



CANADA WATCH

Practical and Authoritative Analysis of Key National Issues

A PARLIAMENT LIKE NO OTHER: DEBATING THE NATURE OF CANADA

by *Kenneth McRoberts*

From one perspective — namely, that of the government benches — the recent federal election constitutes a renewal of the past. After a two-term Conservative hiatus, Canada's "government party," the Liberals, are once again back in power led by a Cabinet in which veteran Liberal MPs assume prominent positions. The longest serving of these figures is, of course, the prime minister himself, who traces his presence in federal politics back to the early 1960s.

From another perspective, though, that of the opposition benches, Canada's Parliament has been fundamentally transformed.

Reduced to only two seats, Canada's other national party may well be on the way to oblivion. Dividing the opposition seats almost equally between them, Reform and the Bloc québécois each represent fundamental critiques of the existing political order, especially as it has been incarnated by the Liberals.

This contrast between continuity in government and fundamental change in the opposition guarantees that the upcoming Parliament will be like no other. The conditions are

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THE RHYTHM OF CONFEDERATION

by *Jamie Cameron*

THE GORE-PEROT DEBATE

It has been little more than a year since Canadians rejected a comprehensive package of constitutional reforms, the Charlottetown accord, in a referendum vote held across the nation. South of the border, the U.S. House of Representatives faces a crucial vote on NAFTA in mid-November. For any number of reasons, it would be mistaken to press an analogy between the Charlottetown

accord and the impending vote on NAFTA too far.

But analogies there are. Much was at stake on October 26, 1992 when Canadians voted to reject the accord. Likewise, the U.S. vote on NAFTA is crucial, for its trade implications to be sure but, more important, for its impact on the president's credibility and the choice America will make between protectionism and globalization.

Just as it did throughout Canada's referendum campaign, the rhetoric of fear has played a role in

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now in place for a debate on the most fundamental of questions, including the very nature of Canada.

A "NATIONAL" GOVERNMENT?

The Liberals can find some grounds for vindication in the election results. After all, until the final days of the campaign, many observers, including this one, thought that the Liberals were probably heading for minority government status. Yet, while their popular vote was 41 percent, the lowest in the last four elections, the Liberals won no fewer than 177 seats. Moreover, these seats are spread among all 10 provinces. And the Liberals were spared the humiliation of seeing their leader lose in his own riding.

However, Liberal support varied enormously across the provinces, and the new Cabinet clearly reflects this. In these terms the new Liberal administration is very different from past ones. With only four Cabinet portfolios (plus the prime minister), Quebec has singularly low representation for a Liberal Cabinet. This reflects, of course, the fact that the Liberals had singularly limited electoral success in the province.

Conversely, Ontario's presence in the new Cabinet is remarkably large: no fewer than 10 of 22 positions, reflecting the Liberals' astonishing electoral success in the province (98 of 99 seats). All the other provinces have been limited to a single Cabinet member (with the exception of P.E.I., which has none).

In short, the Liberals can claim to have formed a "national" government—but its credentials are shaky.

"BUSINESS AS USUAL"

Nonetheless, the Chrétien government's style clearly will be "business as usual." The primary emphasis will

be on stimulating the economy through a modest job creation program. And public confidence in government is to be regained through the managerial competence of the professionals of the Liberal party and their preferred civil servants.

Beyond that, the new government apparently has no intention of tackling directly Canada's national unity crisis. The constitutional question will be put "in the refrigerator," if not in the deep freeze. Apparently, the hope is that the crisis can be abated through a combination of economic stimulation and continued pursuit of the policies that the Liberals themselves, under the Trudeau leadership, devised to hold the country together.

Yet the prospects for such an approach are dim indeed. The very presence of the Bloc québécois and the Reform party demonstrates the failure of these policies to secure "national unity." And once Parliament convenes, the Bloc and Reform can be counted on to launch a frontal attack on them, and the conception of Canada that underlies them. For the first time, the battle over the nature of Canada will be joined within Parliament itself, and the Liberals will find that "business as usual" will be no easy task.

CHALLENGING THE "NATIONAL UNITY" STRATEGY

For 30 years, the federal Liberals, with the active support of the PCs and the NDP, have presumed that the key to "national unity" lay in a set of policies that would incorporate Quebec within Canada. Foremost among these was official bilingualism: reinforcing the presence of French throughout the country would lead Québécois to see all of Canada as their country. Another was multiculturalism: it offered a conception of Canada that would incorporate on the same basis Cana-

dians of all origins while denying the claim of Québécois to any distinct status as a "founding people," let alone a nation. A third element was a constitutionally entrenched bill of rights: through it, not only would French language rights be guaranteed throughout the country, thus reassuring Québécois, but all Canadians would share a basic set of rights. The aggressive pursuit of these policies, so the argument went, would lead Québécois to identify more strongly with Canada and forgo their demands for expansion in the powers and status of the Quebec government.

This logic underlay the Charlottetown accord: there might be adjustments in Quebec's representation within Parliament, with a guarantee of no less than 25 percent of seats in the House, but the powers and status of the Quebec government must remain essentially like those of the other provinces.

In their "no" vote in the referendum, the majority of Quebec francophones made it clear that this strategy had not worked. Now, with their massive support of the Bloc, they have ensured that their voice will be heard in Parliament itself.

THE BLOC AND REFORM

Not only will the Bloc argue that the objective of Quebec francophones remains expansion in the status and powers of the Quebec government, but it will be claiming that many of the policies designed to sway Québécois from this objective, especially official bilingualism and multiculturalism, are themselves problematic: the former undermines the nationalist objective of making French predominant in Quebec, and the latter reduces Quebec's culture to one of a myriad of official cultures.

In this attack on official bilingualism and multiculturalism, the

Bloc will be joined by Reform. Its critique of federal language policy mirrors the Bloc's complaint: English should be predominant outside Quebec, just as French should be predominant within Quebec. Multiculturalism is attacked because it continues the notion that cultural differences among Canadians should be publicly recognized and celebrated.

If by somewhat different routes the Bloc and Reform can agree in their rejection of these federal policies, they clearly cannot agree on how Canadian federalism should be revised. In its insistence on the absolute equality of the provinces, Reform categorically rejects any expansion of Quebec's powers alone. To that extent it confirms the Bloc's contention that the federal system cannot be satisfactorily renewed — at least not to the satisfaction of Quebec nationalists.

Herein lies the challenge to Canada's new opposition parties: to change their common opposition to the existing political order into common support of something new. Whether or not the Bloc and Reform can accomplish this, they will succeed in radically extending the terms of debate in Parliament. Policies that were once regarded as beyond criticism, because they were essential to national unity, will now be the focus of debate precisely because they have not produced national unity. Yet it is difficult to see how the Chrétien government, so deeply tied to the Trudeau administration that framed this "national unity" strategy, can do anything but defend it.

Canadians could be treated to a spectacular debate over the next few months. In the end, the country may be better for it.

Kenneth McRoberts is Director of the Robarts Centre for Canadian Studies and Professor of Political Science at York University.

THE CANADIAN ELECTIONS VIEWED FROM SOUTH OF THE 49TH PARALLEL

by Earl H. Fry

As they awakened on October 26, most U.S. observers of the Canadian political scene were not surprised that the Liberal party had garnered a majority of the seats in the House of Commons and that the NDP had fared very poorly, but they were stunned at the virtual annihilation of the Progressive Conservative party.

The U.S. investment community will now watch the Chrétien government very closely to determine whether job stimulation will take priority over deficit restraint. Chrétien's proposed \$6 billion infrastructure project is viewed as largely ineffective, and if even more money is added for public works projects at the expense of deficit reduction, the Canadian dollar is likely to decline in value and interest rates may go up in order to attract foreign buyers for the federal and provincial governments' massive IOUs. The Conservatives' poor performance in deficit reduction over the past year just adds to the growing concern outside Canada about Ottawa's ability to control government spending.

