



# CANADA WATCH

Practical and Authoritative Analysis of Key National Issues

## THE STATE OF THE ECONOMIC UNION

by Jamie Cameron

### THE ELECTION CAMPAIGN

How far the three "national" parties may slide on October 25 has been the subject of much speculation thus far in the election campaign. Few expect a majority government at this point, and with the Bloc québécois and the Reform party surging, Canadians could return a Parliament that is functionally incapable of governing this country.

These dynamics have been attributed, at least in part, to a profound dissatisfaction with status quo politics and status quo politicians. Hence the rise of alternative parties, includ-

ing such unusual contenders as the Natural Law Party, which is fielding a slate of more than 200 candidates.

That the public can be so dissatisfied with the style and substance of status quo politics is disturbing. But what if this malaise represents a loss of faith in the traditional parties' capacity to reflect the interests we share as members of a nation? As commentators suggest, the prospect of a federal Parliament split along regional lines has implications for our future as a federation.

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## A HOUSE DIVIDED

### Prospects for Canada's Next Parliament

by Kenneth McRoberts

If current trends hold firm, the election result will raise more questions than it answers. The government that emerges probably will have a precarious hold on Parliament. It almost certainly will not be a "national" government and thus will be ill-equipped to deal with Canada's continuing divisions. At the same time, it will face two new opposition parties that will raise fundamental questions about the Canadian political order, and challenge the capacity and very legitimacy of the government to deal with them.

### A CRIPPLED LIBERAL GOVERNMENT

In all likelihood, the Liberals will have the largest number of seats in the next Parliament, but they could fall well short of an absolute majority. Although the party clearly has a strong hold on Atlantic Canada and appears to be expanding its strength in Ontario, it could be virtually shut out of French Quebec and be marginal in western Canada.

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At the same time, we are frequently reminded that the election is about our economy and, more particularly, about job creation versus deficit reduction. In focusing on those concerns, it can be too easily forgotten that our well-being also depends on the strength of our economic union. While the campaign absorbs our attention, a trade dispute between Ontario and Quebec has been simmering ominously in the background.

**DISCRIMINATION: THE ANSWER TO TRADE BARRIERS**

For years now, Quebec has denied out-of-province workers access to labour opportunities in that province, particularly in the construction industry. Last year, New Brunswick responded with mirror-image policies of its own, erecting discriminatory barriers against Quebec workers. New Brunswick's strategy was rewarded when it was announced in August that the two provinces had reached an agreement on procurement and employment policy.

Following a summer of unsuccessful negotiations with Quebec, the government of Ontario also decided to retaliate. Early in September it announced measures that "duplicate for Quebec workers and firms the same discriminatory barriers currently faced by Ontarians trying to work or do business in Quebec." These measures will exclude Quebec contractors from government-funded projects and restrict Quebec construction workers in Ontario. The government also hopes to encourage private firms to favour Ontarians over Quebec contractors, subcontractors, and construction materials, and to persuade municipalities to prefer buses made in Ontario to Quebec-made buses.

Gérald Tremblay, of Quebec's Ministry of Industry, Trade and Technology, claimed that Ontario has negotiated in bad faith while playing politics at Quebec's expense. Meanwhile, Ontario's Minister of Economic Development and Trade Frances Lankin stated that the government's goal is to "get trade barriers down," and not "erect new ones."

With an annual trade volume of about \$50 billion, the stakes in the dispute between Ontario and Quebec are high. It has been estimated that as many as 4,000 Quebec construction workers work daily in Ontario in the Ottawa area, and that Ontario could claw back as many as

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3,500 jobs through its restrictions. In addition, the construction industry could recover billions of dollars from government policies that exclude Quebecers from public and private construction jobs. Even the dispute over who makes buses is significant: Ontario buys about \$10 million of Quebec-made buses annually.

**PROTECTIONISM AND FEDERALISM**

Protectionist policies, like those adopted by Quebec, New Brunswick, or Ontario would undoubtedly be invalid in the United States. The American constitution explicitly authorizes the federal government to regulate trade; in addition, the commerce clause imposes negative restrictions on state policies that are directly protectionist or that otherwise place impermissible burdens on interstate commerce.

Section 91(2) of the *Constitution Act, 1867* confers exclusive jurisdiction on the federal government to regulate trade and commerce. Like the commerce clause, section 91(2) has also been invoked against protectionist policies; in that context provincial legislation "in relation to" interprovincial trade, and not any legitimate heading of provincial jurisdiction, is unconstitutional. A constitutional jurisprudence that has in the past invalidated trade barriers against interprovincial eggs and hogs should also protect the interprovincial movement of buses, construction materials, and construction labour. In addition, section 6 of the Charter guarantees mobility rights.

Quebec's practices are difficult to defend, and it is unsettling that they have been in place for so long without challenge. At the same time, any mirror-image policies are equally vulnerable, and it is just as unsettling that other provinces have been willing to practise discrimination themselves to get trade barriers down. As Premier Bob Rae put it, "[p]erhaps an element of reciprocal treatment ... will prompt Quebec to undertake more productive negotiations." If that is the state of our economic union, we may face an uncertain future.

**THE STATE OF THE ECONOMIC UNION**

To initiate the process of renewal that culminated in the Charlottetown accord, the federal government issued a set of proposals, entitled "Shaping Canada's Future Together," which were intended to "give focus to a national dialogue." One section optimistically suggested that Canada prepare for a prosperous future by strengthening its economic union. The proposal to replace section 121 of the 1867 constitution with a common market clause did not survive that process of dialogue. As drafted, it was complex



and imponderable. More important, the political will to address those issues of economic integration was lacking.

The Charlottetown accord fused the federal government's proposal for economic union with Premier Rae's "social charter." Instead of a common market clause, the result was a list of policy objectives for social and economic union that established aspirational goals for the future.

Restrictive barriers such as Quebec's should not exist in a federation, and it should not be necessary for provinces like New Brunswick and Ontario to invoke retaliatory measures. Yet the rise of provincial trade disputes demonstrates that the dynamics currently shaping our political landscape have implications for our economic union as well. The political will to address Canada's economic union is at present absent. That will must be found before the destructive power of protectionism further weakens us.

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*Canada Watch* welcomes submissions on issues of current national interest. Submissions should be a maximum of 1,000 words. The deadline for consideration in our November issue is Monday, November 8. Write or fax us at:

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## THE CAMPAIGN IN ATLANTIC CANADA

### Surface Politics and Sub-Surface Problematics

by David Johnson

Contrary to popular perception, the campaign in Atlantic Canada is not straightforward. Although the Liberals show no indication of relinquishing their dominant position in the parliamentary representation of Atlantic Canada, this does not mean that the campaign down east is a simple event.

