.

Canada’s history ill prepares us for this challenge. In modern times, Canadians have not experienced invasion, foreign occupation, or revolution. Instead, the lessons of the past have, nineteenth-century rebellions aside, induced us to view certainty, stability, and continuity as natural. This stable history might, of course, suggest that Canadians are more skilled in averting the threats to their survival to which other, less adroit peoples have succumbed. To some extent, this is true. Canadians have enjoyed a living, adaptable Constitution, expanded peacefully from four provinces to ten, and incrementally extricated themselves from the embrace of their imperial mother across the Atlantic. Canadians have weathered depressions and contributed significantly to victory in two world wars. Their federal system has gone through cycles of centralization and decentralization — in most cases without any formal changes to the Constitution. Canadians have democratized the constitutional order and accommodated new categories of voters, and they have developed their own versions of the welfare state and of social rights.

These accomplishments are, without question, major tributes to Canadians’ resourcefulness in managing their affairs, but in relative terms the challenges Canadians have confronted have been minor. In the past, the

self-congratulatory assertions of some Canadians that theirs was a difficult country to govern must have been heard with incredulity by most members of the United Nations or of the earlier League of Nations. In fact, by the standards of most of the world, Canada has been an unusually easy country to govern. This historical truth, however, may no longer apply. Federalists may not be able to keep Quebec within Canada; if Quebec goes, Canadians and their governments in the rest of Canada (ROC) may mismanage the terms of secession, making more difficult a subsequent harmonious coexistence with an independent Quebec; and the ROC may bungle the fashioning of a new constitution for those left in the truncated Canada that nobody sought.

This Commentary focuses on the initial steps toward meeting the third of these challenges — fashioning Canada’s future without Quebec. My purpose is not to argue that Canada without Quebec must survive as a single entity, although that is my strong preference, or that the survivors should continue into the distant future with constitutional arrangements that mirror the current ones. Nor is my task to try to dictate the precise constitutional arrangements appropriate for Canada without Quebec. Rather, I want to suggest ways to increase the likelihood that those arrangements, whatever they might be, emerge out of a reasoned process of constitutionmaking, and to minimize the instability, panic, and chaos inherent in a breakup. The first requirement, therefore, is to reduce the turbulence that would likely follow a “yes” vote in Quebec. The second, related, requirement is to gain time so that Canadians outside Quebec do not face having to reconstitute themselves while simultaneously removing Quebec as a province in their formerly shared country, as well as working out a limited coexistence with the now foreign neighbor that would then separate Ontario from Atlantic Canada.

Canadians have not faced challenges of this magnitude since before Confederation. Yet, we are almost completely unprepared for the major task of reconstructing Canada with-



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out Quebec; indeed, our lack of preparation is essentially inherent in our situation. Thus, the question to which this paper provides one answer, is: How can Canadians outside Quebec prepare to respond intelligently to the reconstitution of the ROC should Quebecers vote convincingly “yes” in the next referendum?

I begin by providing some background to current responses to the Quebec sovereignty issue and by suggesting why they are insufficient. In the following brief, but crucial, section, I discuss how and why Canadians are in a state of almost total ignorance about the fate of the ROC in the event of Quebec’s secession. In the section after that, I discuss how difficult the situation would be for Canadians in such an event, not just in practical terms but in psychological ones as well.

I then come to the heart of the Commentary: a proposal to take the first simple, but necessary, step toward reconstituting Canada without Quebec by establishing an interim arrangement that would be as much like the status quo as possible, to provide Canadians with the breathing room to plan for the longer term. I follow this proposal with a brief discussion of what such a transition period might be like, and offer a few hints as to the kinds of steps Canadians might take from there. I conclude the Commentary with a plea for governments and key actors to accept the need for “Plan C,” so that Canadians are not completely unprepared to face an increasingly possible future without Quebec.

## Plan B: Not Enough

The secession of Quebec and the resultant breakup of Canada have been serious possibilities for at least 30 years.<sup>2</sup> Until recently, the response to that threat to Canada’s survival focused on renewing the federal system by constitutional and nonconstitutional changes designed to increase the attractiveness to Quebecers of remaining in Canada.

In the wake of the October 1995 referendum result, however, the federal government and many Canadians came to realize that

something more was needed in response to the Quebec sovereignty movement. So renewed federalism was dubbed “Plan A,” and a supplementary strategy, “Plan B,” haltingly emerged as both an addition to federalist arguments against secession and a contingency policy in case all arguments, in the end, fail.

The exact scope and meaning of Plan B varies with the commentator who uses the term. For the purposes of this Commentary, I use Plan B to refer basically to:

- an elaboration of the ground rules governing a secession attempt; and
- an indication that the costs of secession, especially in the case of a unilateral declaration of independence (UDI), would be very high.<sup>3</sup>

These steps are important and, regrettably, necessary. But they do not address the most important problem that the ROC would confront if Quebec were to secede: the survival and reconstitution of Canada without Quebec. The obvious rubric for policy directed toward this crucial issue is Plan C, a term I use in this way throughout the paper.<sup>4</sup> At the level of official public policy, however, this fundamental concern is not part of any government’s plan under any label. This deficiency, as I discuss later, is not merely a regrettable, easily rectifiable oversight, but an inescapable consequence of constraints on the maneuverability of federal and provincial governments outside Quebec.

To understand why a Plan C does not now exist and why it is necessary to have one, a tour of Plans A and B — and of their inadequacies — is a necessary preliminary. Such a tour shows the immense difficulty governments have in responding to the challenge of accommodating Quebec within Canada, or of the ROC’s survival without Quebec.

## Plan A

Plan A, the attempt to renew federalism, has a long history punctuated by major inquiries, such as the Laurendeau-Dunton Commission,

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the Pepin-Robarts Task Force, and the Spicer Commission, and by major efforts to amend the Constitution, including the Victoria Charter, Bill C-60, the Constitution Act, 1982, and the Meech Lake and Charlottetown Accords. Only the complex process following the 1980 Quebec referendum led to formal change: the Constitution Act, 1982, which, however, the Quebec National Assembly has never approved.

While Plan A is driven primarily by the special need to accommodate Quebec, it cannot, in the 1990s, ignore the other provinces or such stakeholders as women, aboriginal peoples, or Charter Canadians, who can frustrate any process that appears to slight their concerns. Consequently, the scant package of constitutional changes directed to federalism in the 1971 Victoria Charter had expanded by the 1992 Charlottetown Accord into a comprehensive smorgasbord that went far beyond federalism in its scope and that spoke directly to all Canadians.

The federal government's latest version of Plan A is a combination of decentralization — devolving responsibilities for tourism, recreation, mining, social housing, forestry, and labor market training to the provinces — a symbolic recognition of Quebec as a distinct society by Parliament,<sup>5</sup> and an amending-formula veto for Quebec as part of the federal government's "loan" of its amending veto to the five regions of Canada.<sup>6</sup>

This very veto, coupled with the developing convention of requiring a referendum on major constitutional changes, weakens the feasibility and attractiveness of formal constitutional change as a route to solving the problems of federalism. Another reason to avoid the constitutional route is the belief that the Parti Québécois (PQ) government is not open to any effort to renew the federation. The only feasible strategy, therefore, is to work with the opposition Quebec Liberal Party and be prepared to move quickly on constitutional issues with the Quebec provincial government if and when the Liberals are returned to power. Not surprisingly, the federal minister of intergovernmental affairs recently indicated that no formal

constitutional changes were planned.<sup>7</sup> Therefore, compared with previous versions, the current official Plan A is relatively unambitious, constrained as it is by memories of how major attempts at formal change have failed in the past. (As Roger Gibbins shrewdly notes, however, Plan A's provincialist thrust — linked to a massive increase in intergovernmental machinery — might result in extensive, if incremental, *de facto* change.<sup>8</sup>)

The 1997 version of Plan A may not be enough to win the next referendum for the federalists, but it may not be possible to do more. The emergence of Plan B outside Quebec is a belated recognition of the fact that two different constitutional games are under way simultaneously: one to renew federalism, the other leading to the more drastic outcome of Quebec sovereignty (and by necessary inference the sovereignty of a residual Canada outside Quebec). Quebec politicians have played both games concurrently for 30 years. Until the October 1995 referendum, Canada/ROC had officially played only the renewed federalism game.

Until recently, political actors outside Quebec have avoided outlining a Plan B on the grounds that to prepare for a breakup was to admit publicly that a breakup was possible — and thus to give legitimacy to an unwanted result. Plan B — preparations for the possible failure of Plan A — was, in effect, a taboo subject, surrounded by "keep out" signs.<sup>9</sup> The fear of a self-fulfilling prophecy has not gone away, but it has been overwhelmed by the closeness of the October 1995 referendum result, which graphically underlined how totally unprepared governments outside Quebec were for a "yes" victory.<sup>10</sup>

According to Charles Taylor, something "snapped" in Quebec after the defeat of the Meech Lake constitutional proposals, as Quebecers realized that a modest constitutional package could not make its way through the formalities of the amending process.<sup>11</sup> After the October 1995 referendum, something snapped outside Quebec. Complacency was no longer a defensible stance. In addition to

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the elementary recognition that an almost total unpreparedness for an increasingly plausible “yes” victory could be disastrous at the bargaining table, many in the ROC experienced a degree of humiliation at the thought that they and their governments had been so naive, even Panglossian, in their optimism. Those who were politically involved felt a certain shame and anger that they had believed the soothing utterances of their leaders that everything was under control.

Hence, today, there is widespread recognition outside Quebec by opinion leaders and ordinary people alike that Plan A is not enough.<sup>12</sup> If no other options are explored, all constitutional and other efforts will be directed to a project that may fail, leaving Canadians and their governments in the ROC unprepared to respond to the outcome they had hoped to forestall. In a recent article, Douglas Brown notes how academics and other analysts are now remarkably willing to discuss the formerly taboo subjects of responding to a “yes” victory and thinking about the future of Canada without Quebec.<sup>13</sup> Accordingly, Plan B now attracts significant attention.

### *Plan B*

Plan B signals that one can no longer assume that Canada will acquiesce quietly in its destruction in a constitutional game determined by its opponents. The plan’s two essential purposes reinforce each other: by laying out a plan to protect Canada’s interests should Quebecers vote “yes,” it also helps to reduce the chances of such a result. The Reform Party has been in the vanguard of advocates of Plan B, stressing that it

would show the separatists what they would be up against in a real secession negotiation...and make it crystal clear to every Quebecer...exactly what the negative implications of secession are.<sup>14</sup>

Gordon Robertson sums up the prevailing mood in his justification for federal contingency legislation for a Quebec referendum: such legislation would reduce the risk and make

very clear to the “yes” side that it will be up against a well-prepared federal government before there is any agreement to secession by Quebec.<sup>15</sup>

Plan B, as Robertson’s statement suggests, elaborates a crucial distinction that hitherto had been obfuscated by the focus on whether or not the federal government would respect a “yes” vote. Plan B distinguishes between the acceptance of a “yes” and the agreement on the terms of implementing it, including constitutional amendments. It makes clear that a fair question and a convincing “yes” only get the two parties to the bargaining table, where the terms of separation would then have to be worked out — that the terms cannot be determined unilaterally by one party on the basis of a “yes” vote.<sup>16</sup> In the event of such a vote, then, the goal of Plan B would be to effect an orderly separation process, one that is subject to the rule of law.

Such, at any rate, is the theory. At the official level, at least, Plan B today is less a plan than an inchoate set of assumptions that in many cases are still tentative. The term “plan” in fact suggests a degree of specificity, comprehensiveness, and coherence for an official response that does not exist.

The federal government’s version of Plan B is an orientation, not a program. It is not summarized in any document. It is an aggregation of specifics, such as the recent reference to the Supreme Court of Canada<sup>17</sup> and statements by the prime minister and his cabinet colleagues. Some of these statements, often phrased as warnings or questions, are simply trial balloons designed to test opinion and rattle the other side. In fact, part of Plan B may be a scattergun approach of warnings and threats, the very randomness, incompleteness, and possibly even incoherence of which may be deliberate attempts to destabilize the sovereignty movement.<sup>18</sup> Alternatively, the hesitancy that attends Plan B may reflect the fact that it occupies new policy territory. Unlike Plan A, which has a library of material to build on, Plan B has no predecessor, no inherited intellectual capital to exploit. Its creators are

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necessarily feeling their way in a policy area they have only reluctantly entered. They have a long way to go.