The Clinton administration hopes that Chrétien will cool the rhetoric about renegotiating the NAFTA until after the package is voted on in mid-November in the House of Representatives. Anti-NAFTA opponents in the United States trumpeted Chrétien's victory immediately, claiming that his threat to renegotiate rendered meaningless the planned vote in Congress. Clinton already faces an uphill battle in the House among his own group of

Democratic party skeptics, but if he wins this battle, he will probably sit down with Chrétien in Seattle at the meeting of the Asia-Pacific Economic Cooperation (APEC) forum and begin to develop a cordial relationship with Canada's new prime minister. Nevertheless, he is unlikely to show any sympathy for reopening either the FTA or NAFTA texts, but may listen to suggestions for finally reaching workable definitions of subsidies and dumping.

Clinton has an ambitious job creation package for the United States and much of the program is based on increased exports linked to the approval of both NAFTA and the Uruguay round. With 30 percent of Canada's GDP linked to the exporting of goods and services, with 75 percent of all exports destined exclusively for the U.S. marketplace, and with a sizeable increase registered in Canadian exports to the United States since the FTA went into effect, Chrétien would also be wise to push for open markets, based on the premise that if the U.S. economy grows, so will the Canadian economy and Canadian jobs. Conversely, a strident campaign by Chrétien to renegotiate both the NAFTA and the FTA might backfire, giving ammunition to the growing number of protectionists in the U.S. Congress who would like to limit Canadian access to the U.S. market, especially in the agricultural and other natural resource sectors.

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"South of the 49th Parallel," continued from page 51.

Washington will also closely scrutinize developments in Quebec. Will the Bloc québécois' success in electing 54 MPs and forming the official opposition in the House of Commons help propel the Parti québécois to victory in next year's provincial elections? Will antipathy between Chrétien and Bouchard, and between the BQ (which ran candidates exclusively in Quebec) and the Reform party (which did not run any candidates in Quebec) foment more support for separation among francophones in Quebec? Could a new referendum on Quebec's sovereignty be approved, and what would be the strategic implications for Canada-U.S. relations?

The U.S. business community is generally pleased that the Liberals have achieved a solid majority and have elected representatives in all 10 provinces. In spite of gains by the regionally based BQ and Reform party, this majority control in the House of Commons should permit the Liberals to govern with some effectiveness over the next four years. Nonetheless, if the Canadian economy does not move forward over the next few years, business


representatives expect the impatient Canadian electorate to throw out the Liberals in the same way they jettisoned the Conservatives.

These U.S.-based businesses will be concerned about high government deficits, any increases in taxes, and any weakening of commitments to the FTA or the proposed NAFTA.

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However, if NAFTA is implemented, one should expect U.S. transnational enterprises to continue to restructure some of their operations in Canada. A subsidiary that simply services the Canadian domestic market might be closed or downsized, with the parent firm picking up the slack by exporting directly to Canada. However, Canadian subsidiaries that produce glo-

bally competitive products might be expanded and permitted to supply both the North American and international markets. As for Quebec, the business community will not be overly troubled by a PQ victory in the next provincial election, but it would be deeply disturbed by the prospects of a pro-sovereignty vote in the ensuing referendum.

Earl H. Fry is an Endowed Professor of Canadian Studies at Brigham Young University and President of the Association for Canadian Studies in the United States. 

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A REPUBLICAN CONSTITUTION FOR AUSTRALIA?

by Mark Sneddon

While Canadians are taking a constitutional breather between the demise of the Charlottetown accord and the next engagement with the issue of Quebec sovereignty, Australians are preoccupied with a very different proposal for constitutional change: replacing the queen and governor-general with an indigenuous president.

Abolition of the monarchy has been a sleeping issue in Australia for many years. Support for a republic has been growing slowly over the last 20 years but, until recently, abolition has been a minority view. In 1992 the prime minister, Paul Keating, put abolition of the monarchy high on the political agenda with strong statements that the change to a republic was necessary for Australians to develop a self-identity as an independent and confident nation and to project that identity to the rest of the world, especially the Asia-Pacific region. His call for a republic sharply divided public opinion but some opinion polls have shown, for the first time, majority support ranging from 51 to 65 percent for a republic. The debate is strong and public opinion is volatile — the polls swung the other way when the prime minister sought to accelerate the issue and link it to sports nationalism by declaring it inappropriate for the queen to represent Australians at the Sydney Olympics in 2000.

The prime minister established a republic advisory committee to report on possible options for a "minimalist" republic in which a president would take on the role and legal powers of the monarch and governor-general but exercise them on the advice of the prime minister and ministry (with the possible ex-

ception of the reserve powers). In other words, a non-executive president would substitute for the monarch and her viceroy in a system of responsible government. A detailed proposal has not yet been finalized, but the most discussed version is as follows. The president would be elected for a five-year term by the federal House of Representatives and the Senate (an elected body in Australia) sitting separately. To ensure a

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candidate with a wide range of political support, a two-thirds majority would be required in each chamber. Removal would be by the same method — a two-thirds majority in both houses without any need to show cause.

In general, the president would have the same powers as the governor-general but it will be made explicit that in the exercise of those powers the president acts on the advice of ministers. This leaves the reserve powers, such as appointment and dismissal of the prime minister and dissolution of the houses of parliament, where the governor-general can, in some cases, act without or contrary to ministerial advice. Provision could be made in the constitution for the

same conventions that regulate the governor-general's reserve powers to apply to the president, without defining the powers or conventions. Alternatively, these powers and conventions could be codified in the constitution, or Parliament could be given the power to codify some or all of them in statute. Another unresolved issue is what to do about state governors if a national majority votes to become a republic but a state doesn't vote for a national republic and doesn't wish to remove the monarch from its political system. Probably an amendment to the federal constitution would override inconsistent provisions in a state's constitution, but the opposing view, which has respectable support, is that such a scenario is likely to prove divisive.

One fly in the ointment for this proposal is the indirect election of the president. Polls show that Australians overwhelmingly want to popularly elect their head of state. Parliamentary leaders fear that a president with a national electoral mandate and all the legal powers of a monarch or a governor-general will be an alternative political power base to the prime minister and cabinet. Either the Australian public will have to be sold on the dangers of a popularly elected president, or the minimalist premise of the reforms will have to be rethought and some executive power given to the president.

The level of public support for the proposals is crucial because the necessary constitutional amendments must be approved at a referendum by a majority of electors na-

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tionwide and by majorities in four of the six states. Very few constitutional amendments in Australia have been accepted at referendum (only 8 out of 42 proposals have succeeded since 1901). Opinion poll majorities can vanish in a referendum campaign. Conventional wisdom is that bipartisan political support is needed for success and the opposition conservative parties are currently opposing a republic. The prospects of referendum success in the short to medium term do not look good.

WHY IS A REPUBLIC AN ISSUE IN AUSTRALIA NOW?

Originally, the republic issue may have been raised as a political distraction by the prime minister. But the level of support for a republic and the strength of the debate suggest a nation genuinely struggling to articulate its evolving national identity. The debate about the monarchy is a debate about an important symbol and its meaning for national identity. What does the retention or rejection of the monarchy or the embrace of an alternative say about Australians' self-conception at the end of the 20th century?

Demographic changes through substantial non-Anglo immigration since World War II and an associated flowering of non-Anglo cultures in Australia, as well as the influence of U.S. culture, have produced a decline in the relevance and veneration of British culture and symbols in Australia. The economic importance of Britain to Australia has declined dramatically since Britain entered the EC and the economic focus is now more on Asia and North America. If these trends continue, Australia will eventually abandon the monarchy. But it is questionable whether at this time these trends have changed the na-

tion's identity sufficiently to persuade a majority of Australians to jettison the symbols that speak of their British heritage.

One of the problems with the debate thus far is that there has been no clear vision of what a republican Australia stands for. Proponents of the republic want to retire the British heritage into the historical background, but beyond a raw nationalism demanding an Australian head

"Proponents of the republic want to retire the British heritage into the historical background, but beyond a raw nationalism demanding an Australian head of state for Australia, little has been said about the content of Australia's new identity, which will be symbolized by an indigenous head of state."

of state for Australia, little has been said about the content of Australia's new identity, which will be symbolized by an indigenous head of state. There is no equivalent of Charlottetown's Canada clause seeking to declare the values of the nation. The minimalist republic proposal plays it safe in avoiding extras that people might vote against, but it articulates no new self-conception that people can vote for.