In reality there are two reflective processes under way throughout this region this fall, with the lesser-seen process posing difficult questions for whichever party forms the government following October 25.

#### THE CAMPAIGN: SURFACE POLITICS

The first process is the actual campaign itself; and here, Liberal strength throughout the region is palpable. According to the CBC poll of September 26, the Liberals have the support of 50 percent of electors in the region, compared to 35 percent for the Conservatives, 9 percent for the NDP, and 3 percent for the Reform party. Although various poll results suggest that Atlantic Canadians find Kim Campbell to be a better, more modern leader than Jean Chrétien, this general support for the leader does not translate into support for the party. When asked which party offers the best approach to dealing with the issues of economic development, job creation and the protection of social policies, plurality support shifts appreciably to the Liberals. This suggests that the Liberal party is in no danger of losing its bastion of support in Atlantic Canada.

The Liberals held 20 of the region's 32 seats at dissolution. Given the current polling data it is safe to

say the party can maintain — and very likely increase — its level of representation in the next House. With the prospect of a hung Parliament looming over this country, every seat gained or lost by the parties will be important; for the Liberals to make significant gains in Atlantic Canada may mean the difference between their winning a majority or a minority government.

Certainly the dynamic of the campaign has supported Liberal interests. The key issue in Atlantic Canada can be identified by one word: jobs. Conservative pronouncements on deficit reduction, the downsizing of government programs and services, and the need to be prepared for tough times lasting into the next century are hardly the types of statements designed to attract widespread support from people long hammered by the twin blows of economic depression and regional under-development.

In contrast, Liberal commitments to immediate job creation through investment in the industrial infrastructure strike a receptive chord. Although one can seriously question the amount of permanent employment that will be created through such a scheme and whether it is sufficient even to begin to alleviate the problem of regional unemployment, it is undeniable that in Atlantic Canada such doubts are placed in the background. The Liberal commitments to job creation, coupled with their professed support of social welfare and regional development programs such as Enterprise

*Continued, see "Atlantic Canada" on page 36.*

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continued from page 35.*

Cape Breton, place the Liberals in a commanding lead in this part of the country.

**THE DEEPER REALITY:  
POLITICAL ECONOMY  
PROBLEMATICS**

But issues placed in the background do not cease to exist for that reason. As the campaign unfolds in the foreground, a deeper process of reflection is alive among Atlantic Canadians. The focus of attention here is on problems that no current party and no past federal government — Conservative or Liberal — have proven competent to address and resolve. This background process also revolves around jobs, yet in this instance the concerns are structural, not electorally temporal.

How can we better manage regional development in this part of the country? Does the federal government have a role to play in promoting industrial development and diversification in Atlantic Canada? If so, how should it fulfill this role? Is reinvestment in the economic infrastructure sufficient as an industrial policy, or need an industrial policy be more comprehensive and strategic, akin to Quebec Inc.? Should industrial policy here be geared to support traditional yet problem-plagued industries, such as steel, coal, and pulp and paper, or should economic development planning be refocused on newer technologies — computer software, telecommunications, marine and environmental sciences — and related tertiary service support?

As a component to industrial strategy, how can we better manage the Atlantic fishery for it once again to become a viable, renewable natural resource industry? Should the problem of foreign overfishing be ad-

ressed by extending Canada's regulatory sphere of authority beyond 200 miles offshore? Or should we tighten the regulatory controls on our domestic fishing industry to curtail abusive fishing habits by Canadians themselves? Or must the federal government do both?

**THE PROBLEMATIC OF  
DEFENCE**

Concern about the environment offshore leads to concern about the role and future of the Canadian military. Should Canadian defence policy be reconceptualized to include defence of the biological ecosystem in Canada's offshore? Should

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the military be mandated the task of policing the offshore? If so, what type of equipment does it need to fulfill this task? Do we need high tech anti-submarine helicopters, or many more “lower” tech patrol boats, corvettes, and search aircraft?

And finally, with respect to defence, concern in Atlantic Canada is directed to this country's international commitments. As we witness a “new world disorder” requiring much more U.N.-sponsored peace-keeping and possibility “peace-making” initiatives, should the federal government devote more attention to the specialized training of Canadian and other nations' military forces for such demanding tasks? If so, should such training facilities be established within the Maritimes? Can Maritime military bases and universities be used as centres of excellence for the education and training of personnel destined for U.N. service?

**THE CAMPAIGN AND THE DAY  
AFTER**

All of the foregoing are deep questions very much on the minds of Canadians in this region; and yet, because of the difficulties in providing rigorous answers, they are matters that have been largely ignored by the parties as they campaign in Atlantic Canada. Such ignorance may persist throughout this election. It will not be the first time that such questions have proven too awesome to be addressed by parties in the heat of campaigns.

Whichever party forms the government after October 25 will have to deal with these matters; they exist and will not disappear. The new government will be called on to provide leadership for, to influence and guide, the economic and social future of Atlantic Canada. It is a challenge fraught with difficulties, yet also a challenge for which governments are elected to meet. For the winning party, getting through the campaign is the easy part; the real difficulties begin once power is attained.

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If the Liberals do secure an absolute majority of Commons seats, they will apparently be without an effective representation from Quebec. Liberal leader Jean Chrétien will have been, in effect, repudiated in his home province. This could be a fatal blow for the new government: never before has a Quebec prime minister been reduced to relying on English Canada to maintain power. There is even the possibility that Chrétien will be beaten in his own riding. After all, he last ran in Shawinigan seven years ago; in the most recent Parliament, he held a seat from New Brunswick. Beyond this personal repudiation of their leader, the Liberals would be left with little Quebec talent for their Cabinet.

By the same token, the prospect of few Liberal seats and little Cabinet material in western Canada evokes the trials of the Trudeau years, when western Canadians saw the Liberals as the tools of central Canadian interests that dominated the Cabinet.

If the Liberals do fall short of an absolute majority and need to go looking for third-party support to form a working majority, they may come up wanting. Their logical — in fact, only — ally would be the

NDP. If the NDP were to join the Liberals in a formal coalition, they could ease the Liberals' Cabinet problems by providing some western Canadian talent. But for this ploy to work, the NDP have to win enough seats to provide a majority, and by all indications, the new NDP caucus will be vastly reduced.