More than a year and a half after a referendum in which the “yes” forces almost triumphed, there are no legislative committees or task forces examining alternative futures, and not a single major position paper dealing with either Plan A or Plan B has come from any government outside Quebec. The silence is startling and deeply disturbing. The future of Canada without Quebec is not a public concern of any government in the country.<sup>19</sup>

Fortunately, Plan B thinking is not confined to governments. In fact, one of the striking characteristics of the post-1995 Quebec referendum situation is the unwillingness of individuals and organizations to leave the responsibility of either renewing federalism or preparing a response to a future “yes” victory to governments.<sup>20</sup> Yet it is deeply disturbing that so much of the asking and tentative answering of the fundamental questions of Canada’s present and future constitutional existence — with or without Quebec — comes from nongovernmental sources: journalists and academics, with a leading role played by think tanks.<sup>21</sup> Laments over the somnolence outside Quebec on the constitutional abyss that Canadians face are common in English-language newspapers and elsewhere.<sup>22</sup>

Plan B territory, some of it occupied and some of it only gingerly explored, has been mapped out. Drawing on the contributions of several commentators, I consider that it encompasses the following:

- *A requirement that the process for determining the will of Quebecers be fair and transparent - for example, through the use of a fair question.*<sup>23</sup> This means that the rules of the secession game should not leave the unilateral power to determine the wording of the referendum question to a self-interested actor, the Quebec government, which may again, as in the past, be irresistibly tempted to ask a mobilizing question. If a referendum were held on an
- unacceptably biased question, federalist forces outside Quebec might declare the referendum result invalid. result invalid.
- *An agreement as to what constitutes an acceptable majority.* Both Chrétien and Dion have stated explicitly that 50 percent plus one would not be enough.<sup>24</sup> Relevant considerations include: (i) the fact that an issue of such surpassing importance might necessitate a supermajority; (ii) the fact that, internally, Quebec is a pluralistic society, with anglophones, allophones, and aboriginal peoples as well as francophones; is a majority in which they do not participate adequate to deprive them of their connection to Canada?; and (iii) the extent to which the failure of the federal government to specify more than a simple majority in the referendums of 1980 and 1995 constitutes a precedent that cannot be overturned.<sup>25</sup>
- *A decision as to whether one referendum would be enough or a second would be required to deal with the results of the negotiations on the terms of separation.* According to José Woehrling, a leading Quebec nationalist law professor, to implement separation on the basis of an initial referendum before the voters can know the consequences of their action would not only offend  

Canadian law, but it [would] also be undemocratic and hence indefensible before international public opinion or on the basis of international law.<sup>26</sup>
- *Consideration of the special position of aboriginal peoples within Quebec.* Would they be expected simply to go along with a majority “yes” if their own wishes were overwhelmingly “no,” as they were in October 1995? The answer must take account of the distinct position of aboriginal peoples in domestic and international law.<sup>27</sup>
- *The issue of the territorial integrity of a seceding Quebec, and the linked question of the right of aboriginal peoples to determine the larger community to which they*



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wish to belong.<sup>28</sup> The general and volatile issue of partition as it relates to other dissenting “no” minorities is also relevant here.<sup>29</sup>

- *Contingency legislation that would subject Quebec’s secession to the rule of law and minimize disruption.* Gordon Robertson’s proposals for such legislation include: (i) the illegality and nonrecognition of a UDI; (ii) the continuing applicability of federal law in Quebec regardless of the wishes of the Quebec government; (iii) the retention of all Canadian institutions until Parliament or the Governor-in-Council declares otherwise; and (iv) advance agreement on the procedures to finalize the agreed terms of secession.<sup>30</sup>
- *Substantive issues of immediate, practical concern that would attend the breakup of the country, the responses to which could not be delayed.* These include division of federal debt and assets, the creation of a land corridor between Ontario and the Maritimes, control over the St. Lawrence Seaway, division of the armed forces and the civil service, the position and future of aboriginal nations, the territorial integrity of Quebec, and a few others. Many partnership and some other issues would have to await the reconstitution of Canada after Quebec had departed and hence would not be part of Plan B in this bargaining transition stage.

### *The View from Quebec*

Although Quebec sovereigntists have had counterparts to both Plan A and Plan B since the 1960s, the emergence of the federal government’s own shaky Plan B has evoked outraged responses from both the PQ and the Bloc Québécois, presumably because their Plan B presupposed, or hoped for, a defenseless, cooperative partner on the other side.<sup>31</sup> A more cynical view, suggested by one reviewer of this paper, holds that the PQ and the Bloc knew the bargaining would be brutal, but thought

their success in a referendum required keeping that information from Quebec voters.

The contemporary sovereigntist alternative to federalism is well developed. The PQ and the Bloc claim that Quebec has an unfettered right to secede unilaterally. They assert that the Canadian Constitution is irrelevant to such a unilateral act, and they justify using their own referendum legislation, which gives the Quebec government control of the timing and wording of the referendum question. They assume that a 50 percent plus one majority would be adequate. They assert that the territorial integrity of Quebec is inviolable, and they claim that, politically, Quebecers are a single people — despite the massive ethnic divisions revealed by the October 1995 referendum, in which anglophones, allophones, and aboriginal nations overwhelmingly voted “no.”

Prior to the 1995 referendum, the PQ had prepared itself for a “yes” victory. The Quebec government was ready to move expeditiously and vigorously to implement the mandate it would claim from the electorate. Visits to foreign capitals were to be orchestrated and foreign embassies contacted. There was an understanding — or at least a hope — that France would move quickly to recognize Quebec’s independence and then pressure the United States to follow suit. Further, the Quebec government had amassed a \$19 billion fund to prop up the Canadian dollar, much of it taken from pension funds. Premier Jacques Parizeau had his victory speech ready. A one-year timetable had been established for negotiation of an economic partnership with Canada, a task to which then-Bloc leader Lucien Bouchard had been appointed and for which organized proposals to Ottawa had been prepared.

A victorious PQ was ready to launch what a press report described as a massive assault on an unprepared Ottawa “to bring the federal government to its knees.”<sup>32</sup> Further, the PQ government had indicated its willingness to resort to a UDI if negotiations had not proceeded satisfactorily. Hence, the PQ did not see an agreement on the multitude of issues to be resolved with Canada/ROC to have been a

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prerequisite to independence. More pointedly, the PQ treated the Canadian Constitution as having negligible relevance for the secession process. In brief, Canada outside Quebec was assigned the role of spectator in the referendum while Quebecers — as Quebecers, not as Canadians — decided their (and Canada's) future. Nationalist rhetoric also suggested the ROC would play the role of a complaisant, cooperative partner of an independent Quebec following the hoped-for “yes” vote.

The PQ justified this readiness for rapid action by rhetoric that assumed Quebecers had a remarkable degree of discretion in determining the route to sovereignty. What made this strategy believable was the relative silence and lack of preparation outside Quebec, on the part of governments and ordinary citizens, concerning a sovereigntist outcome for which many Quebecers had been preparing for three decades.

### *The Juggling Game*

Although both Quebec and Ottawa are now engaged in Plan A and Plan B activities, it is much easier for Quebec than for Ottawa to juggle the two games. In Quebec, diametrically opposed futures have been explored and pursued with vigor since the late 1960s, mostly through competing political parties (the federalist Liberals and the sovereigntist PQ). Occasionally, one party has moved in the direction of the other, as when PQ premier René Lévesque, after the Constitution Act, 1982, decided to accept the *beau risque* of renewed federalism, or when Liberal premier Robert Bourassa, after the failure of the Meech Lake Accord, flirted with more drastic options and commissioned what became the Allaire Report, which recommended a renewed federalism with an emasculated Ottawa. Whichever party was in power, the two possibilities were part of official debate: in addition to the Allaire Report, the Bélanger-Campeau Commission and two National Assembly committees explored Quebec's options after Meech Lake.

Outside Quebec, however, it has been much more difficult to play the two games simulta-

neously. One reason for this is psychological. Not only are the two plans directed to different futures, but the scenario behind each plan portrays the other party in a different light depending on the goal that is sought. Thus, Plan A presupposes a friendly counterpart who can be conciliated, who is now and will remain a member of the same political community. Plan B portrays the other party as the breaker of the nation, as a hostile actor preparing to exit the Canadian community and thus not deserving of the empathy that is reserved for fellow citizens — in other words, it treats Quebecers as the foreigners they might become. By generating contradictory images of the “other party,” the two plans transmit contradictory messages to those who draft policy and prepare its implementation. Within a single government, sometimes within a single individual, these contradictory cues evoke tensions that are not easily managed. Also, of course, for a single government publicly to play both A and B games simultaneously easily leads to charges of insincerity from its opponents.

Plan B also generates tension between the federalist forces inside and outside Quebec. Naturally, the Daniel Johnson-led provincial Liberals find any focus on Plan B disturbing, as it deflects attention away from Plan A, in which they have placed their faith, and looks to a future in which that plan has failed. Their concern is not irrational, for if Ottawa came to believe that it had boxed Quebec in with court cases and threats of using the stick, it might be less inclined to use the carrot of renewed federalism to induce Quebec to stay.<sup>33</sup> Plan B is opposed by both the sovereigntist PQ government and the official Liberal opposition, although for different reasons. It also probably divides federalist forces within Quebec, getting its strongest support from those anglophones and allophones sympathetic to partition.<sup>34</sup>

### *The Limitations of Plan B*

The leading role with respect to Plan B should come from the federal government, the only government capable of straddling the diversity of interests outside Quebec. For Ottawa to take



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a leadership role now would position it to continue in that role in the event of a “yes” vote in Quebec, when its leadership might well be challenged.

But the federal government’s Plan B is not intended to be a comprehensive response to the major issues that would emerge should Quebecers vote “yes.” Its reach is selective: Ottawa is more interested in those aspects of Plan B that seek to influence the rules governing secession, and some of the hard bargaining issues, than in the all-important question of how to reconstitute Canada without Quebec.

Ottawa’s dilemma, however, is that, until a “yes” victory has been accepted, it is obliged to speak for all Canadians, including all Quebecers, which effectively prevents it from assuming the leadership role in devising a plan to carry on should those millions of Quebecers decide to leave.<sup>35</sup> Further, in keeping Plan B focused on the rules of secession and on hard bargaining, Ottawa hopes to maximize the plan’s effect as a deterrent to secession, as a stick to reinforce the carrot of Plan A. By contrast, the ROC’s reconstitution would not be a threat to sovereigntists, so focusing on it would not add to the federalist arsenal. On the contrary, sovereigntists would interpret Ottawa’s planning for the ROC’s reconstitution in advance of a “yes” vote as an indication the ROC was preparing to become the kind of partner that Bouchard has so often said it would.

Provincial governments will not do what Ottawa cannot do. Preparations by the provinces for Quebec’s secession, if they exist at all, will be secret, and focused on the future of the province, not the country, on economic issues (the gains and losses to be expected from Quebec’s departure), not on longer-term constitutional concerns. Even if some provincial governments overcome these biases, they are unlikely to want to begin preparing their publics for a constitutional future without Quebec. People in particular provinces may derive some solace from the knowledge that their provincial governments are quietly looking to a future that cannot be publicly discussed, and that they can look to their provincial

governments for leadership if Quebec goes. But while such backroom preparations and the knowledge that they are taking place should not be discounted, neither should their significance be exaggerated.

For the PQ and the Bloc, the sovereignty project is their *raison d’être*. For them, Quebec’s sovereignty would be a triumph. By contrast, the current federal government has no similar stake in the future of a Canada without Quebec — indeed, for it, such an outcome would be a humiliating defeat, and is yet another reason it cannot play a leadership role in prerferendum thinking about the reconstitution of Canada without Quebec. In sum, the federal government cannot prepare the ROC for a future without Quebec and, since it is not a politically organized entity in its own right, the ROC cannot prepare itself.

This lack of leadership on such a key issue is a serious matter. In a sense, of course, the Reform Party is positioned to become the voice of the ROC, but even Reform’s focus so far has been more on the terms of secession and on Plan A changes to the existing system than on the constitutional future of the ROC should Quebec leave.