A CANADIAN REPUBLIC?

In 1978 the Committee on the Constitution of the Canadian Bar Association recommended a minimalist republic with a Canadian as head of state for the same national identity reasons Keating espouses. That recommendation was sunk in a storm of protest. That was 15 years ago and since then the demographic, cultural, and economic trends that have undermined support for the monarchy in Australia have also been at work in Canada.

Why is a republic currently a non-issue in Canada?

Part of the answer must be that Canada's constitutional energies are consumed by more pressing issues. There is the serious continuing constitutional problem in the relationship of Quebec to the rest of the country. Other federalism issues, native people's self-government, and Senate reform also press for attention. The monarchy is a 10th-order issue in comparison to these. Although Australia also has more important constitutional reforms it could address, none is so serious or pressing as to demand a prior claim on public attention or the political agenda.

If the monarchy did reach the top of the constitutional agenda in Canada, would Canadians want to change? I would expect Canadians to be divided over this issue as Australians are. Some Canadians have a deep-seated loyalty to the monarchy, and for some it is an important symbol of the difference between Canada and the United States and worthy of support for that reason; for others it is irrelevant or outmoded. It may be that resolving the more pressing issues of Canadian constitutional reform, such as Quebec's place in Canada, will lead to a constitutional articulation of Canadian identity and values and, if so, Canadians will then find themselves with a clearer view whether the monarchy should remain a part of their national identity. If not, a republican debate will force Canadians, as it has Australians, to wrestle with their national self-conception and choose appropriate symbols, old or new, to express their national identity.

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the American debate on NAFTA. Last year, Canadians learned that when the consequences of maintaining the status quo or taking a gamble on the future are unknown, the odds favour the status quo.

Vice-President Gore addressed this issue during his televised debate with NAFTA opponent Ross Perot. He urged Americans, at this crucial fork in the road, to reject the politics of fear and go forward in a spirit of optimism. He also warned that all the problems Ross Perot talks about will be made worse if NAFTA is defeated.

Canadians might do well to pause on that thought and consider where we are today, one year after the Charlottetown accord failed.

THE RHYTHM OF CONFEDERATION

The ascendance of two upstart regionally based parties, the Bloc québécois and Reform party, was a major theme in the election campaign. Although the Liberal party attained a majority government, the configuration of Canada's next House of Commons guarantees regionalism a dominant voice in political discourse for the foreseeable future.

Some attribute the surge of regionalism to the referendum campaign and the failure of the accord. Yet the dynamics that have come to the forefront today have a strong pedigree. As its romanticization in Joe Clark's "community of communities" attests, Canada's inherent diversity has long been a source of pride. With diversity, however, there has been disparity among the partners and peoples of Canada's federal union. Antagonisms that have been quiescent through most of our history maintain a brooding presence nonetheless.

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Accepting that presence still leaves unanswered the question whether the strain of regionalism that is manifest now is either different from or more virulent than its previous incarnations.

REGIONALISM AND CONSTITUTIONAL REFORM

The failures of constitutional reform in the last 10 years have drained Canada's energy and spirit. The year 1982 was unquestionably a defining moment in this nation's history; constitutional amendments were achieved, but without the consent of Quebec's provincial government.

"Whether Canada is better or worse off because the Meech Lake and Charlottetown accords failed is anybody's guess. ... At the least, the accords left a legacy that validated regional demands without achieving any resolution or closure of their agendas."

In negotiating the Meech Lake accord in 1987, the political leadership assumed the legitimacy of a "Quebec round": constitutional amendments that would rectify the misunderstanding of 1982 and bring Quebec amicably into the constitution.

Meech Lake failed for a variety of reasons. Primary among them was the public's unwillingness, outside Quebec, to accept the fundamental premise of the accord. What the political leadership saw as a generous and honourable attempt to reintegrate Quebec was perceived by the rest of Canada as a set of naked preferences for that province that were as illegitimate as they were unprecedented.

The futile attempt to bring Quebec back into Canada's "constitutional family" precipitated the ultimate constitutional adventure. The

"Canada round" included those regional and special interest agendas that had been excluded from the Meech process, such as Western alienation, self-government for aboriginal communities, and recognition of Canada's disparate identities. The challenge of including all and excluding none made the Charlottetown accord that emerged on August 28, 1992 nothing short of a miracle of negotiation.

The genius of the accord was that it gave almost everybody something they wanted without giving anybody everything they had asked for. That genius was also its fatal flaw. Significantly, the Charlottetown accord both legitimized and frustrated regional imperatives. By institutionalizing them in its proposals for reform, the accord validated the demands of Western alienation and Quebec nationalism. However, conflicting demands could not be recognized in the same document without being compromised. The accord went down to glorious defeat because Canadians were unwilling to concede their demands to compromise.

Whether Canada is better or worse off because the Meech Lake and Charlottetown accords failed is anybody's guess. Some would argue that, precisely because they can never be satisfied, regional demands should never be legitimized. Yet others thought it was possible to define Canada's identity through compromises that respected the diversity of its peoples and regions. At the least, the accords left a legacy that validated regional demands without achieving any resolution or closure of their agendas.

REGIONALISM AND THE ECONOMICS OF FEDERALISM

Meanwhile, the economics of federalism continued to shape Cana-

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da's political mood. Government contracts, transfer payments, and other "perks" of Confederation have always been closely watched and coveted. The dynamics of scorecard federalism have been exacerbated in recent years by the battle every region of Canada is waging against economic adversity. At a time of still-diminishing resources, the competition for federal largesse among regions and provinces has created new pressures on national unity.

Thus, when the Chrétien government decided to cancel the EH-101 helicopter contract, Bloc leader Lucien Bouchard demanded compensation for Quebecers. Precedent could be found in the Mulroney government's compensation package to Atlantic Canada for the loss of its fisheries. More novel was Bouchard's further demand that the Chrétien government also cancel federal contracts in other parts of the country.

With attention focused on Quebec and the west, the emergence of a new regional voice with its own set of demands has been largely overlooked thus far. Traditionally a prosperous province with a power and population base at the centre of the country, Ontario has had little to complain of in the past. Perennially "the good scout of Confederation," it was only fitting that Ontario would offer up some of its Senate seats in 1990 (albeit only prospectively) to save the Meech Lake accord.


Ontario played a major role in the multilateral negotiations leading up to the Charlottetown accord but would have gained little as a province. Ever the good scout, Ontario worked hard to achieve objectives the Rae government valued — such as aboriginal self-government — but also to secure constitutional peace.

Meanwhile, its economy was being battered by the recession and the Mulroney government's unilateral decision to roll back transfer payments to the "have" provinces — Ontario, Alberta, and British Columbia. Ontario has now realized that it can no longer afford to bank-roll Confederation. According to a study commissioned by its Ministry of Intergovernmental Affairs, Ontario continues to subsidize the rest of Canada, at devastating cost to its economy.

There are signs that Ontario has tired of its role as good scout. Late last summer, Premier Rae responded to Quebec's discriminatory trade and labour policies, which have been in place for years, with barriers that will keep Quebec goods and workers out of Ontario. In October he announced that Ontario would challenge the constitutionality of NAFTA. More recently, he made a major speech on transfer payments and Ontario's status in Confederation, in which he vowed to fight for fair treatment in Ottawa.

THE NEW "ARHYTHM" OF CONFEDERATION

It is difficult to regard current regional dynamics as part of the rhythmic pattern of Confederation. At the same time, these irregularities can hardly be considered a surprise, given the political and economic stress of recent years. To regain the public's confidence in the federal government, Prime Minister Chrétien must act quickly to establish a self-assured and even-handed national presence.

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NATIONAL AFFAIRS

CANADA'S 35TH PARLIAMENT

by Patrick J. Monahan

As Canadians struggle to decipher the meaning of the stunning results of last month's election, one conclusion seems difficult to avoid: the country has taken a step toward a new and uncertain political era.