The Liberal government could attempt to govern anyway, in the hope that the opposition parties cannot agree on an alternative government or would not want to precipitate an election. But this could only be a short-term strategy. The Liberals themselves would probably be led to call a new election, before being forced into one.

#### A FRAGMENTED OPPOSITION

As for the opposition, present trends suggest that it will be severely fragmented, with the PCs, Reform, and the Bloc having substantial caucuses and the NDP a lesser one. At a minimum, this would make for a highly fractious House.

There is in fact no guarantee that the PCs will form the official opposition. If PC support does go into a free fall over the remaining days before the election, that title could go to Reform or the Bloc québécois. The latter possibility is especially intriguing. The prospect of Lucien Bouchard as the leader of Her Maj-

esty's Loyal Opposition does boggle the mind.

Even without the title of official opposition, the Bloc will be a major force in parliamentary debates, never missing an opportunity to demonstrate its thesis that Quebec's interests cannot be met within the Canadian federal system. The House will be regularly treated to heated, bitter, and intensely personal debates between Bloc leader Lucien Bouchard and Prime Minister Jean Chrétien, firmly committed to the Trudeau vision of Canada and dependent on an English-Canadian caucus.

For its part, Reform will have a new and highly visible platform from which to make its arguments not only for rolling back the state but for adopting new mechanisms through which citizens can hold politicians accountable for their actions between elections. Last fall, Preston Manning and Reform demonstrated the depths of public alienation when they took on English Canada's political class to lead the successful campaign against the Charlottetown accord. By continuing to appeal to these popular sentiments, a Reform parliamentary delegation could make life very uncomfortable for the Liberal government.

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## **BLOC AND REFORM: OPPOSING THE POLITICAL ORDER**

Not since the early 1960s and the sudden rise of Réal Caouette's Créditistes in Quebec have new parties broken into the federal political arena. Between them, Reform and the Bloc would have disproved the old adage that voters, especially in Quebec, will prefer a candidate whose party has a realistic chance of forming the government and thus can provide concrete constituency benefits. Instead, voters would have decided to "send a message."

This "message" goes beyond simple dissatisfaction with established parties and their leaders. In very differing ways, the two parties are challenging the established political order. Reform has been arguing that Canadian democracy is deficient and must be radically changed. The Bloc is arguing that the federal system is deficient and Quebec must leave it.

An especially intriguing question is how the Bloc and Reform will relate to one another. They agree on some policy objectives, such as reining in the Ottawa's promotion of official bilingualism and cutting back on multiculturalism, but they disagree on others, such as the need to restructure social policy. After all, the Bloc is receiving the unofficial support of Quebec's union movement.

Most fundamentally, the two parties disagree on the guiding principles of Canadian federalism. Nonetheless, the fact that they are based in different parts of the country and have restricted their activities to their respective parts could create a new dynamic. As the self-professed representatives of English Canada and Quebec, Reform and the Bloc could contemplate accommodations and trade-offs between the two regions

that the "national" parties cannot. On this basis, they could even agree on new formulas for accommodating Quebec within the federal system. However, they are not currently disposed to do so, given Reform's insistence that Canadian federalism must be based on the absolute equality of the provinces, and Bloc's determination that Quebec should leave federalism behind. Instead, they may themselves be drawn into open confrontation.

In sum, the next Parliament may well be like no other, composed of a Liberal government that has been repudiated in Quebec despite having a leader from the province, a Progressive Conservative party that must jostle with third parties for official opposition status, and two new parties that are committed to fundamental changes in the political order. As such, it would reproduce in an especially acute manner the underlying contradictions of Canadian politics. On this basis, it could afford a real opportunity to confront those contradictions directly and find ways to resolve them. But this might well prove to be too great a challenge.

Of course, there is another possibility. In the final days of the campaign, voters may acquire a clearer sense of the type of Parliament they are headed for. Faced with this prospect, potential Reform and Bloc supporters may reconsider and decide to make do with the old-line parties after all.

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York University.* ❁

## **NATIONAL AFFAIRS**

### **BLOC AND REFORM**

#### **About To Change the National Political Landscape**

*by Patrick J. Monahan*

With two and a half weeks left in the election campaign, the Conservative party looks to be headed for its biggest electoral defeat since 1953 when the PCs captured just 51 seats in a 265-seat House. Indeed, the Tories seem in real danger of being reduced to third-party status in the Commons, something that hasn't happened since 1921. Meanwhile, over at Liberal headquarters, dreams of a majority government dance on in the imaginations of Jean Chrétien's strategists.

Yet focusing on the fortunes of the two old-line national parties disguises the true significance of what is happening in the current campaign. Canadians seem ready to fundamentally rewrite the rule book governing national politics in this country. And the politicians holding the pen and shaping the rewrite are Preston Manning and Lucien Bouchard.

#### **FALSE HOPES AND ILLUSIONS**

The national media seem both surprised and baffled by the resiliency of the Bloc in Quebec and the surge in Reform support west of the Ontario-Quebec border. Indeed, a few short months ago, most pundits had written off Reform and were claiming that it was only a matter of time before the support for the Bloc began melting away in Quebec.

Canada Watch



But the pundits overlooked a number of hard realities. The first reality was that neither of the two old-line parties had any effective strategy to counter the rise of the Bloc québécois in Quebec. This view of the Bloc was premised on the simplistic theory that Quebec voters always want to be on the "winning side." Thus, once it became appar-

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*"Canadians seem ready to fundamentally rewrite the rule book governing national politics in this country."*

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ent who that winner was going to be this time, all those voters who were "parked" with the Bloc would rush to support either Jean Chrétien or Kim Campbell.

But what if the premise underlying this view were wrong? Suppose Quebec voters were leaders rather than followers, unwilling to be bought off by the promise of a few seats around the federal Cabinet table? And what if it turned out that Quebecers preferred parties led by politicians from their own province? Certainly it seems more than a coincidence that parties led by Quebec politicians have formed the national government for close to 24 of the past 25 years.

Perhaps the only benefit that will arise out of the impending sweep of Quebec by the Bloc québécois is that we will be spared any further arm-chair theorizing about how Quebec voters can always be counted on to support winners selected for them by Canadians in the rest of the country.

### REFORM'S SURGE

What about the resurgence of the Reform party, which had been all but written off by the national media as recently as four weeks ago?