For the most part, then, the possible future of a smaller, reconstituted Canada is not Ottawa’s concern. Plan B inside Quebec and Plan B outside Quebec are not mirror images of each other. The future of Canada after Quebec leaves — its identity, its constitutional structure, its unity — are likely to remain relatively unexamined by governments in the period preceding a possible “yes” vote. Such examination as does take place will be secret, infused with a provincial rather than a federal perspective, and inadequate because it will not have been informed and moderated by discussion with other governments or by a dialogue with the public.

### *The Next Step: Plan C*

Outside Quebec, therefore, Plan B is not enough, and neither governments nor private commentators, with a few exceptions, have addressed the issue of the longer-term fate of

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the ROC after a Quebec secession — that is, Plan C.<sup>36</sup>

While the rudimentary development of an official Plan B to supplement Plan A is a positive one, for Canadians outside Quebec it still does not answer several fundamental questions: How prepared would they be for that future they do not seek? The inevitable answer is: Very little. How, and how successfully, would the ROC reconstitute itself? The question has scarcely been asked, let alone been answered. The immediate aftermath of the referendum would be a remarkably inauspicious time in which to undertake this task. In the absence of preparation, there would be widespread panic, and the task of arranging terms on certain inescapable issues with a seceding Quebec would have priority.

Canadians have overcome the taboo that once kept them from publicly discussing Plan B. Their governments, however, continue to maintain a taboo on discussing Plan C; it is policy territory they will not enter. This lack of preparation would matter little if the shape of Canada's future without Quebec were highly predictable. But it is not.

## Ignorance

The most fundamental point about the possible breakup of Canada is the depth of Canadians' ignorance of what would follow. As the following brief survey makes clear, to read the literature that seeks to describe Canadians' future on both sides of a possible divide is to realize our limited capacity — inside and outside Quebec — to discern our destination.

## The Literature: No Consensus

Predictions of Canada's future without Quebec display stark disagreement on all the major issues.

Quebec sovereigntists in the partnership camp portray future Quebec-Canada relations in rosy hues, based on the premise that Canadians and their governments outside Quebec would adopt an accounting mentality of nar-

row self-interest and, after a brief hangover, strike the kind of cooperative partnership arrangements the sovereigntists seek. That, at least, has been their public posture.<sup>37</sup>

Commentators outside Quebec usually characterize this scenario as a fairy tale. On the contrary, they say, the bargaining would be hard, the will to compromise weak, and the ROC's response driven by a visceral anger — the expression of a wounded and cornered nationalism.<sup>38</sup>

Alternatively, commentators outside Quebec sometimes suggest that there would be no "other side" for Quebec to bargain with following a "yes" vote. Remarkably, even Prime Minister Chrétien raised this possibility in the closing days of the 1995 referendum campaign.<sup>39</sup> The argument is that either the federal government would virtually collapse as its legitimacy crumbled in the face of its humiliating failure to live up to its *raison d'être* — keeping the country in one piece — or primary attention would be focused on the more pressing task of reconstituting the ROC. Thus, Gordon Gibson argues that a humiliated federal government, its moral authority in tatters, and a triumvirate of the three "have" provinces (Ontario, Alberta, and British Columbia) would impose a tough deal on Quebec, cooperating only on the bare essentials. Canada would then turn its back on Quebec and attend to the overriding task of deciding its own constitutional future.<sup>40</sup>

Other analysts dispute such a scenario, however, and predict a rush to the center as shocked Canadians invest their security wishes in a federal government that they hope would minimize the financial crisis and strike the best deal possible with Quebec. According to Robert A. Young, once it became clear that the secession process was irreversible, there would be a "tremendous premium on solidarity" on both sides, which would strengthen Ottawa's leadership role in the post-"yes" bargaining with Quebec.<sup>41</sup>

Views on the chances for the ROC's survival, constitutional structure, and cohesion share little except their tendency to contradict

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each other. Former Progressive Conservative cabinet minister John Crosbie, for example, has taken the apocalyptic view of a battered Canada breaking up after Quebec's exit.<sup>42</sup> Others who doubt either the will or the capacity of the ROC to survive without Quebec include the late Robert Bourassa, Peter Leslie, and US scholar Charles Doran, writing in the influential journal, *Foreign Affairs*.<sup>43</sup> Joseph Jockel, testifying before a US House of Representatives committee in 1996, said he did not believe that "English Canada" would fragment in the short run, but that, in the long run, he considered its surviving as one country or dividing into several fragments as "equally likely."<sup>44</sup>

Those who advocate the contrary view, that Canada without Quebec would survive as a united polity, tend to stress as unifying factors cultural homogeneity, positive identification with the idea of Canada, the nationalism of Canadians outside Quebec, allegiance to the Charter of Rights and Freedoms, and Canadians' strong feeling of their distinctiveness on the North American continent.

In short, pessimists see Canada structurally in terms of its provincial divisions; optimists stress the citizen base of the constitutional order. These themes run through the writings of several prominent academic commentators.<sup>45</sup> On the other hand, the hopes of even the optimists are guarded. Keith Banting, for example, casts a vote for a continuing Canada, but qualifies it by saying that "collapse...seems unlikely, at least in the short and medium term."<sup>46</sup>

Those who do see Canada as surviving without Quebec nevertheless disagree on the kind of country it would be. Dan Usher sees a virtual unitary state emerging with the eroding of the federalist rationale by Quebec's departure; the largely homogeneous remainder, he says, responding to its own cultural coherence, would quickly assume a unitary posture.<sup>47</sup> Robert Young, in the most exhaustive available analysis of the post-"yes" scenario, predicts the emergence of a Canada with a strong central government following Quebec's

departure. His prediction appears to be based partly on the assumption that bargaining the terms of secession and reconstituting the ROC would occur simultaneously. He sees the requirement for solidarity dictated by the former as providing momentum for expanding the role of a strong central government in a reconstituted ROC.<sup>48</sup> Gordon Gibson, by contrast, possibly influenced by his location in British Columbia, sees a future Canada without Quebec as profoundly decentralized, with a weakened, caretaker central government reduced to limited responsibilities. He does not discount additional fragmentation leading to the possible breakup of the country.<sup>49</sup>

An additional area of uncertainty deserves a brief comment. The assumption that Canadians are a peaceable people, immune to incitements to violence, is now held with diminishing conviction. The possibility of violence, although almost universally discouraged, is now almost routinely mentioned. Such talk was almost completely absent at the time of the 1980 referendum.<sup>50</sup> The now-admitted possibility of violence and its unpredictable consequences, coupled with a continuing constraint against serious analysis of the possibility of civil disorder, add to the difficulty of predicting what would happen following a "yes" vote. It also reinforces the desirability of a negotiated departure by Quebec, to minimize the possibility of violence.

The preceding discussion was meant to be illustrative, not exhaustive. Nevertheless, the conclusion that dissensus reigns supreme among the analysts and commentators is shared by others who have surveyed the predictions of the Quebec-Canada future following a "yes" vote,<sup>51</sup> and it confirms that the postbreakup future is a huge question mark.

## An Inevitable Uncertainty

This uncertainty is a recurring theme of Robert Young's *The Secession of Quebec and the Future of Canada*, the most serious analysis of the consequences of secession yet undertaken. His point is simple: "[N]o one knows what will

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happen if Quebec secedes.”<sup>52</sup> Political debate and leadership, he argues, have unpredictable outcomes, yet they are especially important in secession crises, which weaken the impact of socioeconomic factors; the past provides limited guidance for such unique events.<sup>53</sup>

Young addresses several crucial questions: How would a Quebec UDI be received in the international community? There is no consensus about the relevant legal principles or about their application to Quebec.<sup>54</sup> Is it possible to predict the outcome of negotiations between Quebec and the ROC, and how the latter would be reconstituted? No, Young says, one can choose only between “profound uncertainty ...[and] disagreement about several basic issues.”<sup>55</sup> Would a surviving Canada be more centralized or more decentralized? There are pressures in both directions.<sup>56</sup> How would Canadians in the ROC respond to a smaller, fractured country once Quebec had gone? Would their loyalties be pulled toward the center or to the provinces? One can know only after Quebec goes.<sup>57</sup>

The uncertainty that Young reiterates in area after area is inherent in the situation. There are so many actors, domestic and international, whose behavior would be modified by the breakup of Canada, that no one can predict how the aggregate of this behavior — in which each actor influences the others — would turn out. Further, the odds on particular outcomes would change as the leading actors modify their behavior in the period leading up to secession to increase the likelihood of achieving their goals. Thus, the emergence of Plan B now means that the outcome and consequences of a future “yes” vote will be very different from what would have occurred had Quebecers voted “yes” in the 1995 referendum, when no Plan B existed.

The uncertainty of the situation is compounded by the politicized nature of much of the scholarship that self-interestedly seeks to analyze it. Young writes:

Partisans of both federalism and sovereignty construct and deploy alternative futures, aiming to influence the expectations

and behaviour of citizens...[which] makes many extant analyses more suspect than is usual in the social sciences.<sup>58</sup>

Maureen Covell agrees, noting that discussions of the future of

a Canada without Quebec are of necessity an exercise in political science fiction that is only partly grounded in verifiable data and that gives a large role to the assumptions and preferences of the author.<sup>59</sup>

One must, therefore, assume that some of the literature that purports to shed light on the issue is actually an exercise in disinformation.

The particular uncertainty that is the focus of this Commentary — the shape of the ROC after Quebec’s secession — is unlikely to be reduced in the period leading up to the next referendum. As I have already discussed, governments will engage in neither public discussion of, nor public preparation for, the future of Canada without Quebec. Ottawa is clearly incapable of planning for a future predicated on its own repudiation. Provincial governments, despite the (probably minimal) in-house research they may undertake, can do no more than prepare covert, partial, self-interested visions of what one out of many actors would prefer.

Yet democratic constitutionmaking requires more than the aggregation of separate visions formed in private by governments and in isolation from other players. It involves the testing and shaping of views and proposals that are not initially complementary, in a process of debate and bargaining with other participants. In the contemporary era, Plan C, constitutionmaking for a Canada without Quebec, has to be a shared responsibility of citizens and governments. That such a process could be mounted prior to the next Quebec referendum is inconceivable. That Canadian governments would even discuss with their citizens options for a Canada without Quebec prior to another referendum is highly implausible. That their in-house preparedness would be limited, fragmented, self-interested, and uncoordinated is certain. That, as a people, Canadians would



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be unprepared is unavoidable. This lack of preparation, therefore, for what would happen to the ROC should Quebecers vote “yes” is inherent in the circumstances.

In my view, therefore, the situation on the morning after a “yes” vote would be as follows:

- The scholarly and other literature to which one normally looks for guidance would be in disarray.
- Governments would have prepared Canadians in the rest of Canada only minimally, if at all, for the task of deciding on *their* constitutional future.
- Canadians in the ROC would be ignorant about the future, not just in the sense of their normal inability to predict tomorrow’s events in detail, but about the very shape of their society. The old order would be in the process of breaking up, habit and routine shattered, and everyday constraints on behavior slackened. This is the kind of

unpredictability that attends situations when historic civic identities come undone, historic ongoingness has departed, and the future becomes frighteningly open to both exciting and threatening possibilities.<sup>60</sup>

This fundamental, unavoidable ignorance, therefore, is the overwhelming fact Canadians must keep in mind as they confront a possible postbreakup future. We are truly looking into a dark, unknowable abyss.<sup>61</sup>

### **Panic, Fear, and Insecurity after a “Yes” Vote**

In the absence of preparation, the period after a “yes” vote in another Quebec referendum that is sufficiently impressive to suggest that two or more new states are in the making north of the US border would be one of panic, fear, and uncertainty in the ROC. Who we are as Canadians and what country we would belong to in a few years would be question marks. Media headlines and the questions on the minds of citizens would be scary: How far will the unraveling go? Will my savings, my pen-

sion, my property, my children’s future, and my job be safe? Most important for non-Quebecers, will I still be a Canadian citizen and, if so, what will that mean in the new circumstances? Or will I become a citizen of the newly independent states of, say, British Columbia, Newfoundland, a union of the former Maritime provinces, or even the United States?