On the surface, the sea of Liberal red stretching across the country conveys an impression of calm and continuity, rather than of fundamental change. Governments may come and go, but Canadian political institutions appear remarkably resilient. Notwithstanding all the talk in recent months about anger and frustration in the electorate, Canadians have once again given a strong majority mandate to one of the two "old line" political parties that have governed the country since Confederation.

The importance of this national majority government for Canadian unity cannot be underestimated. Over the next 12 to 18 months, Quebecers will again be asked to choose between Canadian federalism and sovereignty. A strong national government with a francophone prime minister from Quebec means that the federalist option is well positioned to prevail in that struggle.

But this "business as usual" interpretation of the election results discounts the potential for significant political turbulence lurking just beneath the surface.

OPPOSITION OF THE REGIONS

The most disturbing feature of the next Parliament is the absence of

any genuinely national opposition party. Parliament is more than a debating society. One of the principal functions of the House of Commons is the creation of governments, both present and future. The official opposition has a special role to play in this regard, since it is expected to serve as an alternative "government in waiting." Although previous elections have often produced huge majority governments and very weak opposition parties, there has always been an official opposition that aspired to represent the country as a whole.

The total collapse of the Progressive Conservative party means that, for the first time in our history, there will be no major opposition party with a national constituency and a national agenda. Neither the Bloc québécois nor Reform has a credible claim to be a truly national party, as evidenced by the fact that neither contested ridings in all regions of the country. Moreover, the BQ-Reform domination of the opposition benches will mean that debate in the 35th Parliament will be framed in strictly regional terms. The daily question period will open with Opposition Leader Lucien Bouchard reviling the government for the real and imagined injustices that have been inflicted on Quebec. Bouchard's outrageous claim for \$1 billion in compensation for cancellation of the EH-101 helicopter contract, after he himself had called for cancellation during the election campaign, was a preview of what to expect in the coming months. Preston Manning and his western-based caucus will be equally vocal in asserting that it is the west, rather than Quebec, that has been the real victim of Canadian federalism.

A FRACTIOUS PARLIAMENT

The tone of the debate in the next Parliament is also likely to be highly fractious and divisive. In the weeks

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leading up to the election, many commentators suggested that minority parliaments were associated with heightened conflict between the government and the opposition. In fact, precisely the opposite tends to be the case. Minority parliaments tend to feature much more cooperative behaviour on the part of both the government and the opposition since both sides know that a breakdown in the relationship could force an immediate election. In majority government situations, on the other hand, the absence of any real power in the hands of the opposition encourages

"In majority government situations ... the absence of any real power in the hands of the opposition encourages them to resort to procedural wrangling and obstructionist tactics. The temptation to behave irresponsibly will be made all the more irresistible by virtue of the profound sense of regional grievance that serves as the raison d'être of both the Bloc and Reform."

them to resort to procedural wrangling and obstructionist tactics. The temptation to behave irresponsibly will be made all the more irresistible by virtue of the profound sense of regional grievance that serves as the *raison d'être* of both the Bloc and Reform.

With the House of Commons not yet in session, it seems a veritable eternity until the next election. Yet even as the Liberals savour their overwhelming victory, it cannot be forgotten that the day will come when Jean Chrétien will be saddled with the burdens and the baggage of political incumbency. It is at this point that the absence of a genuinely national political alternative could prove telling and costly.

It may be, of course, that the Conservatives will rise from the ashes and rebuild a national base. The Tories still managed 16 percent of the popular vote nationwide. Their near-obliteration in Parliament is a product of the peculiarities of the first-past-the-post electoral system and fails to fairly reflect the existence of a continued core of Tory voters in all parts of the country.

But the prospects of the Tories rising phoenix-like in 1997 do not appear particularly bright. The Reform party has supplanted the Conservatives as the main alternative to the Liberals in Ontario and most of the west. The absence of even a single Conservative MP west of the Ontario-Quebec border and the impending resignation of Kim Campbell as leader make the task of reconstructing a national political base extremely difficult.

CHRÉTIEN'S CABINET PROMISING START

October 25th may be either the end of the beginning or the beginning of the end. Which scenario turns out to be correct will depend in large measure on the actions and choices of Jean Chrétien in the months and years ahead. The key for the new prime minister will be to focus on what Canadians hold in common. He must steadfastly refuse to be drawn into regional or special interest bidding wars, and emphasize what the 1991 Spicer commission referred to as the "core values that Canadians see as essential elements of Canadian society."

Chrétien's Cabinet choices represent a good start in the right direction. Refusing to cower before the dictates of political correctness, Chrétien's slimmed-down ministry of 23 members clearly places a premium on experience and compe-

*Continued, see "35th Parliament"
on page 58.*

"35th Parliament," continued from page 57.

tence. The predictable howls from various special interest groups about their lack of appropriate representation were brushed aside by the prime minister, indicating a degree of decisiveness and confidence on his part that will prove very important in the difficult months ahead. Clearly, Jean Chrétien has come a long way from his early days as Liberal leader in the summer 1990, when he suggested that the armed warriors at Oka should simply be allowed to put down their guns and walk away scot-free.

The good news out of this election is that it remains possible to construct a winning national coalition by appealing to the elements of a common Canadian citizenship. It is also noteworthy that, despite the Bloc's impressive showing in Quebec, support for the sovereignty option there remains significantly below 50 percent. It is conceivable that Quebecers could even elect a PQ government next year and then vote "no" in a sovereignty referendum in 1995. That outcome would be messy and ambiguous, but somehow also quintessentially Canadian.

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WESTERN REPORT

BEATING THE DRUMS OF NATIONAL UNITY AND BEATING UP ON REFORM

by Roger Gibbins

Now that the election is behind us, it is an opportune time to ask how the political landscape in western Canada has been transformed, and to what extent national political dynamics have changed as a consequence.

At one level, the transformation in western Canada has been profound. The Progressive Conservatives, which have served as the primary partisan outlet for regional discontent since John Diefenbaker's 1958 landslide, have been virtually obliterated. In their place, Preston Manning and the Reform party stand triumphant, at least in Alberta and British Columbia.

And the change, of course, is more than one of party labels. The Conservatives, even before Brian Mulroney's leadership when western Canadian MPs were the dominant force within the party, were a national organization. True, they were chronically weak in Quebec, but they had some coherent presence from sea to sea. Now, the voice of western discontent is a party that is unlikely to reach beyond Ontario by the next election, and will certainly not embrace Quebec even to the limited extent that Diefenbaker was able to do.

This is not to suggest, however, that in objective terms the Reform

party should be seen first and foremost in regional terms. I would argue that despite the concentration of Reform MPs in Alberta and British Columbia, the party's appeal to populist discontent, fiscal restraint, and social conservatism has a national audience, or at least a national audience outside Quebec. Reform's parliamentary strength in the far West is in large part an artifact of the electoral system; Reform won more votes (968,602) in Ontario than it did in Alberta (629,164), British Columbia (586,549), or, for that matter, across the three prairie provinces (838,224).

Yet this does not mean that Manning will be able to build on the grassroots electoral support now in place outside Reform's Alberta/British Columbia heartland. Reform

"... we can anticipate an unrelenting campaign by the media and traditional political elites in central Canada to define the Reform party in narrow, regional terms, and thus to isolate it in the west. If it can be argued that the Reform draws primarily on regional discontent, then its much broader message of electoral discontent can be ignored. Manning faces a very difficult leadership task in warding off this dual threat of marginalization."

MPs in the House of Commons will act as a western anchor to the party, and will undoubtedly characterize, if not caricature, the party in ways that will blunt its potential appeal in Ontario. More important, we can anticipate an unrelenting campaign by the media and traditional political elites in central Canada to define the Reform party in narrow, regional terms, and thus to isolate it in the

west. If it can be argued that the Reform draws primarily on regional discontent, then its much broader message of electoral discontent can be ignored. Manning faces a very difficult leadership task in warding off this dual threat of marginalization.

Here it should also be noted that should the constitutional debate resume, and perhaps even before, Manning and his Reform MPs are likely to be portrayed as the "real" threat to national unity. We are already starting to see reflections of this theme in the press. The Bloc is presented as a new, but moderate, left-of-centre voice on the national political scene, a little radical to be sure, but basically a progressive force, while the Reform is presented as being at odds with many of the basic values of the Canadian political community.