The political dynamics surrounding Reform were vastly different

from those involving the BQ. Unlike the BQ, Reform was far more vulnerable to being squeezed to the political margins by the Conservatives. The Tory strategy throughout 1993 — including the choice of Kim Campbell as leader and the appropriation of many of Reform's policies — capitalized very effectively on this political high ground.

And Prime Minister Campbell's emphasis on a "new politics," in which political leaders would talk openly and honestly about the tough choices facing the country, undoubtedly struck a chord with many Canadians fed up with empty rhetoric and broken promises.

The problem is that you can't talk one game and then play another. When pressed for details of her plan to eliminate the deficit in five years, the prime minister retreated into the worst excesses of the old politics, promising that the deficit could be eliminated in five years without touching any of Canada's social programs. Come again?

Anyone searching for the "defining moment" of Kim Campbell's short-lived tenure as Prime Minister need look no further than her evasive answers to BQ leader Lucien Bouchard during the English-language leaders' debate. Her unwillingness to respond to a direct and simple question — "what is the current deficit Madam Campbell?" — told Canadians that here was a political leader with something to hide. That's not a message that's bound to win many votes in Canada in 1993.

### WHAT NEXT?

With the BQ and Reform set to take a combined total of 100 seats or more on October 25, a new round of wishful thinking has already been set in motion. For example, *The Globe and Mail's* Robert Sheppard has opined that BQ and Reform don't really pose a threat to national unity

since we have been governed by regional parties before. The only difference, according to Mr. Sheppard, is that after October 25 regional trade-offs will occur "out in the open" rather than behind closed doors. Other academic commentators have suggested that the election of BQ and Reform pose an opportunity to strike a "new deal" between Quebec and the rest of Canada, one apparently premised on the idea of giving Quebec some asymmetrical or special provincial powers.

Former Ontario Premier David Peterson has advanced a quite different — and far more convincing — interpretation of the significance of a Reform and BQ breakthrough on October 25. He argues that the simultaneous appearance of these regional parties poses a major threat to the survival of the federation.

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*"A national Parliament without a majority government and dominated by Reform and BQ MPs is the equivalent of a political "sell order" for Canada."*

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Mr. Peterson speaks as a veteran politician, one who understands both the necessity for and the difficulty of achieving national political compromises in a segmented country such as Canada. Political parties, cabinets, and, most significantly, prime ministers with a national base and national outlook have played a critical role in brokering those compromises in the past.

To imagine that these same kinds of delicately brokered compromises could be achieved in bargaining between Preston Manning and Lucien Bouchard seems highly implausi-

*Continued, see "Bloc and Reform" on page 40.*

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ble. These two leaders are intelligent and articulate and have well-thought-out visions of where they want to take the country. The problem is that each man's tenaciously held vision directly contradicts the other's. Moreover, both Manning and Bouchard will come to the table as regional politicians rather than as national ones.

The history of federations around the world tells us that the domination of national political institutions by regional parties is a warning of serious potential for political disruption. A national Parliament without a majority government and dominated by Reform and BQ MPs is the equivalent of a political "sell order" for Canada.

Most recent polls indicate that the splintered nature of the vote may permit the Liberals to sneak through the middle with a majority government, even with less than 40 percent of the vote. It is also possible that you might win the Lotto 6-49 this week by buying a single ticket. But there is one thing you can count on: the stakes riding on the outcome of the vote on October 25 are very high indeed, for all Canadians.

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## WESTERN REPORT

### THE MALAISE LINGERS AS CAMPAIGN CARRIES ON

*by Roger Gibbins*

It is difficult, writing in early October, to read the entrails of an election campaign that has yet to run its course. Nonetheless, the campaign to date has exposed some interesting features of the political landscape in western Canada.

#### DIVERSITY STILL PREVAILS

The observation that "the West" has largely disappeared as an integrated or homogeneous political region is by no means new, but it is one worth repeating. It is also one that has been confirmed by the early dynamics of the 1993 election, dynamics that vary considerably across the four western provinces.

The Reform party has yet to make substantial inroads in Manitoba and Saskatchewan, where the NDP remains a factor in what is shaping up to be a three-party contest among traditional players. In Alberta, the NDP has been eclipsed by even the National and Natural Law parties, and the contest is evenly matched among three contenders: the Conservatives, Liberals, and Reform. In British Columbia, the electoral scene changes again with the NDP coming back into play, at least on the margins, and with many ridings featuring four-party contests. Thus, in the context of the campaign, it is

difficult to speak very coherently about "the West."

#### THE MANY CHANNELS OF PROTEST

The second observation is that the populist, protest vote in western Canada flows through many channels, and does so in ways that sometimes defy conventional wisdom. Although the Reform party has provided the major vehicle for both regional and populist discontent in the West, a host of non-traditional parties are alive and well on the campaign trail. The Natural Law party is flaky enough to pick up

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*"... in the context of the campaign, it is difficult to speak very coherently about 'the West.'"*

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some regional support from the ever-present radical, if not lunatic, fringe, and Mel Hurtig's one-man National party band and its song of nostalgia for the 1960s enjoys significant support, albeit not enough to elect candidates.

However, the most interesting regional development is the flow of electoral support from the NDP to Reform, a flow that has been particularly evident in British Columbia and Saskatchewan. (In the Alberta case, there is nothing to flow.) The Reform's ability to capture former NDP support suggests that this support, at least in the West, but probably not exclusively in the West, has been driven as much by protest as by a shared left-of-centre ideology. After all, the New Democrats and Reformers share a common self-perception as outsiders challenging a system that is fundamentally flawed and unfair. Their common populism provides a convenient electoral bridge for voters moving from



the far left to the far right, with no stopping at the Liberal midpoint.

### THE "NEW POLITICS"

Since the demise of the Charlottetown accord, we have heard a great deal of talk about the emergence of a new political style in Canada that features town-hall meetings, a focus on policy rather than personality, a shunning of personal attacks, and the politics of inclusion.

However, the election campaign has provided little evidence of this new politics. Certainly, there are policies galore, and even some from the Conservatives, but these are used as partisan clubs and not as points of departure for serious debate. Preston Manning and his Reformers have attracted a degree of political vitriol that would not have been out of place in the worst campaigns of the past, and Jean Chrétien has been personally attacked from all flanks except Reform.

The only party leader to have escaped serious personal attack has been the Bloc's Lucien Bouchard; Canadians outside Quebec have been remarkably polite and tolerant in the face of this newest and perhaps most serious threat yet to the survival of their country.