A lamentably unprepared public would be fearful about its future and angry with those it held responsible. According to Banting, sovereigntist Quebecers naively underestimate “the political turmoil” that secession would precipitate in the ROC, which would be “thrown into crisis.”<sup>62</sup> He contrasts the psychological climate inside and outside Quebec that would follow a “yes” vote. Quebec, he argues, would start with three advantages that the ROC would lack. First, independence would be “a national affirmation for the Québécois... [and] in many ways the central psychological framework of that historic society would remain intact.” Second, independence would build on the prior thought and planning that had been devoted to its achievement. Third, Quebec would “start with a coherent set of political institutions,” with the province of Quebec simply being redefined as a state.<sup>63</sup>

Outside Quebec, there would be little celebration. Instead, Canadians would undergo a “collective psychological disorientation,” supplemented by anger and resentment. The ROC would be intellectually and emotionally unprepared, as it would not have “engaged in a collective reflection about how to proceed without Quebec.” Third, and “most critically, Canada would lack stable political institutions through which to develop a conception of its future.”<sup>64</sup>

In spite of the advantages Quebec would enjoy, however, its domestic situation would also be grave and beset with massive uncertainty. Would aboriginal peoples resist their incorporation in an independent Quebec? Would the partitionist movement now stirring remain small and ineffectual, or grow in scope and support into a dynamic force? How would the 40 percent or so who would have voted “no”

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accept the sundering of their civic ties with Canada? “No” voters would include virtually all of Quebec’s anglophones, allophones, and aboriginal peoples, and the ethnic divisions would be wide, deep, and bitter. Banting argues that, within Quebec, instability triggered by the resistance of aboriginal peoples, by the anger of minorities, and by the problem of borders “hold[s] considerable potential for violence.”<sup>65</sup> Even Premier Bouchard does not disagree. He spoke simple truth when he stated in June 1994 that a narrow sovereigntist referendum victory could put “the political solidarity of Quebecers in question” and challenge Quebec’s “political cohesion.”<sup>66</sup> But even a more decisive victory would not placate the losers, who would include an overwhelming majority of the nonfrancophone population. Logically, a more decisive victory would be based on an even more divisive ethnic split than the 1995 result, with a smaller percentage of francophone voters on the “no” side.

Both inside and outside Quebec, public opinion would be unanchored, and volatile. Demagogues skilled at inflaming ethnic or nationalistic passions would find this environment to their liking.

The breakup of a mature, capitalist democracy in which state and society are deeply intertwined can only be traumatic, especially when the catalyst is a politicized nationalism. Both Quebec and the ROC, despite the greater preparedness of the former, would be buffeted by domestic and international forces beyond their control. Their interactions with each other, following a polarizing referendum that would have stimulated ethnic nationalism in Quebec and resentment and shock outside Quebec, likely would be acrimonious. The governments of both Quebec and the now-truncated Canada would be struggling to maintain their authority. The exhilaration of the winners would be accompanied by the same fears and insecurities that would be rife among the losers. In these circumstances, ripe for anomic behavior, policies to minimize disorder and impose some certainty and predictability would be essential.

## Plan C and a Plea for Time

### Who Will We Be?

If Quebec were to vote to secede, Canadians outside Quebec would have to begin to decide who they are and what they wish to be — something francophone Quebecers have spent the past few decades doing. Even the labels one now uses to describe this entity — “the rest of Canada” or “Canada without Quebec” — graphically reveal how far Canadians have to go in this traumatic journey of self-discovery. No self-respecting people describes itself as a rest of anything, or in terms of what it is without. As soon as Quebec’s departure became definite, these transitional labels probably would be replaced by a redefined use of “Canada,” unless the country disintegrated rapidly into smaller entities.

If Quebec’s departure were to happen, according to Covell, it

will be too late to begin the process of imagining the future of what remains of Canada in conditions allowing for rational thought and the exercise of originality.<sup>67</sup>

On the other hand, as I have already argued, governments will not undertake this anticipatory thinking and planning before a “yes” vote, and in the immediate postreferendum bargaining context, they would be too busy to focus simultaneously on reconstitution issues. The limited intellectual capital on this issue on Canada’s bookshelves would make only a marginal contribution to the fundamental political task of educating a distraught people on alternative futures.

Fortunately, as they peer into the abyss, Canadians would have a few certain “givens,” which would be challenged only at the margins: an independent judiciary and the rule of law, the Charter of Rights and Freedoms, responsible parliamentary government, and a head of state who would be above the fray. Canadians can hope for quick agreement on these anchors, even while realizing that many



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big questions about their future would remain untouched.

The major issue would be whether we can refashion federalism — both the division of powers and the composition of a revised Senate — that would keep us together. Would Canadians be able to find a workable balance between their federal and provincial selves in new circumstances? A closely linked issue would be the accommodation of aboriginal peoples with significant powers of self-government; with one component of Canada's multinational existence gone, the historically neglected aboriginal dimension would come to the fore and require sensitive constitutional consideration.

In reality, then, the overarching question would be: Could Canadians outside Quebec overcome their divisions and survive as a single people albeit with divided civic identities? While institutional ingenuity would play a big part in success or failure, the outcome would depend more on will, desire, and community identification. These attributes, however, are neither simple inheritances nor automatic. They would need to be uncovered, worked on, and refashioned — a task that cannot be completed through hasty action.

### Avoiding Hasty Decisions

If Canadians had to reconstitute the ROC quickly in an atmosphere of panic, their decisions would reflect their lack of preparation. The uncertainty, the erosion of confidence as we adapt to a world we formerly viewed as friendly, and the ambiguity of who we are and who we might become would leave us prey to unpredictable passions. Two antithetical scenarios, focusing on our peoplehood, reveal how short-run considerations can generate long-run constitutional consequences.

### The Centrifugal Bias

Quebec's departure could destabilize the surviving ROC for two reasons. First, the federal government might be viewed as a humiliated

and defeated Goliath. Second, powerful centrifugal forces might be released, forces that pulled the provinces away from Ottawa's influence in the wake of a traumatic self-examination. In either case, the resultant panic would trigger a frantic search for security.

Such a decentralizing scenario would be most likely if the shock of a "yes" vote were compounded by the second shock of a Quebec UDI. In this outcome, the federal government would be seen as having failed in its most fundamental task — that of preserving the unity and territorial integrity of the country entrusted to it. Further, it would be the federal Parliament, bureaucracy, and land mass — its population diminished by a quarter, its territory by 15 percent — not those of the remaining nine provinces, that would have shrunk. It follows that it would be the federal, not the provincial, dimension of the citizenry that would be wounded.

In such circumstances, the search for the ROC's reconstitution after Quebec's departure would, other things being equal, likely privilege provincial governments, especially those of the wealthier provinces, and thus lead to a more fragmented, provincialized successor state than would be probable if haste could be avoided. It might even result in two or more separate polities.

A province's capacity and willingness to pursue its own self-interest devoid of empathy for the other provinces should not, however, be exaggerated. Provincial governments would also be unprepared, and their citizens troubled, fearful, and unready for bold leaps. All the provinces would be restrained by a surviving sense of Canadianism that would be reinforced by ties of family and kinship that cross provincial boundaries. Further, the "have-not" provinces would come to the aid of the center.

The fact remains, however, that, in this scenario, provincial governments would emerge from a "yes" vote in Quebec with much less damage to their integrity and continuity than would the federal government. They might be unprepared to pursue their own aggrandizement, especially to the point of leaving, but

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they would not have to carry, during the reconstitution process, the opprobrium of having lost a country.

This exaggerated provincialism, if it came about, would owe its victory not to having survived a democratic process of constitutional deliberation, but simply because it happened to dominate the stage when a decision had to be made. This fractionated future would be less likely to shape the reconstituted ROC if a relative state of normality were allowed to return before any constitutional decisions were made.

### The Centripetal Bias

An alternative scenario suggests the opposite of the preceding scenario. It is plausible that hasty decisions on the reconstitutional front could lead to a more centralized future for a smaller, more homogeneous Canada than would emerge if reconstitution were delayed. The likelihood of this outcome would be strengthened if the federal government — perhaps following some version of Robertson’s proposal for adopting contingency legislation in advance of the next referendum<sup>68</sup> — were to take charge of the post-“yes” situation, increase the cost to Quebec of a UDI, negotiate a package of agreements with Quebec that is well received outside Quebec, and orchestrate Quebec’s exit via the formal amending process, thus preserving the rule of law. Successfully playing the leading role in Quebec’s negotiated exit would re-establish the federal government’s legitimacy.

If this were to happen, it would reduce the perception of rupture, increase the perception of continuity, and enhance support for the central government. Further, the support engendered for the central government in a successful bargaining process with Quebec almost certainly would lead the provinces to maintain a low profile, their appeals to self-interest having been muted by the crisis. The relevant analogy here is Canada’s wartime experience. In this scenario, a hasty reconstitution would doubtless lead to a strong center backed by a positive public response to the

temporary nourishment of decisive federal government leadership. The exercise of such leadership in the closing months of the old Canada by what still nominally remained the government of all of Canada would encourage the federal government to transfer its leading role to the new, smaller Canada waiting in the wings for its constitutional redefinition.

One can conjecture many more post-“yes” scenarios — each of which might tilt the balance between centralization and decentralization in one way or another and lead to different long-range constitutional futures for the ROC. But would it be wise to allow the ROC’s constitutional future to be heavily influenced by the accident of events immediately flowing from a “yes” vote, when Canadians’ preparedness would be close to nil, or is it possible to find a better, less frantic context for the ROC’s reconstitution?

### *The Crux of Plan C: Take Time*

Thus, it is too soon for governments to prepare in advance for a “yes” vote in another Quebec referendum, and it would be too late, according to some analysts, to think about the ROC’s future immediately following such a result. But there is a way out of this dilemma. The solution, which should be the first step of Plan C, would be to buy time, to delay the reconstitution process. There is no need for Canadians to feel trapped and obliged to act on the ROC’s reconstitution immediately following Quebec’s exit. Why not delay the process and so increase the role of reasoned discussion and debate in making constitutional choices?

In the event of Quebec’s secession, therefore, the ROC should continue the existing constitutional arrangements, with Quebec excised, for a transitional period of, say, three to five years (I have a strong preference for the shorter period).

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## *Advantages of Interim Continuity*

### **Stability**

One advantage of interim continuity is that it would be the easiest course of action. The machinery would already be in place and, most important, Canadians and their governments in the ROC would be unprepared for anything else. This stabilizing response would reassure not only Canadians outside Quebec but also the international financial community that governments and legitimate authority were still functioning. Disruption of the known, the familiar, and the trusted would be minimized. Federalism, parliamentary government, the constitutional monarchy, the Charter, the existing electoral system, and the administrative structure that applies ongoing policies would remain. The party system, while having to adapt to the new situation, would at least be familiar.

### **An Aid to Bargaining**

Interim continuity would also make it easier for the ROC to bargain with Quebec on a limited set of unavoidable issues prior to a negotiated independence respectful of the Canadian Constitution. Staggering the tasks of bargaining with Quebec and reconstituting the ROC would prevent the agenda from becoming unmanageable. (Such questions as precisely how the bargaining would take place (presuming no Quebec UDI), who the bargainers would be, what the Canadian side would be prepared to discuss, and what would have to be put off until after the ROC's reconstitution remain immensely complicated and controversial issues beyond the scope of this Commentary.)

Until Quebec's departure was finalized, however, bargaining between the two sides probably would take place under the aegis of a small commission consisting of the existing federal government, with a drastically diminished role for its Quebec members (whose legitimacy would be gravely eroded), some rep-

resentation from the provinces, territories, and aboriginal peoples, and possibly from the opposition parties.<sup>69</sup>

Many of the issues on Quebec's agenda would be sidelined — those that were not urgent, and those that could not be addressed until the shape of the reconstituted ROC had crystallized. Instead, the negotiators would focus on disentanglement, not on partnership or interstate agreements that lacked urgency for the ROC side. In any case, the ROC could not enter into partnership arrangements on commercial, economic, political, or other matters that presupposed its stability, identity, and continuity until the reconstitution process was completed.

### **Getting to Know the New Quebec State**

Delay would also allow the ROC to learn more about its new neighbor. As the heady days of the referendum triumph receded, Quebec would be settling into its new status and the answers to a number of important postsecession questions would become clearer: How significant would be the exodus of population from Quebec following its secession? Would "no" voters who chose to remain in Quebec seem to be adjusting to the new reality, or would a sovereign Quebec remain a bitterly divided society? What would be the state of relations between Quebec and its aboriginal peoples? What would be its fiscal situation? How would the initial limited agreements between Quebec and the ROC be working? Answers to these questions would be relevant to the ROC's reconstitution. The foreign environment of the ROC's existence would have changed; for the first time, as Denis Stairs reminds us, Canada would have two foreign, next-door neighbors.<sup>70</sup> Finally, the ROC could learn from mistakes made by its newly independent neighbor.