This portrayal, I would suggest, is inaccurate and unfair. It also fails to appreciate how irritating the Bloc is likely to be for English Canadians, and how difficult it will be to accept the Bloc as "her Majesty's Loyal Opposition." Yet the national unity drums will beat and they will beat upon Reform. The effect may well be to further blunt Reform's appeal in Ontario, but to strengthen its appeal in the west.

Has then the success of Reform changed the dynamics of the upcoming national unity debate, and thus the dynamics of Canadian national politics? In one sense, neither the Reform nor the Bloc represents a new constellation of political forces; alienated westerners, fiscal conservatives, and Quebec nationalists with, at best, a tenuous connection to Canada, were important components of the Mulroney party and cabinets. However, both the Bloc and Reform will bring the national unity debate onto the floor of the House, and much more into the pub-

lic eye. The debate will also be more hard-edged, given that the Bloc and Reform champion views of the country's future that will find no support, but only hostility, in English Canada and Quebec, respectively.

It will be difficult to maintain the rhetorical packaging that has often softened the edges of the national unity debate in the past. Instead, we are likely to encounter a period of threats and bluffs, of confrontation unmoderated by English Canadian voices pleading that nationalist voices in Quebec hold a positive message for the rest of Canada. However, given the failure of the politics of constitutional moderation in the past, it may well be time for a franker, even more abrasive exchange of views.

In any such exchange, the Reform party will pose a less serious threat to the survival of Canada than the Bloc and the nationalist forces within Quebec. If the Reform party appears to be positioning itself on the post-Quebec political landscape, so be it.

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QUEBEC REPORT

A PROTEST VOTE?

by Alain Noël

During most of the election campaign, a number of journalists and observers in English Canada maintained that, in the end, Quebecers would desert the Bloc québécois and turn to the party most likely to take power. Puzzled by the stable and rising support obtained in the polls by the Bloc, they nevertheless clung to the conventional wisdom, hoping it would prove true in the end.

Past election results suggest that this view of Quebec voters is wrong. In 1979, Joe Clark formed a minority government largely because Quebecers remained faithful to the Liberal party. Trudeau was able to form a minority government in 1972 because only Canadians outside Quebec supported the Conservatives. Likewise, in 1957, Quebecers ignored Diefenbaker's argument that they should elect potential ministers. The 1993 election provided an additional instance of autonomous electoral behaviour.

The conventional view of Quebecers as calculating band-wagoners is not exactly a compliment. It is often accompanied by the idea that in Quebec a profligate party can buy its way into power. At the very least, it says Quebecers have little political bearings — "they study politics with their feet," wrote Trudeau many years ago.

Another way of stating that Quebec politics is not driven by stable and rational considerations is to associate the 1993 vote with disen-

*Continued, see "Protest Vote?"
on page 60.*

***"Protest Vote?" continued
from page 59.***

chantment and protest. The victory of the Bloc, argued Robert Bourassa a few days after the election, did not mean much for Quebec politics. It was merely a protest vote. Likewise, Jean Chrétien explained that good government would convince Quebecers that they were wrong to distrust him and his party.

THE BQ: A LOGICAL CHOICE

Voting for a party that cannot take power obviously expresses a rejection of the established parties. Like Canadians everywhere, Quebecers have also become more distrustful of politicians in recent years. Overall, however, the vote appears more as an expression of coherence than as a superficial protest against politics and politicians.

Since the beginning of 1992, support for the Parti québécois has never fallen below 40 percent in the polls, and support for sovereignty has also been at or above 40 percent. Logically, PQ and sovereignty supporters could be expected to vote for Lucien Bouchard's party. Far from being a protest, such a vote represented for them a logical choice — one that expressed their confidence that politics can make a difference. As for the additional votes the Bloc obtained to reach a total of 49.5 percent, they seemed well within the range in which support for the Parti québécois and for sovereignty fluctuated in recent years.

It could, in fact, be argued against the protest interpretation that the Bloc québécois did not reach very far beyond its natural electorate. In the 1992 referendum, 57 percent of Quebecers backed the interpretation proposed by the BQ and the PQ and voted "no." (Given the overwhelming victory of the "yes" in Anglophone ridings, it seems fair to discount the few who voted "no"

because they approved Trudeau's interpretation.) At 49.5 percent, the Bloc did not recapture this electorate. This result, of course, raises important questions about what Jacques Parizeau calls "the next two periods" — the Quebec election and the potential referendum on sovereignty.

"THE NEXT TWO PERIODS"

The race between the Parti québécois and the Quebec Liberal party is close. The PQ should win. The economic situation in Quebec has been difficult for a number of years. The Liberals have been in power since 1985 and are perceived as a tired government, and Daniel Johnson, the next leader of the party, is neither a new figure nor a particularly charismatic politician. Given the distribution of the electorate, the Parti québécois also converts its votes more easily into seats. All the same, doubts persist about the PQ, primarily because Jacques Parizeau seems less popular than his party, and he is prone making poor political judgments.

On election night, the contrast between Lucien Bouchard and Jacques Parizeau was striking. Understanding the unusual nature of his victory, Bouchard went out of his way to reassure those who had not voted for him and pledged he would attempt to represent all Quebecers. Parizeau, however, celebrated with his partisans and underlined the sovereigntist character of the vote, conveniently ignoring that a small majority of voters had not supported the Bloc québécois, and speaking as if the task of rallying a majority to his option could be postponed.

Even if we assume that the Parti québécois can win the next election, the prospects for a referendum on sovereignty do not appear favourable. At best, sovereignty now attracts 50 percent of the electorate. At times, support for sovereignty has peaked beyond a majority, but true support remains closer to 40

than to 50 or 55 percent. In an intense campaign stressing the costs and the difficulties of sovereignty, it is hard to see how the Parti québécois will be able to obtain a majority. Again, Jacques Parizeau may not be the best proponent of his option. Perceived more as an ideologue than as a pragmatic politician, Parizeau seems more able to rally his troops than to convince the large group of voters who are tempted by sovereignty but remain skeptical. Parizeau helped the Parti québécois reaffirm its sovereigntist option at a moment when support for sovereignty appeared hopelessly low. He may not be the best person, however, to lead the party through the next steps, which involve reaching beyond the circle of partisans.

This being said, much will depend on what happens in the coming two years. In 1990, the acrimonious debate surrounding the collapse of the Meech Lake accord generated a sovereigntist surge in Quebec with a peak well above the 50 percent threshold. This surge suggests a bitter debate between Quebec and the rest of Canada — one possibly fuelled by the Reform party — that could lead a majority to support sovereignty. More fundamentally, it indicates that, at least at one moment, a majority of Quebecers have considered sovereignty an acceptable option. These temporary sovereigntists are available to be convinced. With a strong sovereigntist presence in both Ottawa and Quebec, a positive response in a referendum cannot be excluded. The odds, however, remain, as always, against those who propose major changes. To convince Quebecers that the uncertain prospects of sovereignty are worth the risks, sovereigntists will have to develop strong positive arguments in favour of their option.

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ECONOMIC REPORT

PROSPECTS FOR FEDERAL FINANCES UNDER A LIBERAL GOVERNMENT

by Fred Lazar

THE MULRONEY LEGACY

When Brian Mulroney and his Conservative party came to power in the autumn of 1984, the federal government's budgetary deficit was on track for a record high of \$38.5 billion for the 1984-85 fiscal year. The combination of modest spending restraint and higher taxes reduced the deficit to \$28.2 billion by 1987-88. But despite additional tax hikes, the abandonment of continued spending restraint and the high interest rate and recession legacy of John Crow's attack on inflation put the deficit back on a rising path.

Although the April 1993 budget forecast a deficit for the 1993-94 year of \$32.6 billion, it appears at this time that the deficit is more likely to be in the \$38.5 billion range. Nine years of Conservative government will leave the federal deficit at about the same level as when Mulroney first took over the reins of power. Despite the efforts of Michael Wilson and Don Mazankowski, John Crow proved to be more influential in affecting the size of the deficit. Indeed, Crow derailed the Conservatives' attack on the deficit and contributed through his tight monetary policies about \$50 billion to the total debt accumulated by the federal government during the past six years.