### LANCING THE BOIL?

Perhaps the clearest regional message from the campaign to date is that the populist anger that greeted the Charlottetown accord was not lanced by the constitutional referendum. The view of many observers of the political scene, including myself, has been that the public's anger and estrangement from the political process abated in the wake of the referendum campaign. However, the strength of protest parties in the West suggests a different interpretation. It is probably not coincidental that the Reform party is making its

strongest showing in British Columbia, the province in which the accord went down to its most crushing defeat.

Although Kim Campbell's ultimate appeal to the Canadian electorate has yet to be tested, it is already evident that her *regional* appeal is very limited. Campbell's campaign rhetoric has not tapped into chronic regional angst, nor has she been able to mobilize populist discontent. Voters in the West may end up supporting Campbell and the Conservatives for many reasons, but it will not be because they are regional champions or because they provide an outlet for populist discontent.

Whether or not the Reform party makes a major breakthrough on October 25 may be more a test of the electoral system than an indicator of the temper of the times in western Canada. There is little likelihood that the regional mood, which vacillates between sullen withdrawal and aggressive anger, will be transformed by the election outcome. Indeed, it may deteriorate if the populist vote in the West fails to find reflection in the House of Commons. If only the nationalist vote in Quebec finds reflection in the House, the mood in the West could be poisonous.

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## QUEBEC REPORT

### KIM CAMPBELL'S LOST OPPORTUNITIES

by Alain Noël

Kim Campbell was the primary loser of the October 3 French debate. The debate provided the Conservatives with a unique opportunity to regain some of the ground lost to the Bloc québécois. Campbell failed, however, to make a strong impression. Her performance did not even shore up the support that her party had managed to keep in Quebec. A Léger & Léger poll conducted the day after the debate suggested that Lucien Bouchard was considered the winner by a majority of viewers (52 percent compared with 20 percent for Jean Chrétien and 13 percent for Kim Campbell).

Of course, this assessment reflected in part the Bloc's overall popularity. But Campbell did not do as well among Conservatives as did Bouchard and Chrétien with their own partisans, and she convinced almost no undecided voters (only 5 percent of the undecided thought she offered the best performance). The debate did nothing to contain the growing popularity of Lucien Bouchard and of the Bloc québécois, who are apparently heading for a sweep of most of Quebec's francophone ridings.

The task at hand was perhaps impossible. Although the Conservatives did well in 1984 and 1988, they

*Continued, see "Lost Opportunities" on page 42.*

*"Lost Opportunities,"  
continued from page 41.*

do not have deep roots in Quebec. In 1988, less than 25 percent of francophones identified themselves as Conservatives. A large part of Mulroney's support came from sovereigntists who naturally turned to the Bloc québécois once the new party was created. Given as well the difficulties of the current economic situation, the odds for the Conservatives were not good going into the debate.

Still, Kim Campbell did not have to make things worse. During the French debate she made a series of mistakes in attacking Lucien Bouchard. In the course of just a few minutes, she suggested that it was "unacceptable" for a sovereigntist party to run in a federal election, told Bouchard he was "no René Lévesque," added that he did not represent Quebeckers' interests, and argued that the Bloc had in the past voted against a series of measures favourable to Quebec.

Bouchard had no difficulty replying that as taxpayers sovereigntists had the right to choose their representatives, that it was not for Campbell to interpret the thoughts of René Lévesque, and that she should ask Quebeckers who best represented their interests. As for the Bloc's votes in the House of Commons, Bouchard leapt at the opportunity to explain that his party had in fact voted against an omnibus bill that extended privileges associated with family trust funds. Much more wisely, Jean Chrétien addressed Bouchard in a generally positive manner while insisting that the Bloc québécois leader should respect Chrétien's federalist stance.

Kim Campbell's attacks on Bouchard were not improvised on the spot. The "you're no René Lévesque" line was obviously

penned by a staff better versed in American debates than in Quebec politics.

But why was Kim Campbell so ill-advised? Could her team do no better than attack Bouchard on his strong points? Why did she question his legitimacy as the front-runner and his commitment to defend Quebeckers' interests rather than question the effectiveness of a party condemned to remain in the opposition?

Journalists have suggested that Campbell's team was indeed inexperienced, poorly coordinated, and prone to improvisation. That may be the case. I suspect, however, that more was involved.

Increasingly, Conservatives now acknowledge that they underestimated both the Bloc québécois and

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the Reform party. They knew the polls and understood that the new parties had taken support away from them, but they assumed that these parties would vanish once a genuine campaign started. Forming the government would become the main issue.

The Conservatives could assume that the Bloc and the Reform party would wither away because they did not understand what happened in Canada between the failure of the Meech Lake accord and the 1992 referendum. Time and again, the 1992 referendum was interpreted as a not-so-rational vote against politicians in general, and against Brian Mulroney in particular—a vote that expressed cynicism more than a co-

herent vision of politics or of the country.

In fact, the popular refusal of the Charlottetown accord expressed clear principles strongly held by Canadians. The 1992 referendum was fought in the name of the equality of two nations, the equality of provinces, the equality of citizens, and the aboriginal right to self-government—the very principles that made negotiations necessary in the first place. The No prevailed because most Canadians concluded that some of these principles were not correctly recognized and incorporated in the Charlottetown accord.

After the referendum, the whole issue was set aside. But the divisions remained, ready to reappear at the first opportunity. The 1993 federal campaign provided that opportunity. Kim Campbell and the Conservatives were not prepared for this because they had never confronted the challenge posed by the referendum. They acted as if nothing had happened, as if replacing Brian Mulroney would do.

Of course, the Conservatives could not put the constitution back on the agenda. They had to appeal to the voters attracted by the new parties and could not do so simply by challenging their legitimacy. In Quebec, for instance, Kim Campbell had to convince federalists that she represented the best option over both the Bloc and the Liberal party. For her, the best way to do this was to question the relevance of a strong Bloc presence in the opposition. Instead, she suggested Lucien Bouchard's claim to represent Quebeckers' interests was not genuine.

To illustrate how he sees the political path toward Quebec sovereignty, Parti québécois leader Jacques Parizeau has likened the process to a hockey game. The federal election stands as the first pe-



riod, the provincial one as the second, and the referendum on sovereignty as the third.

With a strong Bloc contingent in the House of Commons, sovereigntists will have a good lead going into the second period. Ahead in the polls, the PQ is also likely to take power in 1994. The best chance of the Quebec Liberal party is to choose a leader who can convince voters a genuine renewal is possible. Now that Industry, Commerce and Technology Minister Gérald Tremblay has withdrawn from the race, leaving Treasury Board Chair Daniel Johnson as the sole contender, the chances of doing so seem almost nil.