### ***An Unfair Advantage to the Status Quo?***

Some people might oppose a multiyear transition period on the grounds that it would favor

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the development of a shrunken version of the old constitutional order but with a stronger central government. In other words, such a plan would disadvantage those actors whose influence would be greatest in the period of maximum uncertainty following a “yes” vote, when Canadians would be anxious for security but the federal government on which they normally would have relied might have crumbled. In general, then, delay might have less appeal for those who see decentralization as the wave of the future, and even less for those who support secessionist movements in other provinces.

It is true that the transitional stability of the status quo would work against any actor who would profit, politically or otherwise, from the uncertainty my proposal is designed to reduce. That indeed is its purpose. Further, and positively, delay would increase the likelihood of the ROC’s survival as one country. Assuming that survival, however, it is still unclear whether a rapid reconstitution following Quebec’s departure would serve centralizing or decentralizing forces.

Those who fear that a transitional regime would give extra leverage to the central government in the ROC’s reconstitution forget that it would, after all, only be a caretaker government. Provincial governments, by contrast, would be less constrained. Their party systems would suffer a lesser shock. Unlike the federal government, they would still govern the same society as they did before Quebec’s departure, and they would not be subject to the same hesitations about their roles as their federal counterpart. Further, if the old system were as inapplicable to the new circumstances as its opponents argue, the transition period experiment would surely confirm their beliefs.

### *The Constitution and Quebec*

Much of the difficulty of reconstituting a smaller Canada reflects the deeply embedded presence of Quebec in the theory and practice of the country’s constitutional evolution. The constitutional arrangements of the old Canada have been shaped profoundly by Quebec’s presence.

Many of the crucial developments in Canada’s history — the Riel rebellion, the conscription crises in both world wars, the role of Quebec in shaping the party system, the role of francophone prime ministers, and the halting evolution of the welfare state — underline Quebec’s impact on the political life of Canada in the first century after Confederation. In the past three decades, that impact has increased.

Pressure from Quebec has driven the country along a centrifugal path. The constitutional principle — some would say dogma — of the equality of provinces has allowed other provinces to acquire more autonomy on the coat-tails of Quebec’s demands. Although the linkage is indirect, Quebec nationalism has stimulated aboriginal nationalism, by example and by widening the constitutional agenda and providing a stage on which aboriginal peoples have been able to press their claims. Even those who resent Quebec’s prominence in Canada’s decades-long constitutional introspection nevertheless have become acclimatized to a political world in which Quebec is part of “us.” To break out of this manner of thinking would take time.

Quebec’s departure would not end the constitutional introspection of the surviving Canada. From the 1970s onward, constitutional pressures for change have emanated from other parts of the country as well. Quebec’s absence would precipitate difficult new rounds of constitutional self-examination, and require Canadians to develop a new language of constitutional self-understanding. Senate reform, a third order of government (for aboriginal nations), the amending formula, the Charter’s place in constitutional arrangements, the issue of popular sovereignty, and the relative roles of the federal and provincial governments would all be revisited in the context of Canada without Quebec. And behind all the others would lurk one crucial question: Can Canadians, without Quebec, survive as one people?

### **A Herculean Task**

It is easier to underestimate than to overestimate the difficulties of the ROC’s reconstitu-



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tion. The task would be nothing less than the creation of a new nation, a new people. Canadians have been schooled by their history, education, lived experiences, and the symbols of their nationhood to think of themselves as including Quebec. Quebec has been central to Canada's self-definition, geographically, culturally, linguistically, and in other ways. The "rest of Canada" is headless, voiceless, and without definition as long as Quebec remains in Canada. Citizens outside Quebec think of themselves as Canadians. Their leaders have believed that to stimulate a separate identity for the ROC, or for "English Canada," would undermine Canadian unity. Abraham Rotstein argues that Canadians view themselves in terms of "mappism" — an inability to "conceptualize the country except as a geographical unity."<sup>71</sup> The ROC's post-"yes" task would necessitate a psychological and intellectual shift to a new identity that would take time to fashion. It would not be possible to extrapolate from Meech Lake (the Quebec round) or Charlottetown (the Canada round) to the kinds of constitutional changes that would be sought if Quebec seceded. In both of those rounds, Quebec's demanding presence influenced the behavior of all the other actors, particularly the federal government.

Unquestionably, three decades of constitutional introspection have contributed to an emerging anticipatory sense of self for the ROC that excludes Quebec. This self, however, is clearly underdeveloped, does not yet think of itself as a people ready for a state of its own, and has not willingly and fully extricated itself from the traditional Canadian self that includes Quebec. It can do so only if and when the old Canada dies.

In the event of Quebec's secession, Canada would not be in the relatively fortunate position of the former Czechoslovakia, where a "velvet divorce" was possible because the central authority could simply fade away while power naturally devolved to the two successor states. The Czechoslovak case is more accurately characterized as a split than as a secession of one part. Canada's case would be

different. Canada is a federal state — a system of competing governments ruling a citizen body with the distinct civic identities appropriate to federalism. If Canada's center simply faded Czechoslovak-style, the recipients of jurisdictional powers outside Quebec would be nine provinces and two territories — an unacceptable outcome. On the other hand, the excision of Quebec from an otherwise unchanged constitutional structure would leave the ROC with constitutional arrangements that might be inappropriate to the new circumstances.

The departure of Quebec and the resultant shaking of established arrangements might stimulate formerly forbidden thoughts in other provincial capitals and among the citizenry, jeopardizing our ability to stay together as one people. If Quebec were to leave by a UDI, the psychological destabilization that might follow could precipitate such a loss of confidence that imitators might surface in other provincial capitals. Even if Quebec were to depart by a negotiated process, to deny the same option to the citizens and governments of other provinces would be difficult. Delay would not prevent such a possibility.

### *Continuity With or Without a UDI*

A transitional constitutional continuity would provide a secure context within which the ROC could concentrate attention on its future after Quebec had gone. That continuity would be desirable whether Quebec departed by a UDI or through a negotiated procedure that employed the existing constitutional amending formula — although the latter would be infinitely preferable.<sup>72</sup> In either case, however, Canadians would have to rethink their constitutional existence. If Quebec's departure were negotiated, the lead role the federal government presumably would play in guiding that process would provide a certain naturalness to keeping the old constitutional structure, minus Quebec, for an interim period. If constitutional thinking about the ROC's future were to follow on a Quebec UDI, however, the necessity for a federal role in such perilous circum-

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stances would still remain, even though Ottawa's legitimacy would be severely weakened. As I discussed earlier, the possibility of a vacuum at the federal level would stimulate centrifugal pressures, encourage the "have" provinces to take charge, and enhance the likelihood of erratic, panic behavior throughout the system. In such a case, the need for the continuity and security provided by a stable federal framework would be enhanced. Thus, under either a UDI or a negotiated exit by Quebec, it would be wise to continue the existing system while the new Canada sorted itself out.

### After the Interim

The process by which the peoples and governments of the ROC should pursue their constitutional redefinition is not the subject of this Commentary. To address that question here would distract attention from my basic message: that, in the event of Quebec's secession, precipitous action should be avoided, and that a Plan C is needed, the first step of which should be to create time to canvass alternative futures. Once we have agreed on this first step, we can then turn to the second component of Plan C: how to proceed to decide on the ROC's future. In doing so, Canadians need to remember that their task would be to fashion a new people, not just new governing arrangements. Room should be left for constitutional imagination, meaning that governments must not be allowed to dominate the constitutionmaking process. The ratification process should include a country-wide referendum that would not be subject to the stranglehold of unanimity. Finally, the approval of electorates should be an alternative to the approval of governments — not, as in the Charlottetown Accord, an additional requirement. The most serious mistake Canadians could make would be to forget that the constitutional order has been democratized, that the founding of a new people is not a task for elite manipulation.

### A Difficult Transition

If it came to pass, Quebec's sovereignty would usher in a new world for both Quebecers and their new Canadian neighbors. The new Canada would enter that world and adapt to the changed circumstances it presented in three stages:

- first, the immediate, short-term transition period between a "yes" vote and Quebec's exit, whether by the constitutional rules or by a successful UDI;
- second, the longer, medium-term transition period after Quebec's departure, during which the reconstitution of a smaller Canada would be worked out; and
- third, the long-term implementation of the constitutional arrangements worked out in stage two.

In stage one, the federal government, still the government of all of Canada, would be involved in negotiations with Quebec, or in responding to the early stages of a Quebec UDI. Ottawa's legitimacy and efficacy and the extent to which its various roles would have to incorporate provincial and other input cannot be predicted in advance. In the second stage, assuming the strategy suggested in this Commentary were followed, the inherited constitutional structure, minus Quebec, would provide institutional continuity while Canadians outside Quebec decided on their future.

This three-to-five-year transition period would be stressful. The sooner a considered reconstitution was achieved, the better. Even if Quebec's departure were peaceful and negotiated, many issues would remain to be resolved between the two sides, and while I have argued that many of them should be put on hold while the new Canada decided on its future, irritations and tensions would inevitably arise, not all of which could be shelved. The unsettled state of co-existence between Quebec and Canada would overlap with the question mark of the future of the smaller Canada being worked out by whatever reconstitution-making process was chosen.



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In the transitional regime following Quebec's excision from the Canadian Constitution, there would be no Quebecers in Parliament, the Supreme Court of Canada, or the numerous federal boards and commissions that now have Quebec representation. These changes and many others would necessarily and immediately follow either from Quebec's negotiated departure or from an effective UDI. They may seem straightforward — as Young notes, "it is surprising how little excision is required to eliminate Quebec from the constitution."<sup>73</sup> In reality, however, such changes would be immensely difficult, time consuming, and psychologically debilitating. Rules, operating procedures, decisionmaking practices, and informal understandings would have to be modified in hundreds of offices and in the major institutions of government.

With respect to legislation and policies, Quebec's presence could be deleted easily in some cases, but where Quebec's presence has been significant, such as in marketing boards and equalization, modifications would be necessary. Logically, for example, language policy would be a candidate for quick modification, as much of its rationale would disappear with Quebec's departure. This would not be accomplished easily, however, because crucial components of the policy are constitutionally enshrined, and to amend those aspects of the Constitution under what would clearly be a transitional regime might encourage similar attempts in other areas, thus defeating the purpose of such a regime — to buy time to sort out where Canadians would like to go.

The removal of Quebec's three members from the Supreme Court of Canada would leave a total of six, increasing the likelihood of judicial stalemates. The francophone-anglophone composition of the House of Commons, which has influenced its social and intellectual climate and many of its practices, would be gone, and the self-definition of the remaining members would be transformed. The society they represented would be more homogeneous, geographically discontinuous, and agitated and uncertain about its future.

These changes are only the tip of the iceberg. Canadian governments and societies are deeply entangled through both law and policy. Their selective disentanglement would require shrewd political leadership.

The transitional period in which the old constitutional structure, minus Quebec, temporarily prevailed would be ambiguous. To the extent that the emerging constitutional arrangements for the new Canada appeared likely to depart from the old structure, the latter's legitimacy and efficacy would be weakened. Canadians would be working with one constitutional structure devised for a vision of Canada that was no longer relevant, while preparing a new set of constitutional arrangements for the Canada that was emerging. The authority of the transitional arrangements would be weakened by competing visions of what the new identity and governing structures should be. The transitional structure would be seen as a holding operation, possibly one leading not to a new, united Canada but to a fragmented group of successor states.

One major problem the transitional regime would confront would be the greatly increased relative clout of Ontario in the new Canada. With its share of MPs in the new House of Commons increased to 45 percent, not only would Ontario's bloc of political power in the transitional regime be viewed with suspicion in the other provinces; it would also be unlikely to survive the remaking of a smaller Canada without some modification. The transitional regime's legitimacy, therefore, would depend on Ontario's forbearance in translating its numbers into self-interested policy; the price of a heavy Ontario hand would be very high. Ideally, the transitional regime would develop understandings and conventions that underlined its caretaker status.