The Mulroney government did have some success in reducing the

federal deficit as a proportion of GDP. While it totalled 8.7 percent of GDP in 1984-85, it will average closer to 5.5 percent in 1993-94.

During the election campaign, Jean Chrétien and his Liberals promised to create jobs and maintain social programs while at the same time reducing the deficit to 3 percent of GDP. Will the new Liberal government be able to achieve these goals within one term, especially when they are starting with a deficit-to-GDP ratio of about 5.5 percent and an economy that is sputtering along?

IS THE 3 PERCENT TARGET ACHIEVABLE?

The Liberal government will not be able to resort to higher taxes to tackle the deficit. During the Mulroney era, total federal taxes increased as a proportion of GDP from 14.5 percent in 1984-85 to about 16 percent in 1993-94, an increase of close to 11 percent in the total federal tax burden on Canadians. Consequently, the Liberals will have to rely on spending restraint and hope for a sustained economic recovery and low interest rates. How much spending restraint will be necessary and will this be compatible with the economic and social goals?

To answer this question, I examined the following two scenarios. In the first case, I assumed that the economy would grow at an average rate of 3.5 percent per year in real terms during the next five years, inflation would average 2 percent per year, and tax revenues would hold steady growing in line with the overall economy (that is, growing at about 5.6 percent in nominal terms per year). In the second case, I assumed that the real GDP would increase more slowly at an average rate of 2.5 percent per year and that federal government revenues would increase less rapidly than the overall economy.

As can be seen in the accompanying table, in the absence of spending restraint (program spending growing at the same rate as nominal GDP so that the government expenditure to GDP ratio remains constant), the deficit in the first case could increase from \$38.2 billion in 1993-94 to over \$55 billion in 1998-99. As a proportion of GDP, the deficit could approach 6 percent by the end of one term of a Liberal government.

However, the 3 percent target might be attained by 1998-99 with a program of modest spending restraint. That is, if total program spending is not allowed to increase more rapidly than the rate of inflation (zero real growth in spending), by 1998-99 the deficit might fall to \$24.4 billion or 2.6 percent of the estimated GDP.

If, however, the economy continues to recover very slowly and the Liberals are unable to stimulate the economy to grow at even a 3.5 percent annual rate and tax revenues continue to collapse as the underground economy continues to expand (the second case scenario), zero real spending growth would not be sufficient to achieve the 3 percent target. According to my estimates (see table), the deficit could get locked into the \$40 to \$41 billion range throughout the first term and by 1998-99 it could average 4.5 percent of GDP.

A five-year program spending freeze (zero nominal growth) would be necessary to get the deficit down to the \$24 billion level. Consider that with the exception of the 1985-86 fiscal year, program spending continued to grow every year during the Conservatives' regime. Moreover, a spending freeze would be incompatible with the economic and social goals set out by the Liberals during the campaign.

Continued, see "Federal Finances" on page 62.

"Federal Finances," continued from page 61.

CHALLENGES AND THREATS

The biggest threats and the greatest challenges facing the Liberals as they take office are to accelerate the momentum of economic growth and

three goals simultaneously. It will continually be walking a tightrope between fiscal responsibility and social and economic responsibility. There is little that the government can do about external factors, other than to argue more forcefully for cooperation among the G-7 to stimu-

Federal Budget Deficit Projection, 1993-94 to 1998-99

Fiscal Years	\$ billions					
	'93-'94	'94-'95	'95-'96	'96-'97	'97-'98	'98-'99
<i>Scenario 1</i>						
Program Spending: Grows Annually in Line with Nominal GDP (5.6%)						
Deficit	38.2	41.2	44.3	47.8	51.4	55.4
(% of GDP)	(5.3)	(5.5)	(5.6)	(5.7)	(5.8)	(5.9)
Program Spending: Zero Real Growth (2% per year)						
Deficit	38.2	36.8	34.6	31.9	28.5	24.4
(% of GDP)	(5.3)	(4.9)	(4.4)	(3.8)	(3.2)	(2.6)
<i>Scenario 2</i>						
Program Spending: Zero Real Growth						
Deficit	38.2	40.2	42.0	41.6	41.0	40.1
(% of GDP)	(5.3)	(5.4)	(5.4)	(5.1)	(4.8)	(4.5)
Program Spending: Spending Freeze (0% per year)						
Deficit	38.2	37.6	36.4	32.9	28.8	24.1
(% of GDP)	(5.3)	(5.0)	(4.7)	(4.0)	(3.4)	(2.7)

to restore the confidence of taxpayers in the fairness and integrity of the tax system. The combination of slow economic growth and tax avoidance will force the Liberals to jettison either their deficit goal or their economic and social goals and will most likely result in a massive defeat for the party in the next federal election.

Furthermore, the Liberals have to avoid any escalation in interest rates. A renewed attack on inflation by the Bank of Canada would push the economy back into a recession and push up nominal and real interest rates to tragically high levels—tragic for the economy and Canadian citizens. As well, for every 1 percentage point that interest rates exceed the current levels, the federal government deficit would increase by between \$6 and \$8 billion.

The Liberal government will not have much latitude in pursuing the

late the world economy and resolve needless trade disputes.

However, the Liberal government cannot afford to allow the Bank of Canada to follow its own whims and in the process sabotage the efforts of the government to remain on the tightrope. This means that John Crow cannot be reappointed when his contract expires at the end of January and that his replacement should be an individual with excellent credentials in the domestic and international financial communities, so as to prevent any short-lived attack on the Canadian dollar, and one who will show more sympathy for the unemployed and be more sensitive to the high costs of a vigorous deflationary policy.

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LEGAL REPORT

JUDICIAL AMENDMENT OF STATUTES TO CONFORM TO THE CHARTER OF RIGHTS

by Peter W. Hogg

It is trite to observe that the *Charter of Rights and Freedoms* has expanded the role of the courts in Canada. Not only has the Charter added new grounds of judicial review of legislation that were not available before 1982, it has also led to new judicial remedies in cases where statutes have been found to be in conflict with the Charter.

It had always been assumed that courts lacked the power to add new words to a statute. The direct amendment of a statute could be accomplished only by Parliament or the legislature itself. In *Schachter v. Canada* (1992), however, the Supreme Court of Canada said that the court could add words to a statute if that were the best way to cure a constitutional defect. The court described this technique as "reading in," and said that it was a "legitimate remedy."

Reading in was not actually ordered in *Schachter*, but the remedy has now been ordered by the Ontario Court of Appeal in *Haig v. Canada* (1992). Haig had been discharged from the armed forces by reason of his homosexuality. He could not obtain a remedy under the *Canadian Human Rights Act* because the Act, although affording protection against many grounds of

discrimination, did not cover discrimination on the basis of sexual orientation. The Ontario Court of Appeal held that the Act's failure to include sexual orientation was a denial of Haig's equality rights under section 15 of the Charter.

In *Haig*, the Ontario Court of Appeal held that this was a case for reading in. The court ordered that the words "sexual orientation" should be read into the list of prohibited grounds of discrimination in the Act. Once the Act had been amended in this fashion, Haig would be able to complain to the Canadian Human Rights Commission and obtain a remedy for his dismissal.

The decision in *Haig* will stand because the attorney general of Canada elected not to seek leave to appeal to the Supreme Court of Canada.

It is tempting to condemn the reading in by the *Haig* court as an invasion of Parliament's legislative process. It is that, of course, but what is the alternative? The orthodox solution would be to strike down the unconstitutional statutory provision. But that would have destroyed *all* of the protections against discrimination in employment, and would have done nothing directly for Haig. That is why Krever J.A., for the court, said that reading in "would be less intrusive than the total destruction of the objective that would result from striking the provision down."