Of course, nothing prevents sovereigntists from losing in the third period. Uncertain and fragile, the support for sovereignty remains under the 50 percent threshold. Still, as any coach would concur, Parizeau's odds are better with a strong lead after two periods.

If the first period teaches us something, it is that one should not too readily discount the importance of sovereigntist sentiment in Quebec. Never has a Quebec political leader run so openly on a sovereigntist platform. Yet, even the *Conseil du Patronat du Québec* has good things to say about Lucien Bouchard and the Bloc québécois.

Because they underestimated the current strength and legitimacy of the idea of Quebec sovereignty, and because they chose to attack Bouchard's aims and intentions rather than the relevance of his presence in Ottawa, Kim Campbell and the Conservatives wasted the few opportunities they had to recover some of Quebec's nationalist vote.

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## ECONOMIC REPORT

### GOVERNMENT AND THE ELECTION

by Fred Lazar

#### THE ROLE OF THE GOVERNMENT

James Laxer, writing in the Sunday, October 3 *Toronto Star*, properly identified the fundamental issue in the federal election — namely, “the role of government in Canadian society.” He emphasized that “[e]veryone recognizes that finding our way in the new global economy requires immense adjustment. Whether we are talking about job creation, the deficit or social programs, what Canadians are pondering is the role government should play in helping us make the adjustment.”

In this debate, the NDP, the National party and the Bloc québécois stand on one side believing that government must play an active and expanded role. Although the NDP and the National party stress this role for the federal government, the Bloc's position is that effective intervention can take place only at a regional or provincial level. On the other side of the debate are the Conservatives and the Reform party.

The deficit stands out as the focal point for the debate. Thus far, the debate has only touched on the question of how quickly the deficit should be reduced. The Conservatives and the Reform party have argued that it is imperative that the federal government eliminate its annual budgetary deficit quickly. The Conservatives are willing to take five years, Reform only three. The NDP and the

Liberals have not set a zero-deficit target. Both parties agree, however, that the deficit should be reduced, but at a gradual rate determined by the strength of the economy.

The Conservatives and Reform believe that sustained economic recovery requires balanced budgets. The NDP and the Liberals believe that the weak economic recovery needs the fiscal and monetary stimulus that only government can provide at this time. Who is right?

This question is reminiscent of one that has plagued economic theory for over 50 years — do deficits matter?

#### DO DEFICITS MATTER?

Several arguments have been posited by neo-conservative economists suggesting that deficits cannot produce higher growth rates. Among the more prominent arguments have been the following:

- the financing of investments by the private sector is squeezed out by the need to finance government deficits;
- the government will not fool individuals and companies into spending more by running a deficit because they recognize that deficits and the accumulated debt eventually must result in higher tax burdens;
- using the central bank to finance all or part of a deficit will lead to higher rates of inflation and economic stagnation;
- there is no concrete evidence, other than during wartime, that deficits have ever produced higher growth; and
- persistent deficits result in higher interest costs for government and the interest burden requires an increasing proportion of government revenues, which leaves less for other forms of government expenditures.

At this time, all these arguments can be refuted in Canada. Economic uncertainty and a fragile recovery are holding back investment spending by the private sector. Deficits and debt do not have to lead to higher

*Continued, see “Government and Election” on page 44.*

***"Government and Election,"  
continued from page 43.***

taxes. And even if taxpayers believe that their future tax burden would increase, there is no solid evidence that this would result in their curtailing their spending today. Weak consumer spending can be attributed to the same uncertainties that inhibit corporate spending on investment.

The central bank has sufficient autonomy in Canada to make it unlikely that the current or future governor of the bank would abandon entirely the fight against inflation to help the government finance its deficit. The sharp increase in interest costs for the federal government during the past five years was, in

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*"... do deficits matter?  
Not really, as long as they  
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large part, the result of the Bank of Canada's fixation on eradicating inflation and the steep increase in real interest generated by the bank's anti-inflation policy.

There is some evidence, admittedly not very convincing, that deficits have stimulated growth. The larger deficits deliberately orchestrated by the 1983 and pre-election 1988 budgets in Canada played a role in generating economic growth. The economic boom in the United States during the mid-1980s was driven by defence spending, lower taxes, and a stage set for the future government bail-out of the savings and loan industry.

However, weak economic growth during the 1990s in Canada, the United States, and Europe, although initially caused by anti-inflation monetary policy, has been prolonged by repeated attempts to reduce government deficits. The California economy

is still in a recession because of federal and state spending cuts. Indeed, at the last formal G-7 meeting, reducing deficits was the top priority. And this was the most pressing matter for the IMF and the World Bank until they recently came to see continuing high rates of unemployment and weak economic growth as more perilous than deficits.

So, do deficits matter? Not really, as long as they are not allowed to get entirely out of control.

#### **THE SIZE OF GOVERNMENT**

If the federal deficit is not at a critical level today, why the concern?

The attack on government deficits by neo-conservatives was motivated primarily by the desire to scale back the size and scope of government intervention. For, once the budget is balanced, the battle cry will be for surpluses so that tax rates can be cut. A balanced budget is seen only as one point, albeit quite an important one, along the path to a zero debt and small government. Prime Minister Campbell has raised the prospect of and desire for eliminating the federal government's debt.

A zero-debt strategy obviously would entail a smaller role for government and necessitate a fundamental restructuring of spending priorities and Canada's social programs. The Reform party has been quite explicit about this. The Conservatives have not. Their program to reduce the deficit to zero within five years skirted this issue by using Don Mazankowski's April pre-election budget and forecasts as the basis for its projections.

Unfortunately, the April budget forecasts have no credibility. The Finance Department has been wildly wrong for the past 15 years in forecasting future budget balances. During the Mulroney years, each budget had only a five-year horizon. Re-

ductions rarely materialized. There is no reason to believe that the most recent forecasts will be any more realistic.

On the basis of Finance's track record, it is quite likely that the recently announced modest spending cuts by the Conservatives will do little to lower the deficit below the \$25 to \$30 billion range. Hence, drastic spending cuts will be necessary if a Conservative government is elected and it intends to keep its

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election promise of a zero deficit within five years. The NDP is right in warning that a Conservative government committed to a zero deficit will bludgeon the existing social welfare system.