In the transitional regime, MPs and their senior bureaucratic advisors would have little capacity to undertake new initiatives. Even with good fortune, the postbreakup period would almost certainly be one of budgetary stringency and program cutbacks. Major new initiatives would be construed as unfair at-

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tempts to tie the future's hands — as attempts to reduce Canadians' maneuvering room in their quest for a new identity. Thus, the transitional period would restrict agreements with Quebec to those that were minimally necessary. Progress toward any kind of association or partnership, especially of a political nature, would be put on hold until the identity, composition, and unity of the new Canada became known.

The issue of the position of aboriginal peoples in a new Canada would not be easily shelved — indeed, the report of the recent Royal Commission on Aboriginal Peoples has given new salience to their concerns. On the other hand, it would be inappropriate to address such concerns during the transitional period. It follows, then, that aboriginal peoples would have to be accorded a prominent place in the remaking of Canada without Quebec, and with the Royal Commission's recommendations in hand, they would have the advantage of a ready-made package to bring to the constitutional process.

Presiding over the process of applying the transitional constitutional order to a shrunken Canada would be a new party system, likely ushered in by new elections following Quebec's leave taking. The revamped system, responding to the new reality of a Canada geographically bifurcated by Quebec's departure, would itself be volatile. The Liberals and Progressive Conservatives, with their historic pan-Canadian roles and party histories deeply influenced by the presence of Quebec, would be affected the most. Reform and, to a lesser extent, the New Democrats, would have much less baggage to shed. All parties would have to respond to the changed configuration of social forces in the new Canada, and to the new issues of identity, alternative constitutional futures, and relations with an independent Quebec that would come to dominate the agenda. Further, as noted above, the inherent ambiguity of the transitional regime would require the parties to live in two worlds at the same time: the known, but perhaps ephemeral, transitional

regime, and its emerging, perhaps permanent, but unknown successor.

Politicians and parties would limit their investment in the transitional regime as they looked to the successor regime on the horizon. Some members of the transitional Parliament would advocate either a stronger or a weaker role for an institution that, in more normal times, would routinely capture their loyalty. Politicians' contributions to the creation of a successor regime would be influenced by their natural tendency to see as desirable the kind of future constitutional arrangements in which their party would flourish.

In the three-to-five-year period following Quebec's departure, there might be as many as a dozen provincial elections, three or more territorial (if Nunavut were under way), and one or two federal. These would be important means through which the new Canada would find its voice and debate its future. Although, remarkably, given the constitutional odyssey of recent decades, past elections have paid scant attention to constitutional issues, that aversion to playing constitutional politics through the party system would be unlikely to repeat itself. The elections that took place in the years immediately after Quebec's departure would both highlight the ambiguity of the situation, as alternative futures are vigorously debated, and clarify the choices Canadians would confront. They would be important supplements to whatever on-going constitution-making process had been put in place.

Some constitutional change would surely be necessary to accommodate the new cultural, linguistic, geographic, and economic circumstances and to signal the birth of a new country. The relative influence of the remaining regions and provinces would be altered. Central Canada as such would lose numerical power, while the relative weight of the other provinces would, by definition, be enhanced. But the most visible and problematic change would be the stronger relative presence of Ontario.

In general, all the constitutional clauses based on the existing regional and provincial

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divisions of Canada, including the amending formula, would have to be revisited. As I mentioned, explicit constitutional provisions dealing with official-language minorities would have to be reassessed, as the primary linguistic division of Canadian history would lose salience. Equalization would almost certainly be re-examined, particularly if constitutional revision were to move the new Canada in a decentralist direction. All constitutional provisions and high state policy that deal with Canada's ethnic demography would have a different context in the absence of Quebec. The constitutional recognition of aboriginal peoples would take on new meaning without the stimulus, model, and rivalry of Quebec nationalism. Finally, the Charter, which has brought new players into constitutional politics and created a tension between the roles of governments and citizens in formal constitutional change, leaves Canadians with a contradiction at the heart of Canada's constitutional life that, inevitably, would find a place on the ROC's constitutional reform agenda. All the proposals of recent decades, from Senate reform to aboriginal self-government to a defining preamble, would resurface alongside the new issues that Quebec's departure would raise.

The difficulties, ambiguities, and uncertainties of the proposed transitional arrangement are not arguments for proceeding immediately to a quick reconstitution of Canada without Quebec. To do so would be a recipe for even greater instability and future dismay as Canadians find themselves having to cope with the consequences of hurried changes made in a crisis atmosphere. The task, after all, would not only be to make institutional choices, but to define a new people, one that would provide a positive answer to Peter Russell's question: Can Canadians become a sovereign people?

Even given the three-to-five-year transition time I suggest, the ROC's reconstitution would not be easy, unless the crisis generated irresistible pressures for a rapid compromise. The proliferation of actors and the various demands for change in recent constitutional discussions indicate the kinds of pent-up pres-

ures Canada would experience as it reconstituted itself. These pressures would, in fact, become even more extreme, since Canadians would be aware that they were creating a new country, and that they could no longer assume constitutional continuity or that they had a living constitution. But this surely is an argument for developing a secure transitional framework, a shelter behind which Canadians, if necessary, could examine the alternative futures from which they would have to choose.

## What Next?

The transitional arrangement is, however, a means to an end. The provision of time and stability, the essential contexts of the reconstitution process, is the necessary first stage of Plan C. The second stage — how, precisely, to go about it — requires careful analysis and constitutional thinking that are far beyond the scope of this paper. Nevertheless, it seems germane at this point to offer a few hints — mostly general principles — toward forming the rest of Plan C.

The first of these is that, while the attempt to create a new Canada might involve the emergence of more than one democratic, well-ordered successor state if the will to continue together could not be sustained, the working assumption of the ROC's constitutional search should be that Canadians would wish to continue as a united people, albeit with possibly major changes in some of their institutions of government.

The second principle is that the task of founding a new people should start from the premise that the people are sovereign. There is no escaping the democratic imperative, given the ethic of citizen participation in constitutional matters that has mushroomed since the 1980 Quebec referendum and the stimulus of the 1982 Charter. The existence next door of an independent Quebec that had repeatedly sought, and finally gained, majority support for sovereignty would greatly reinforce this democratic message. It simply would not be possible for the ROC's political elites to fashion

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new constitutional arrangements in closed-door sessions and then spring them, Meech-style, on an unprepared public. The new country's citizens would not allow themselves to be treated as subjects, made to stand on the sidelines as their political masters worked out their future. The process of founding a new people would have to be a collaboration between governments and citizens.

Canada without Quebec would have to develop a new sense of self. Canadians would have to adjust to the wounding reality of a gaping hole in their middle. Although some psychological withdrawal from common citizenship has been under way on both sides for some time, Quebec's departure would nevertheless be traumatic. Canada's ethnic demography would take on new meaning as immigrants and their descendants from nontraditional source countries constituted a larger percentage of the population. There would also likely be some language-driven population shifts as some anglophones in Quebec and some francophones in the ROC moved to areas where their linguistic community would be in the majority. More generally, the sense of beginning afresh might weaken the "Mayflower syndrome" that distributes status based on time of arrival. On the other hand, aboriginal peoples likely would seize the opportunity of the opening up of the post-"yes" constitutional agenda to push their historical claims as First Nations with renewed vigor.

Canada without Quebec would confront a vast array of fundamental questions as 23 million people contemplated a future for which they would be ill-prepared. Such a crisis, however, would also be an opportunity for the surviving Canadian community to reconstitute itself in a very different world from that of the mid-nineteenth century Confederation. That world explains the British cast of the 1867 Constitution, "similar in principle to that of the United Kingdom," formed when Britain was a world power, when Canada's trade and immigration patterns linked it to the mother country. The choice the governing elites of the British North American colonies made then was to differentiate themselves from the colossus to the south that was just emerging from civil war. If

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Quebec were to leave, Canadians would have to confront the removal of one of the key elements that distinguishes their identity from that of Americans, at a time when their economic and cultural embrace with the United States is tightening.

In part, the ROC's reconstitution should be a response to globalization, to a world in which boundaries matter less and less, in which democratic peoples are increasingly multi-ethnic, and in which a widely diffused language of rights is common currency. One possible consolation is that, as Mancur Olson points out, societies with long, stable histories can become sclerotic as the interdependence of state and society constrains growth and fosters inefficiencies. He disputes the thesis that simply because "social institutions have survived for a long time, they must necessarily be useful to the society." He argues that,



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other things being equal, the most rapid growth will occur in societies that have lately experienced upheaval but are expected nonetheless to be stable for the foreseeable future.<sup>74</sup>

Of course, Canadians may well find, once they have settled down to their new existence, that they have neither fragmented further nor fundamentally changed the old constitutional framework. My assumption that significant changes would be both necessary and attainable would then become simply one more failed attempt to perceive the future. What Canadians would then inherit would have the advantage of inertia and incumbency. It might pass the performance test in the transition period with flying colors, and gain the support of those who wish to minimize the instability of massive constitutional change. Or perhaps the old framework would be seen as a compromise between competing visions of the ROC's future. If that were the outcome, Canadians would still have reconstituted themselves, if only by deciding to remain as they are.

## Conclusion

Despite the postreferendum emergence of Plan B, there is minimal likelihood that, before the next referendum, governments outside Quebec will have prepared themselves or their citizens for the reconstitution of the rest of Canada if the sovereigntists win. The work of think tanks, individual academics, and various public-minded organizations will no doubt have filled a small bookcase with their predictions and analyses. While the intellectual capital thus generated will be helpful, it should not be confused with the political process of constitutionmaking, a process that involves the whole society. Moreover, proposals such as a recent one by Keith Spicer — to take the leadership role away from governments now and have both pre- and postreferendum proposals formulated and then voted on in a national referendum sanctioned by Ottawa — have thus far languished.<sup>75</sup>

Not only would Canadians be unprepared for a future they did not seek, there would be no consensus as to whether Canada without Quebec would be more centralized or decentralized, united or fragmented, whether relations with a sovereign Quebec would be peaceful or hostile, or whether Quebec itself would be tranquil and socially cohesive or torn by violence stemming from the bitterness of secession. In brief, Canadians would not just be unprepared, they would be inescapably ignorant — and this would not be the normal ignorance that attends all futures, which is reduced by routine and inertia, but a more profound lack of even the most basic knowledge, when routine and inertia cannot be counted on. A “yes” victory in Quebec, especially if followed by a UDI, would have the impact of a political earthquake in the rest of Canada. In my view, Canadians would react with fear, panic, anger, and a sense of profound crisis almost certainly dwarfing any hope or relief that might enjoy a furtive existence.

The uncertainty would be triggered both by the immediate need to strike a deal on certain inescapable issues with Quebec, when it would not even be clear as to who should bargain on our behalf, and by the longer-term question of whether a Canada without Quebec could survive. A well-conceived Plan B, outlining the terms of Quebec's secession, if it were in place in time, could ready us for the first issue, but the issue of the ROC's survival could not be resolved in advance. It would, however, be possible to improve the odds by establishing a stable, transitional constitutional arrangement.

We can neither predict nor control the future. All we can do is to try to so position ourselves that uncontrollable events do not leave us unable to respond if they occur. If Quebec were to leave, therefore, the appropriate response in the ROC would be to delay its reconstitution, to continue with the existing structure, to make a friend of time while a reduced Canada overcame the shock of breakup and undertook the introspection and public education that would be essential to the creation of a new political order north of the United

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States. Canadians know their current arrangements and how to work the system. They are comfortable with it. As an interim constitution, it would provide stability while Canadians forge a new identity, an existential question that it would be folly to try to answer in panicky haste following Quebec's exit.

The final section of this Commentary anticipates the subject of another — the completion of Plan C, taking advantage of the benefits the rest of Canada might extract from a reconstitution process into which it might be pushed unwillingly. My objective, however, has been more limited: to argue for the transitional use of the existing constitutional machinery as the first step of Plan C, to buy the time and security Canadians would need to decide their constitutional future. I make no claim that current arrangements would be appropriate for Canada without Quebec — the fact is that no one knows or can know, since there are just too many unknown variables. Nor do I insist that the new Canada should survive as a single people with a common government, although that is my strong preference. I argue

only that, given the magnitude of the demands and the lack of preparation that the smaller Canada would confront, it would make sense to play for time — to give thought the chance to crystallize, and to give Canadians outside Quebec a chance to come to terms with a post-“yes” world.