Another solution that has occasionally been adopted by the Supreme Court of Canada is to declare an unconstitutional provision to be invalid, but to suspend the declaration of invalidity for a temporary period of time to give Parliament the opportunity to amend it into conformity with the constitution. This was done, for example, in *R. v. Swain* (1991), where the court struck down (for lack of appropriate procedural

protections) the *Criminal Code* provision for the automatic detention in a psychiatric facility of persons acquitted of criminal offences on the ground of insanity. To avoid releasing all insanity acquittees, many of whom would likely be a danger to the community, the court suspended its declaration of invalidity for a period of six months. This enabled Parliament to enact a new provision that repaired the constitutional defects of its predecessor.

The attraction of the suspended declaration of invalidity is that it avoids the disruptive effects of the immediate nullification of a statutory program. However, it is also very intrusive of the legislative function. To be sure, the court does not directly amend the unconstitutional statute. But the court does assume the radical power of maintaining in force a statute that is unconstitutional. And the court also, in effect, imposes a deadline on the competent legislative body, which must enact a new law in time to stop the declaration of invalidity from taking effect.

Coming back to *Haig*, there is no escape from the conclusion that, one way or another, the unconstitutional exclusion of homosexuals from the protection of the *Canadian Human Rights Act* had to be repaired. In *Haig*, that repair was effected by the court itself in a straightforward fashion that did not significantly alter the legislative scheme. Although the court added words that Parliament had not enacted, this radical result need not be other than temporary. If Parliament is not content with the court's solution, Parliament can enact a new scheme — in compliance with constitutional requirements, needless to say. In this sense, the democratic legislative process retains the last word.

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CW UPDATE

THE MONTH IN REVIEW

by Michael Rutherford and
Jonathan Batty

CHRÉTIEN AND CABINET SWORN IN

Jean Chrétien was sworn in as Canada's 20th prime minister on November 4 at Rideau Hall in Ottawa. Also sworn in were the following 22 members of the new Liberal Cabinet:

- **David Anderson**, Minister of National Revenue (B.C.)
- **Lloyd Axworthy**, Human Resources Minister and Western Development Minister (Manitoba)
- **David Collenette**, Defence Minister (Ontario)
- **Sheila Copps**, Deputy Prime Minister and Environment Minister (Ontario)
- **David Dingwall**, Public Works and Atlantic Opportunities Minister (N.S.)
- **Michel Dupuy**, Heritage Minister (Quebec)
- **Art Eggleton**, Treasury Board President and Infrastructure Minister (Ontario)
- **Joyce Fairbairn**, Senate Leader (Alberta)
- **Ralph Goodale**, Minister of Agriculture (Sask.)
- **Herb Gray**, House Leader and Solicitor-General (Ontario)

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continued from page 63.

- **Ron Irwin**, Indian Affairs and Northern Development Minister (Ontario)
- **Roy MacLaren**, International Trade Minister (Ontario)
- **John Manley**, Industry Minister (Ontario)
- **Sergio Marchi**, Immigration Minister (Ontario)
- **Diane Marleau**, Health Minister (Ontario)
- **Paul Martin**, Finance Minister (Quebec)
- **Marcel Massé**, Intergovernmental Affairs Minister (Quebec)
- **Anne McLellan**, Minister of Natural Resources (Alberta)
- **André Ouellet**, Minister of Foreign Affairs (Quebec)
- **Allan Rock**, Justice Minister and Attorney-General (Ontario)
- **Brian Tobin**, Fisheries Minister (Nfld)
- **Doug Young**, Transport Minister (N.B.)

In addition, eight secretaries of state were named, with specific duties, but not full Cabinet minister status. They are:

- **Ethel Blondin-Andrews**, Youth Training
- **Raymond Chan**, Asia Pacific
- **Sheila Finestone**, Multiculturalism and the Status of Women
- **Jon Gerrard**, Science, Research and Development
- **Laurence MacAulay**, Veterans Affairs
- **Douglas Peters**, International Financial Institutions
- **Fernand Robichaud**, Parliamentary Affairs
- **Christine Stewart**, Latin America and Africa

**CHRÉTIEN SCRAPS
HELICOPTERS**

Prime Minister **Jean Chrétien** emerged from the first meeting with his new Cabinet on November 4 to announce the cancellation of the \$4.8 billion EH-101 helicopter contract. The cancellation will result in penalties for terminating the contract, on top of the \$440 million already invested in the program. Chrétien said that there would be "no compensation for anybody" as a result of the decision. Five days earlier, Bloc québécois leader **Lucien Bouchard** had demanded \$1 billion in federal compensation for Quebec if the deal was cancelled.

NAFTA RECONSIDERED

The new Liberal government in Ottawa expressed concerns about NAFTA during the first day of its tenure, in keeping with the position it took with respect to the deal during the election campaign. The Liberals are unhappy with NAFTA provisions on subsidies, U.S. anti-dumping laws, and energy. It is suggested that side deals on these definitions might be negotiated, just as side deals were negotiated to address the concerns of President Clinton when he was first elected.

**PEARSON PRIVATIZATION DEAL
UNDER REVIEW**

On October 28, Prime Minister designate **Jean Chrétien** appointed **Robert Nixon**, a former Ontario treasurer, to review the privatization of Toronto's Pearson International Airport and make a report within 30 days. On October 7, the Conservative government had signed over Terminals 1 and 2 of the airport to the **Pearson Development Corp.**, a consortium of private developers.

TAINTED BLOOD INQUIRY

On October 5, the federal government appointed Mr. Justice **Horace Krever** of the Ontario Court of Ap-

peal to conduct a judicial inquiry into Canada's tainted blood tragedy. He will have until September 1994 to explain how more than 1,000 hemophiliacs and other patients contracted the AIDS virus from blood transfusions in the early 1980s.

**FIXED LINK AGREEMENT
SIGNED**

Construction on the bridge to link Prince Edward Island to the mainland was set to proceed after financial agreements were signed on October 8. Under the terms of the agreement, **Strait Crossing Development Inc.** will finance the cost of the project, which is expected to be about \$840 million. When the bridge is completed on May 31, 1997, the federal government will begin providing the private consortium with annual subsidies of \$41.9 million (in 1992 dollars) for 35 years.

**JOHNSON ENTERS RACE AS
TREMBLAY BOWS OUT**

Quebec Treasury Board President **Daniel Johnson** announced officially on October 13 that he would be in the running for the leadership of the provincial Liberal party. On October 5, Industry Minister **Gérald Tremblay** announced that he will not be a candidate to replace Premier **Robert Bourassa**.

**CLAYOQUOT PROTESTERS
JAILED**

On October 14, Mr. Justice **John Bouck** of the B.C. Supreme Court handed down jail sentences to 44 protesters who had violated a court order against logging road blockades at Clayoquot Sound. The protesters, the first of more than 700 who have been charged with contempt of court since July 5, were given sentences ranging from 45 to 60 days in jail and fines ranging from \$1,000 to \$3,000.

ONTARIO CHALLENGES NAFTA

Premier **Bob Rae** of Ontario announced on October 14 that his government will launch a court challenge against NAFTA on the grounds that the deal interferes with areas of exclusive provincial legislative jurisdiction. At the same time, Rae announced his NDP government would introduce legislation to protect Ontario's water resources and that the *Power Corporation Act* would be amended to guarantee energy supply to the Ontario consumers.

U.S. UPHOLDS LUMBER RULING

On October 18, the U.S. International Trade Commission reaffirmed an earlier ruling that U.S. companies are hurt by imports of subsidi-

dized Canadian lumber. The ITC members had been ordered by a Canada-U.S. arbitration panel to reconsider the ruling they made in June of last year.

SOMALIA INVESTIGATION UPDATE

The military laid charges on October 18 against Lieutenant-Colonel **Carol Mathieu**, the leader of the Canadian Airborne Regiment during its peace-keeping operations in Somalia earlier this year. Mathieu was charged with negligent performance of his duties. On October 21, a military judge ended a court martial of Private **Elvin Kyle Brown**, saying that the proceedings had been tainted by the personal interest shown in the case by Mathieu, Brown's commanding officer.

Brown had been accused of murdering a Somali.

CRTC APPROVES TV VIOLENCE CODE

The Canadian Radio-Television and Telecommunications Commission announced on October 28 that it had approved voluntary rules on TV violence developed by the Canadian Association of Broadcasters. The new code includes an overall ban on "gratuitous violence."