#### **DO DEFICITS HELP?**

Nevertheless, although deficits do not really matter at this time in Canada, despite what the financial community might have the rest of Canada believe (by the way, the financial community has profited quite handsomely from the financing of the deficit), neither the NDP nor the Liberals have called for a significant increase in the size of the deficit to stimulate the economy. In theory, a large deficit would increase demand and strengthen the underpinnings of the recovery. But at this time in Canada, a larger federal deficit would have little positive impact on growth and employment.

Every provincial budget tabled this year has incorporated spending cuts or higher taxes or a combination of the two. The collective impact thus far of provincial deficit



reduction actions has been to subtract between \$15 and \$20 billion from the economy and to weaken growth by close to 3 percent.

More important, in a small economy, such as Canada's, there is little scope for the central government to use budgetary or monetary policies to stimulate the economy. Our trading partners would be the main beneficiaries of increasing government deficits. Even the United States acting on its own would have difficulty stimulating its economy and becoming the engine of growth for the world economy.

Clinton's original stimulation package, totalling about \$60 billion in new spending and tax incentives, was ridiculed for being insignificant in a \$7 trillion economy. The scaled-back version would have even been less effective and, not surprisingly, was easily sacrificed to the deficit-reducing fanatical hordes in Congress.

As long as the other members of the G-7 remain committed to reducing their respective deficits, the world economy and the Canadian economy will continue to struggle along. Only a concerted effort by the G-7 to provide stimulus will propel the world economy onto a higher growth path that may begin to make some inroads into the tragically high unemployment levels. Getting the G-7 to act on the fiscal side will prove to be much more important for the health of the world economy and for tackling the unemployment crisis in Canada than completing the current round of GATT negotiations. In other words, if the G-7 have to concentrate their efforts in one area, it should not be the GATT.

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## LEGAL REPORT

### DYING LEGALLY

by Joan M. Gilmour

In December 1992, Sue Rodriguez, a 42-year-old woman suffering from amyotrophic lateral sclerosis (ALS), sought a court order declaring that the section of the *Criminal Code* that makes it a criminal offence to assist in suicide was invalid because it infringed her rights under the *Charter of Rights and Freedoms*, and sought a further order allowing a physician to provide the means whereby she might end her own life. Ten months later, on September 30, 1993, the Supreme Court of Canada in a 5-4 decision affirmed the lower courts' rulings that the prohibition in the Code did not contravene the provisions of the Charter.

ALS is an inevitably fatal disease, characterized by generalized and increasing loss of voluntary and involuntary muscle function. It does not, however, affect mental capacity. Although Sue Rodriguez had no wish to die while she could still enjoy life, she anticipated that by the time she ceased to do so, she would be physically unable to end her own life without assistance. Attempting suicide has not been a criminal offence in Canada since 1972; Rodriguez asserted that continued criminalization of assisting in suicide infringed her rights under sections 7, 12 and 15 of the Charter, which guarantee the rights to life, liberty and security of the person, to freedom from cruel and unusual treatment or punishment, and to equality.

#### RODRIGUEZ V. BRITISH COLUMBIA (A.-G.)

With the exception of Lamer C.J., who rested his dissenting opinion on the ground that the prohibition on

assisted suicide breached Rodriguez's equality rights, all of the remaining judges agreed that it infringed on the security of the person guaranteed her under section 7 of the Charter. The question that divided the court was whether that infringement was nonetheless in accordance with the principles of fundamental justice and, hence, permissible under section 7, and whether it could be upheld under section 1 of the Charter.

Writing for the majority, Sopinka J. built on the court's earlier decision in *R. v. Morgentaler* to conclude that "security of the person" includes a right to personal autonomy — to make choices about one's own body, control over one's physical and psychological integrity, and basic human dignity — "at least to the extent of freedom from criminal prohibitions which interfere with these." The court affirmed that competent patients can refuse even life-preserving medical treatment, thus effectively approving of lower court decisions in *Malette v. Shulman* and *Nancy B. v. Hôtel Dieu de Québec*.

#### ACTIVE AND PASSIVE INTERVENTION

The court also accepted that physicians can provide palliative care to terminally ill patients even if the effect of such treatment will be to hasten death. Although these are important pronouncements for patients and health care providers with respect to the legal status of their actions, they still do not satisfactorily resolve the conundrum presented by the legal distinction drawn between what Sopinka J. termed "active and passive forms of intervention in the dying process." The distinction has been the subject of cogent criticism both in academic writing and in recent judicial decisions, such as that of the House of Lords in *Airedale NHS Trust v. Bland*. It reflects an uneasy

*Continued, see "Dying Legally" on page 46.*

**"Dying Legally,"**  
*continued from page 45.*

and inherently unstable compromise between a commitment to preserving life and the reality that, in particular circumstances, preserving life may not be for the patient's good at all. The tension between these two will become increasingly apparent when courts are required to address questions that arise in the provision of life-sustaining treatment to patients who are incompetent and cannot decide for themselves whether to end treatment.

**PRINCIPLES OF FUNDAMENTAL JUSTICE**

The majority concluded that the infringement of Rodriguez's security of the person occasioned by the *Criminal Code* prohibition nonetheless accorded with principles of fundamental justice. From the beginning, the court has been deliberately uninformative about the parameters of this term. Sopinka J. ventured the opinion that "fundamental" principles must have "general acceptance among reasonable people." It would flow from this statement that any such principles must be in keeping with morality that is both conventional and widely shared. Although he acknowledged that there is no consensus on this issue, he nonetheless proffered two principles: respect for human life and support for institutions (including laws) that protect it. Given the grave dangers of abuse if assisted suicide were permitted, the difficulty (if not the impossibility) of drafting adequate safeguards, and the departure from fundamental social values any change would represent, the majority maintained the existing prohibition.

McLachlin J. dissented (with L'Heureux-Dubé J. concurring) on the ground that the state could not justify denying Rodriguez a choice available to others (suicide). Furthermore, in her view the legislation was arbitrary because it bore no rela-

tion to the legislative objective — controlling the potential for abuse — and could not be justified under section 1. Cory J. in his dissent held that, since the life of an individual includes dying, the right to die with dignity is as protected as any other aspect of the right to life. He would have recognized a right to end one's life even if assistance is required, although he limited those comments to the situation of terminally ill patients.