To be successful, my proposal clearly requires the approval of governments. Its benefits would be maximized if enough relevant actors — governments, political parties, influential elites — were to agree on its desirability before the next Quebec referendum. While a formal, across-the-board agreement of governing authorities is implausible, a widely diffused understanding and sympathy for the idea that the constitutional status quo could be a viable interim arrangement would be an immense improvement over the unpredictability of Canada's immediate future following Quebec's possible separation that now prevails. Public support from private associations and from at least some governments and political parties would qualify as a great leap forward.



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## Notes

I wish to thank Christopher Adams for excellent research assistance, and Ken Boessenkool, David Cameron, Patrick Monahan, Daniel Schwanen, and Richard Simeon for helpful critical comments on an earlier draft. My indebtedness to the published work of Gordon Gibson, Patrick Monahan, and Robert Young may not be as evident in the text and notes as it should be. If so, that is a testimony to the extent their groundbreaking work has become part of the basic stock of knowledge on which we build.

An earlier version of some of the arguments in this *Commentary* was presented in Alan C. Cairns, "Suppose the 'Yes' Side Wins: Are We Ready?" *Western Perspectives* (Calgary: Canada West Foundation, February 1995).

1 Ray Conlogue, *Impossible Nation: The Longing for Homeland in Canada and Quebec* (Stratford, Ont.: Mercury Press, 1996), p. 19.

2 The first "official" warning came in 1965:

Canada, without being fully conscious of the fact, is passing through the greatest crisis in its history...the state of affairs established in 1867, and never since seriously challenged, is now for the first time being rejected by the French Canadians of Quebec.

Canada, Royal Commission on Bilingualism and Biculturalism, *Preliminary Report* (Ottawa: Queen's Printer, 1965), p. 13.

3 Plan B, according to Terrance Wills, "is really a way to prevent separation by portraying its excruciating effects for all to see." It is intended to undermine the strategy of "the separatist leadership [which] has spent years, without inhibition or contradiction, developing the myth of a cake-walk to separation." Terrance Wills, "Federal cabinet's Quebec strategy beginning to take shape," *Montreal Gazette*, October 5, 1996. See also Jane Jenson and Antonia Maioni, "The Political Price of Plan B," *Canada Watch* 4 (August 1996, nos. 5 and 6): 98-101.

4 The term "Plan C" has occasionally been put to other uses in the course of the Canadian constitutional debate. The Reform Party, for example, has used it to refer to its proposal for "new federalizing." In this *Commentary*, however, I use it to mean the process of reconstituting the rest of Canada in the event of Quebec's secession, a process that can only begin once any bargaining over the actual secession process (Plan B) is completed.

5 The House of Commons resolution introduced by the prime minister on November 29, 1995, reads as follows:

Whereas the People of Quebec have expressed the desire for recognition of Quebec's distinct society; 1) the House recognize that Quebec is a distinct society within Canada; 2) the House recognize that Quebec's distinct society includes its French-speaking majority, unique

culture and civil law tradition; 3) the House undertake to be guided by this reality; 4) the House encourage all components of the legislative and executive branches of government to take note of this recognition and be guided accordingly.

See Canada, Parliament, House of Commons, *Debates*, November 29, 1995, p. 16971. The resolution was passed on division 148-91; see *idem*, *Debates*, December 11, 1995, pp. 17536-17537.

6 Other versions of Plan A proliferate outside of government. See, for example, Y. Fortier, P. Lougheed, and J. Maxwell, *Today and Tomorrow: An Agenda for Action*, Report of the Confederation 2000 Conference, May 4, 1996 (Ottawa); and Group of 22, "Making Canada Work Better" (Toronto, May 1996). See also John McCallum, "Making Canada Work Better," *Canada Watch* 4 (August 1996, nos. 5 and 6) for a short version of the Group of 22 proposals.

7 Graham Fraser, "No major reforms planned to keep Quebec, Dion says," *Globe and Mail* (Toronto), October 16, 1996; and Joan Bryden, "Distinct status rests in hands of Canadians, minister says," *Ottawa Citizen*, October 30, 1996.

8 See Roger Gibbins (with the assistance of Katherine Harmsworth), *Time Out: Assessing Incremental Strategies for Enhancing the Political Union*, C.D. Howe Institute Commentary 88 (Toronto: C.D. Howe Institute, February 1997). Given the minimum public input characteristic of this kind of incrementalism, *de facto* constitutional changes occur by stealth.

9 For a discussion of this phenomenon, see Alan C. Cairns, "Ritual, Taboo, and Bias in Constitutional Controversies in Canada, or Constitutional Talk Canadian Style," in Douglas E. Williams, ed., *Disruptions: Constitutional Struggles from the Charter to Meech Lake, selected essays by Alan C. Cairns* (Toronto: McClelland and Stewart, 1991).

10 See, for example, Jeff Rose, "Beginning to Think about the Next Referendum," Occasional Paper (University of Toronto, Faculty of Law, November 21, 1995), mimeographed; Thomas R. Berger, "What about Quebec's next referendum?" *Globe and Mail* (Toronto), November 9, 1995; Keith Spicer, "A clean start or a clean break: English Canada should prepare two options: A renewed federalism or a Canada without Quebec," *Montreal Gazette*, January 24, 1996; and Jeffrey Simpson, "The Liberals wobble with non-answers to Reform's clear questions," *Globe and Mail* (Toronto), December 14, 1995. For additional references, see Alan C. Cairns, "The Legacy of the Referendum: Who Are We Now?" *Constitutional Forum* 7 (Winter/Spring 1996, nos. 2 and 3): 39, n. 12.

11 Charles Taylor, "Shared and Divergent Values," in Ronald L. Watts and Douglas M. Brown, eds., *Options*

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for a New Canada (Toronto: University of Toronto Press, 1991), p. 65.

12 For example, Brian Dickson, retired chief justice of the Supreme Court of Canada, asserts the importance of “discuss[ing] now, in an open and democratic fashion, the ground rules that ought to apply in any future referendum campaign and its aftermath.” He adds that the rule of law must apply “to the secession of a province.” “Brian Dickson: ‘Two modest observations’ on Quebec,” *Globe and Mail* (Toronto), July 5, 1996. See also Richard Gwyn, “The old Canada is gone forever,” *Toronto Star*, October 31, 1995; Michael Bliss, “Canada needs to define the limits of appeasement,” *Toronto Star*, November 17, 1995; and Jeffrey Simpson, “With no clear thinking, Canada was ill prepared for its dismemberment,” *Globe and Mail* (Toronto), November 8, 1995.

13 Douglas M. Brown, “Thinking the ‘Unthinkable,’” in Patrick C. Fafard and Douglas M. Brown, eds., *Canada: The State of the Federation 1996* (Kingston, Ont.: Queen’s University, Institute of Intergovernmental Relations, 1997).

14 Preston Manning, “Awakening the Sleeping Giant” (address to the Canadian Club, London, Ontario, November 2, 1995), p. 2. In June 1994, Manning further addressed to the prime minister 20 “hard questions being asked by rank and file Canadians regarding Quebec’s potential separation from Canada” (Draft of Open Letter of Preston Manning to Prime Minister Jean Chrétien, June 8, 1994.) The Reform Party subsequently published its own hard-line answers (“Reform Response to the Twenty Questions Posed to the Prime Minister on June 8, 1994,” draft, n.d.)

15 Gordon Robertson, “Contingency Legislation for a Quebec Referendum,” *Canada Watch 4* (August 1996, nos. 5 and 6): 95.

16 See the excellent discussion by Peter W. Hogg, “The Effect of a Referendum on Quebec Sovereignty,” *Canada Watch 4* (August 1996, nos. 5 and 6). See also Patrick J. Monahan and Michael J. Bryant (with Nancy C. Coté), *Coming to Terms with Plan B: Ten Principles Governing Secession*, C.D. Howe Institute Commentary 83 (Toronto: C.D. Howe Institute, June 1996), pp. 23, 30.

Then-justice minister Allan Rock’s speech to the House of Commons, September 26, 1996, announcing the federal government’s reference to the Supreme Court of Canada on whether domestic or international law gives Quebec the right to a unilateral declaration of independence, is a eulogy to the rule of law, the framework of order, and refers to his own role as “custodian of the Constitution of our country” (“Why Ottawa is seeking court ruling,” *Toronto Star*, September 27, 1996).

José Woehrling, however, argues that the complexities of the amending formula could justify a Quebec UDI, based on agreed bargained terms, should an amendment not get over all the hurdles, on the grounds “that ROC had been reduced to incoherence and pa-

ralysis by the unwieldy amending formula of the Canadian Constitution” (“Some Ground Rules for the Next Referendum on Quebec’s Sovereignty,” *Canada Watch 4* [August 1996, nos. 5 and 6]: 96).

17 *Reference Re Secession of Quebec from Canada* [1996] C.S.C.R. No. 421 (Q.L.).

18 Robert A. Young (*The Secession of Quebec and the Future of Canada* [Montreal; Kingston, Ont.: McGill-Queen’s University Press, 1995], pp. 181–182) discusses the federalist strategy to increase uncertainty by refusing to specify Ottawa’s position on contentious issues, such as the necessary size of an acceptable majority. See also p. 292.

19 The government of British Columbia is a possible exception. Andrew Petter, Minister Responsible for Intergovernmental Relations, has established a group headed by MLA Gordon F.D. Wilson, leader of the Progressive Democratic Alliance, to advise the government, and British Columbians generally, on national unity issues from a BC perspective. Apparently, the group’s mandate includes British Columbia’s options if Quebec were to secede.

20 See *Canada Watch 4* (August 1996, nos. 5 and 6), a special double issue focusing on Plan B.

21 For example, the discussion of Plan B has been immeasurably advanced by Monahan and Bryant, *Coming to Terms with Plan B*.

22 See, for example, Jeffrey Simpson, “With Quebec, Ottawa needs a second plan quickly,” *Globe and Mail* (Toronto), October 10, 1996, reporting former Alberta premier Peter Lougheed’s distress over the inactivity.

23 Young, *Secession of Quebec*, pp. 113–114, citing Richard Simeon. The need for a fair, clear question has been reiterated by Prime Minister Chrétien, by Intergovernmental Affairs Minister Stéphane Dion, and by Allan Rock while justice minister. For Chrétien, see Hugh Winsor and Tu Thanh Ha, “Chrétien signals new resolve on Quebec,” *Globe and Mail* (Toronto), December 12, 1995; and Barry Came, “A War of Words and Shadows,” *Maclean’s*, May 27, 1996. For Dion, see “Next referendum question must be clear, Dion says,” *Globe and Mail* (Toronto), October 1, 1996. For Rock, see Susan Delacourt, “Ottawa to seek secession ruling,” *Globe and Mail* (Toronto), September 26, 1996; and idem, “Rock wants clear choice in referendum question,” *Globe and Mail* (Toronto), September 28, 1996.

24 See Shawn McCarthy, “PM demands ‘clear majority,’” *Toronto Star*, October 11, 1996; Ross Howard, “Slim vote can’t split Canada, PM says,” *Globe and Mail* (Toronto), January 31, 1996, attributes similar views to Dion.