ELECTION RESULTS

Canadian voters elected a Liberal majority government on October 25. The results of the vote are shown in the two tables below.

Continued, see "Month in Review" on page 66.

Total Seats

	Total Seats	Nfld	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta	B.C.	Yuk./ NWT
Liberal	177	7	4	11	9	19	98	12	5	4	6	2
BQ	54	0	0	0	0	54	0	0	0	0	0	0
Reform	52	0	0	0	0	0	1	1	4	22	24	0
NDP	9	0	0	0	0	0	0	1	5	0	2	1
PC	2	0	0	0	1	1	0	0	0	0	0	0
Independent	1	0	0	0	0	1	0	0	0	0	0	0
Total	295	7	4	11	10	75	99	14	14	26	32	3

Popular Vote

	Popular Vote (%)	Nfld	P.E.I.	N.S.	N.B.	Que.	Ont.	Man.	Sask.	Alta	B.C.	Yuk./ NWT
Liberal	41	68	60	52	56	33	53	45	32	25	28	50
BQ	14	0	0	0	0	49	0	0	0	0	0	0
Reform	19	1	1	13	8	0	20	22	27	52	36	10
NDP	7	4	5	7	5	1	6	17	27	4	16	21
PC	16	26	32	23	28	14	18	12	11	15	13	17
Independent	3	1	2	5	3	3	3	4	3	4	7	3

"Month in Review,"
continued from page 65.

B.C. REPORT SAYS LAW MISTREATS NATIVES

A report released on October 28 recommended major legal reforms in the Cariboo-Chilcotin region of British Columbia to address longstanding grievances from native peoples. The report was written by retired Provincial Court judge **Anthony Sarich**, who presided over a provincial inquiry that travelled to reserves in the area. Responding to the report, B.C. Attorney-General **Colin Gabelmann** formally apologized for the hanging of five Chilcotin Indian leaders 129 years ago.

ALBERTA NDP LEADER QUILTS

Ray Martin, leader of the Alberta New Democratic Party for 10 years, is stepping down. Martin's party lost all 15 of its seats in the June provincial election.

CRTC HEARING OPENS

The telecommunications industry will be under scrutiny in a month-long hearing before the Canadian Radio-Television and Telecommunications Commission that opened on November 1 in Hull. The CRTC will consider how the industry should be regulated and what services will be delivered by whom.

CONSERVATIVES WIN NOVA SCOTIA BYELECTION

Conservative **Brooke Taylor** drew 46 percent of the vote in the riding of Colchester-Musquodoboit to defeat Liberal candidate **John Tilley** in a November 2 Nova Scotia byelection. The result was seen as a setback for Premier **John Savage's** Liberal government.

QUEBEC, NEW BRUNSWICK SIGN TRADE DEAL

The Quebec and New Brunswick governments signed an agreement on November 3 that will reduce barriers to cross-border bids on government business. The procurement deal follows New Brunswick's retaliatory move last spring to match certain longstanding Quebec trade barriers. On November 3, the governments of Quebec and New Brunswick signed an agreement to lower interprovincial trade barriers between the two provinces in the field of procurement. The agreement applies to the purchase and rental of goods over \$25,000 and to services over \$200,000. The two governments, though, have not yet reached agreement to lower restrictions with regard to the employment of out-of-province construction workers. New Brunswick, in retaliation, instituted these restrictions last spring, while earlier this fall, Ontario's minister


of economic development and trade, **Frances Lankin**, announced that Ontario would adopt similar rules to take effect in spring 1994.

NEW PARTY IN QUEBEC?

A Quebec group headed by former Liberal **Jean Allaire** released a manifesto on November 5 calling for an alternative to the Parti québécois' hard-line sovereigntist stance and the Liberal party's federalist position. Groupe Action-Québec is proposing the idea of a sovereign Quebec linked to Canada in a joint "supranational parliament." The group will gauge public reaction to the manifesto and decide by December 15 whether or not to launch a new political party.

MCCARTHY WINS B.C. SOCRED LEADERSHIP

Grace McCarthy was chosen as the new leader of the B.C. Social Credit party on November 6. It was McCarthy's third bid to become party leader.

Michael Rutherford is an MA student in Political Science at York University and Jonathan Batty recently received his LL.B. from Osgoode Hall Law School, York University. CW Update is a regular feature of Canada Watch. 

SUPREME COURT WATCH

A digest of recent significant decisions of the Supreme Court of Canada

Ontario Hydro v. Ontario (Labour Relations Board) September 30, 1993

A group of employees at Ontario Hydro's nuclear facilities applied to the Ontario Labour Relations Board for certification. The board ruled it did not have the ability to certify the unit because the employees were subject to the *Canada Labour Code*, because nuclear energy regulation is a federal responsibility. The Divisional Court overturned the board's decision, but on a subsequent appeal to the Ontario Court of Appeal, the board's decision was upheld. The appeal was dismissed when heard by the Supreme Court, which found that the *Canada Labour Code* applies to Ontario Hydro employees connected to nuclear facilities as covered by section 18 of the *Atomic Energy Control Act*.

Hy and Zel's Inc. v. Ontario (Attorney General); Paul Magder Furs Ltd. v. Ontario (Attorney General) October 21, 1993

Both appellant companies brought civil applications against the Ontario attorney general to have sections of the Ontario *Retail Business Holidays Act* declared an unconstitutional violation of the freedom of religion. Judgments were stayed in the Ontario courts until the outcome of *Peel (Regional Municipality) v. Great Atlantic and Pacific Co. of Canada* was heard, which raised a similar issue. In these appeals, the Supreme Court held that neither appellant had standing in *Peel*, because even if the companies had religious rights, there was no factual evidence to suggest that their rights were infringed.

R. v. Dersch October 21, 1993

The accused was driving a car that collided head-on with another car, killing the other driver. The accused was charged with criminal negligence causing death and bodily harm and having care and control of a car while impaired, causing death and bodily harm. In the accident, the accused was injured. He objected to a blood sample being taken by the police. When he lapsed into unconsciousness at the hospital, a blood sample was taken for medical tests and one vial was provided to the police for blood alcohol testing. The accused was later asked to supply a blood sample to the police, and he refused. At trial, the Crown introduced into evidence

the blood sample and a report from the attending doctor, which included the level of blood alcohol. The convictions were upheld in the B.C. Court of Appeal. The Supreme Court overturned the convictions and ordered a new trial. It found the doctor had breached the duty of confidentiality and that the information was unreasonably obtained without a warrant. The accused was acquitted on the driving offences, and a new trial was ordered on the criminal negligence charges.

PARLIAMENTARY UPDATE

Parliament will convene on January 17, 1994.

CANADA WATCH CALENDAR

- | | |
|------------|--|
| Oct. 25 | Canadians elect a Liberal majority government led by Jean Chrétien. |
| Oct. 28 | Chrétien appoints Robert Nixon to conduct a month-long review of the Pearson privatization deal. |
| Nov. 1-30 | CRTC telecommunication industry hearings in Hull. |
| Nov. 2 | Conservatives win Nova Scotia byelection. |
| Nov. 4 | Chrétien and Liberal Cabinet sworn in. Chrétien announces EH-101 helicopter deal is cancelled. |
| Nov. 5 | Groupe Action-Québec releases manifesto proposing new provincial party. |
| Nov. 6 | Grace McCarthy wins leadership of B.C. Social Credit party. |
| Nov. 17 | U.S. House of Representatives expected to vote on NAFTA. |
| Nov. 22 | Judicial inquiry into Canada's tainted blood tragedy to begin. |
| Nov. 24-25 | Western premiers conference to be held in Canmore, Alberta. |
| Jan. 1 | NAFTA scheduled to come into force. |
| Jan. 28-30 | Quebec Liberal party to select successor to Robert Bourassa. |

The Charlottetown Accord, the Referendum, and the Future of Canada

Proceedings of a conference held September 23-24, 1992
at York University, Toronto, sponsored by the Centre for Public Law
and Public Policy and the Robarts Centre for Canadian Studies

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