25 See Monahan and Bryant, *Coming to Terms with Plan B*, pp. 13–14.

26 Woehrling, “Some Ground Rules,” p. 95. Hogg (“Effect of a Referendum,” p. 98) agrees that there is “a moral duty” to hold a second referendum before setting the

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- amending procedures in motion. Monahan and Bryant (*Coming to Terms with Plan B*, pp. 33–34) concur.
- 27 See Grand Council of Crees, *Sovereign Injustice: Forcible Inclusion of the James Bay Cree and Cree Territory into a Sovereign Quebec* (Nemaska, Que., 1995); and Carol Hilling, “Autodétermination et sécession confundes,” *Le Devoir* (Montreal), January 13, 1995.
- 28 See the various statements by then-Indian affairs minister Ron Irwin supporting the rights of aboriginal peoples to remain with Canada should Quebec secede, reported in Jack Aubry, “Vote could spark violence, Irwin says,” *Toronto Star*, February 10, 1996; and “Irwin hits a nerve,” *Montreal Gazette*, editorial, February 16, 1996. The PQ government’s reply is summed up in Robert McKenzie, “Bouchard calls Irwin a ‘moron’,” *Toronto Star* February 15, 1996; and Rhéal Séguin, “Bouchard says Irwin ‘an idiot’,” *Globe and Mail* (Toronto), February 15, 1996.
- 29 For federalist statements on the divisibility of Quebec, see “Quebec probably is divisible: Charest,” *Ottawa Citizen*, January 29, 1996; B. Cox, “If Canada is divisible, so is Quebec, Dion says,” *Ottawa Citizen*, January 27, 1996; Ross Howard, “Quebec divisible, Chrétien says,” *Globe and Mail* (Toronto), January 30, 1996; “Is Quebec divisible?” *Globe and Mail* (Toronto), editorial, January 30, 1996.
- 30 Robertson, “Contingency Legislation,” pp. 93–95.
- 31 See, for example, Philip Authier, “Bouchard ‘furious’: aide,” *Montreal Gazette*, May 13, 1996; Elizabeth Thompson, “Early vote threatened,” *Montreal Gazette*, April 29, 1996; Robert McKenzie, “PQ talks tough on rights to vote,” *Toronto Star*, April 29, 1996; Terrance Wills and Paul Wells, “Canadians ‘will have say,’” *Montreal Gazette*, February 28, 1996; and Philip Authier, “Policy a threat to democracy — Quebec,” *Montreal Gazette*, February 28, 1996.
- 32 Rhéal Séguin, “Separatists were poised to humble Ottawa,” *Globe and Mail* (Toronto), November 9, 1995.
- 33 Jenson and Maioni (“The Political Price of Plan B,” p. 101) note the negative effect of tough Plan B talk, especially partition talk, on Quebec federalists, “in silencing...those who will have to conduct the next referendum on the ground.” For discussion of the split between federalists inside and outside Quebec over Plan B, see Anne McIlroy, “Separation possible with ‘clear mandate’: Provinces would decide, PM says,” *Globe and Mail* (Toronto), May 16, 1996; Rhéal Séguin and Susan Delacourt, “Bouchard dismisses bid for ruling on sovereignty,” *Globe and Mail* (Toronto), September 27, 1996; Rhéal Séguin, “Federalists split over call for court ruling,” *Globe and Mail* (Toronto), September 28, 1996; idem, “Ottawa has no authority to intrude, Johnson says,” *Globe and Mail* (Toronto), September 30, 1996; Elizabeth Thompson, “Split within Liberals on ‘no more referendums,’” *Montreal Gazette*, October 2, 1996; and Rhéal Séguin, “Quebec’s Liberals want changes to Constitution,” *Globe and Mail* (Toronto), October 11, 1996.
- 34 See “Galganov flops, but the debate carries on,” *Globe and Mail* (Toronto), September 19, 1996.
- 35 Denis Stairs notes: “Starkly put, the government of a united Canada cannot act for the people of a partitioned Canada” (*Canada and Quebec after Québécois Secession: “Realist” Reflections on an International Relationship* [Halifax, NS: Dalhousie University, Centre for Foreign Policy Studies, 1996], p. 36; italics in original). Young (*Secession of Quebec*, p. 160) states that, “as the central government and legislature contain representatives from the potentially seceding state, they cannot readily acknowledge the possibility of fragmentation before it occurs, even to the point of commissioning reports and contemplating scenarios.” See also Tom Kent, “An Emergency Operation for the Constitution,” in J.L. Granatstein and Kenneth McNaught, eds., *English Canada” Speaks Out* (Toronto: Doubleday Canada, 1991), p. 323.
- 36 Admittedly, Monahan and Bryant do not ignore the issue completely. They recommend that the existing Constitution remain in place throughout the negotiating period, until Quebec has formally seceded, and that, after the necessary amendments to excise Quebec have been enacted, the Constitution continue in place until “time and careful study” have informed Canadians of the fundamental changes to it that will probably be necessary. In fact, Monahan and Bryant succinctly present the gist of the arguments that I elaborate on in subsequent sections of this *Commentary*, but they do so only as a postscript. See Monahan and Bryant, *Coming to Terms with Plan B*, pp. 38–39.
- One honorable and significant exception to the relative lack of thinking about this issue is Gordon Gibson, who originally coined the term “Plan B” but specifically to refer to the survival of the ROC, a problem he addresses head on in *Plan B: The Future of the Rest of Canada* (Vancouver: Fraser Institute, 1994). As noted above, however, the term has come to have a different focus.
- 37 See Hogg, “Effect of a Referendum,” p. 98, on the unrealistic picture portrayed by the “yes” forces during the 1995 referendum campaign.
- 38 See, for example, Stairs, *Canada and Quebec*, pp. 5–7; Maureen Covell, *Thinking about the Rest of Canada: Options for Canada without Quebec*, Background Studies of the York University Constitutional Reform Project, Study 6 (North York, Ont.: York University, Centre for Public Law and Public Policy, 1991), p. 27; Reg Whitaker, “Thinking about the Unthinkable: Planning for a Possible Secession,” *Constitutional Forum* 7 (1996, nos. 2 and 3): 60–61; Philip Resnick, “Dividing in Two: A Test for Reason and Emotion,” in Daniel Drache and Roberto Perin, eds., *Negotiating with a Sovereign Quebec* (Toronto: Lorimer, 1992), pp. 83–84; and Keith G. Banting, “If Quebec Separates: Restructuring Northern North America,” in R. Kent Weaver, ed., *The Collapse of Canada?* (Washington, DC: Brookings Institution, 1992), p. 167.
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- 39 See Tu Thanh Ha, "Yes vote no picnic, Chrétien warns," *Globe and Mail* (Toronto), October 19, 1995; and Edison Stewart, "Quebecers given blunt warning," *Toronto Star*, October 19, 1995. See also Cairns, "Suppose the 'Yes' Side wins"; and Patrick J. Monahan, *Cooler Heads Shall Prevail: Assessing the Costs and Consequences of Quebec Separation*, C.D. Howe Institute Commentary 65 (Toronto: C.D. Howe Institute, January 1995), pp. 18–20.
- 40 Gordon Gibson, "In Cold or Hot Blood? A Response to the C.D. Howe Forecast of the Post-Referendum World," *Fraser Forum*, February 1995, pp. 8–17; and Gibson, *Plan B*, chap. 7.
- 41 Robert A. Young, "Steady as She Went: The Constitutional Modalities of Quebec Secession" (paper presented to the annual conference of the Canadian Law and Economics Association, Toronto, September 29, 1995), p. 4. See also William Watson, "Home Game: Comments on 'The Interests of English Canada,'" *Canadian Public Policy* 21 (March 1995): 90–92; and Alan Freeman and Patrick Grady, *Dividing the House: Planning for a Canada without Quebec* (Toronto: HarperCollins, 1995), pp. 27, 33, 34, and 44.
- 42 See Kent Walker, "Atlantic Canada to be hardest hit should Quebec separate: Crosbie," *The Guardian* (Charlottetown), July 20, 1996.
- 43 See Richard Mackie, "Bourassa tears into partnership proposal," *Globe and Mail* (Toronto), August 31, 1995; there is, however, some ambiguity in Bourassa's position, as he appears to waver between saying that Canada *would* break up and that it *could* break up. See also Peter M. Leslie, "Options for the Future of Canada: The Good, the Bad, and the Fantastic," in Watts and Brown, eds., *Options for a New Canada*, pp. 132–134; and Charles F. Doran, "Will Canada Unravel?" *Foreign Affairs* 75 (September/October 1996): 97–109.
- 44 Joseph T. Jockel, "If Quebec Becomes Independent," *Canada Watch* 5 (September/October 1996): 13.
- 45 See the discussion in Brown, "Thinking the 'Unthinkable,'" p. 34.
- 46 Banting, "If Quebec Separates," p. 178.
- 47 Dan Usher, "The Design of a Government for an English Canadian Country," in Robin W. Boadway, Thomas J. Courchene, and Douglas D. Purvis, eds., *Economic Dimension of Constitutional Change*, vol. 1 (Kingston, Ont.: Queen's University, John Deutsch Institute for the Study of Economic Policy, 1991).
- 48 Young, *Secession of Quebec*, pp. 191–198; and idem, "Steady as She Went," pp. 7, 13, 17, and 18.
- 49 Gibson, "In Cold or Hot Blood?" p. 17; and idem, *Plan B*, chaps. 4, 6, and 8.
- 50 See, for example, Monahan, "Cooler Heads Shall Prevail," p. 28; Stairs, *Canada and Quebec*, p. 7; Jenson and Maioni, "The Political Price of Plan B," p. 100; Robertson, "Contingency Legislation," p. 93; Banting, "If Quebec Separates," pp. 164–165; Gibson, *Plan B*, pp. 28–29; and Alan C. Cairns, "Dreams versus Reality in 'Our' Constitutional Future: How Many Communities?," in Douglas E. Williams, ed., *Reconfigurations: Canadian Citizenship and Constitutional Change, selected essays by Alan C. Cairns* (Toronto: McClelland and Stewart, 1995), pp. 329–330, 336–339.
- For a general discussion of the issue, see Alex Morrison, ed., *Divided We Fall: The National Security Implications of Canadian Constitutional Issues* (Toronto: Canadian Institute of Strategic Studies, 1991). See also the disturbing argument and data on the very high incidence of violence by host states on the seceding state when a UDI was attempted — in 96 out of 111 cases from 1810 to 1994, often with very heavy loss of life — in John C. Thompson, "The Price of Independence," *Canada Watch* 5 (September/October 1996): 21–24.
- 51 See Brown, "Thinking the 'Unthinkable.'"
- 52 Young, *Secession of Quebec*, p. 89.
- 53 Ibid., pp. 90–91.
- 54 Ibid., p. 101.
- 55 Ibid., p. 125.
- 56 Ibid., pp. 76, 289.
- 57 Ibid., p. 82.
- 58 Ibid., p. 3.
- 59 Covell, *Thinking about the Rest of Canada*, p. 2.
- 60 Cairns, "Suppose the 'Yes' Side Wins," p. 11.
- 61 Several readers of an earlier version of this paper suggested that I should do my bit to dispel the prevailing ignorance and adjudicate between the conflicting predictions in area after area of this section, such as "Will the ROC stay together or not?" To do so, however, would have been counterproductive. One more speculation added to the competing ones that already exist would not advance our knowledge. Were I to privilege my own views, I would divert attention from the fundamental fact that one cannot know what Quebec's secession would bring. What I know, and what I wish to signal, is that we are ignorant.
- 62 Banting, "If Quebec Separates," p. 167.
- 63 Ibid., pp. 162–163.
- 64 Ibid., pp. 167–168.
- 65 Ibid., pp. 164–165.
- 66 "PQ loss won't end debate: Bouchard," *Montreal Gazette*, June 15, 1994.
- 67 Covell, *Thinking about the Rest of Canada*, p. 3.
- 68 Robertson, "Contingency Legislation for a Quebec Referendum."
- 69 The composition of the team would depend on whether the bargaining presupposed Quebec's independence or was a last-ditch effort for renewed federalism. The more the latter, the greater would be the legitimacy of the federal government's role. If the former, then the federal

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government's leadership role would be weakened and the claims of spokespersons for the reconstituted Canada ambiguously waiting in the wings would be strengthened. The possibility that either or both the PQ and the ROC would be playing the renewed federalism game and the breakup game at the same time — a plausible scenario — would require a role-playing dexterity far too complex to explore in a note. These concerns are not, however, central to my argument, which focuses on the future of Canada without Quebec.

70 Stairs, *Canada and Quebec after Québécois Secession*, p. 26.

71 Rotstein, quoted in Reg Whitaker, "Life after Separation," in Drache and Perin, eds., *Negotiating with a Sovereign Quebec*, p. 75.

72 For a powerful argument against a UDI and for the use of the existing constitutional machinery if Quebec were to leave, see Peter Russell and Bruce Ryder, *Ratifying a Postreferendum Agreement on Quebec Sovereignty*, C.D. Howe Institute Commentary (Toronto, C.D. Howe Institute, forthcoming).

73 Young, "Steady as She Went", p. 20.

74 Mancur Olson, *The Rise and Decline of Nations* (New Haven, Conn.: Yale University Press, 1982), pp. 141, 165.

75 Keith Spicer, "A clean start or a clean break?" *Montreal Star*, January 24, 1996.