Had the dissent prevailed and the legislation been declared invalid after a period of suspension to allow Parliament to replace it if it chose, then Lamer C.J. (joined by all the dissenting judges on this point) would have granted a constitutional exemption from the operation of the legisla-

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*"The court recognized that the complex and contentious nature of the questions raised by new and changing medical possibilities could be better addressed through legislation than judicial decisions."*

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tion during the hiatus so that Rodriguez could be assisted in ending her life if she chose to do so. Others seeking similar relief could also make an application to a superior court in the interim. The chief justice added that the period during which a declaration of invalidity is suspended is the only circumstance in which it is appropriate to grant a constitutional exemption.

In this case, the exemption would have been subject to stringent terms in its exercise. Lamer C.J. would have required physical inability to commit suicide, frequent assessments of competence and voluntariness by a medical specialist, involvement of the regional coroner, time limitations on the effectiveness of the order, and (although not without doubt) that the act causing death be that of Rodriguez herself. McLachlin J. would have im-

posed somewhat different conditions. What is striking in both dissenting judgments, though, is the detailed code of conduct proposed, more akin to regulations implementing a statute than to a piece of legislation. Although one appreciates the concern to tailor a solution to the circumstances of the case while ensuring appropriate safeguards, if it were to be taken as a model in other contexts, then the exercise raises significant questions about the relationship between the courts and the legislature, and the institutional roles and capacities of each.

**FUTURE LEGISLATIVE INITIATIVES**

The court recognized that the complex and contentious nature of the questions raised by new and changing medical possibilities could be better addressed through legislation than judicial decisions. In this, its view coincides with that of the federal Law Reform Commission, members of Parliament who have introduced private members' bills, a provincial royal commission on health care, and numerous other individuals and organizations over the last decade. Despite all this, the political will has been notably lacking at the federal level. As recently as March 1993, the House of Commons defeated a motion calling on the government to consider the advisability of introducing legislation on euthanasia and assisted suicide. Sue Rodriguez's struggle with both her illness and the law may be the impetus needed to put the issue on the legislative agenda at last. The questions remain deeply divisive, however, and there is no guarantee that any legislative change will reflect the result Rodriguez sought unsuccessfully through the courts.

*Joan M. Gilmour is an Assistant Professor, Osgoode Hall Law School, York University. Legal Report is a regular feature of Canada Watch.* 



## CW UPDATE

### THE MONTH IN REVIEW

by Jonathan Batty

#### BOURASSA RESIGNS

On September 14, in a long anticipated announcement, Quebec Liberal Premier **Robert Bourassa** resigned from office. Bourassa held office between 1970 and 1976 and was re-elected in 1985. The Premier was diagnosed with cancer in 1990. The Quebec Liberal Party will hold a leadership convention in Quebec City from January 28 to 30, at which time Bourassa's resignation will take effect.

#### NAFTA SIDE DEALS SIGNED

President **Bill Clinton**, Prime Minister **Kim Campbell**, and President **Carlos Salinas de Gortari** individually signed the side agreements to the North American Free Trade Agreement on September 15. The deals address U.S. concerns about environmental protection and labour laws.

#### NAFTA CHALLENGE OVERTURNED

A U.S. Federal Appeals Court overturned a June 30 decision of the district court that found the agreement violated federal environmental law. The court found that an environmental impact assessment did not have to be concluded prior to passage through Congress.

#### MANITOBA BY-ELECTIONS

Manitoba's Progressive Conservative government lost five by-elections on September 21. Three seats were won by the New Democrats, 2

by the Liberals. These standings leave the Government with 29 of the 57 seats in the legislature, meaning the Speaker of the House, a Conservative MLA, will have a tie-breaking ballot in the now evenly divided assembly.

#### NOMINATIONS CLOSED

On September 28, nominations closed for candidates in the October 25 general election. Under recent amendments to the Canada Elections Act, a party is required to field at least 50 candidates for official status. Party status is important to secure tax credits for donors, broadcast time, and party listing on the ballot. Thirteen parties met this requirement: Progressive Conservative; Liberal; New Democratic; Reform; Bloc québécois; National; Abolitionist; Canada; Christian Heritage; Commonwealth of Canada; Green; Libertarian and Natural Law. 1,624 candidates are nominated in the 295 ridings across Canada. Party status was lost by the Social Credit Party and the Communist Party.

#### FIXED LINK CONTRACT AWARDED

The federal Government Services Department, on September 29, announced that it had completed negotiations with the Calgary company, **Strait Crossing Development Inc.**, to build the causeway between Prince Edward Island and New Brunswick. It is estimated the five year project will cost \$842 million.

#### NOVA SCOTIA BUDGET

Nova Scotia's new Liberal government introduced its first budget on September 30. Finance Minister **Bernie Boudreau** announced tax increases estimated to increase revenues by \$78 million, through a one per cent increase in the sales tax (bringing the provincial rate to 11 per cent) and rises in fuel and income surtaxes. The operating defi-

cit for the province is projected to be \$396 million in 1993-94. The Liberal government had campaigned on a platform that it would not raise taxes.

#### LEADERSHIP DEBATES

On two successive nights, the party leaders of the five major parties engaged in the only scheduled leadership debates of the federal election. The French language debate on October 3 included Reform Party Leader **Preston Manning**, who is not bilingual, in a limited segment of the debate. National Party leader, **Mel Hurtig** unsuccessfully sought leave to appeal to the Supreme Court to force the television network broadcast consortium to allow him to participate in the October 4 English language debate.

*Jonathan Batty, B.A., M.P.A., LL.B.  
CW Update is a regular feature of  
Canada Watch.*



## SUPREME COURT WATCH

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

by Jonathan Batty

#### Rodriguez v. British Columbia (Attorney General) [1993] September 30

Sue Rodriguez, a B.C. woman suffering from ALS, a debilitating and terminal disease, challenged the validity of section 241(b) of the *Criminal Code*. The Code criminalizes the assistance of suicide and Rodriguez argued that this prohibition violated her Charter rights. Sections 7, 12, and 15(1) were relied on to make the argument. In a four to three decision, the Supreme Court held the law was not invalid. In dissent, Chief Justice Lamer noted that the law was in fact discriminatory in its effect on persons with disabilities.

#### R. v. Morgentaler [1993] September 30

In 1989, Nova Scotia adopted the *Medical Services Act*, which prohibited the performing of abortions outside of approved hospitals and limited health insurance coverage for abortions to hospitals. Dr. Morgentaler established a free-standing clinic, and was subsequently charged for violating the provincial statute. The Supreme Court held the statutory provisions to be invalid because they were ultra vires. The law, in effect, was beyond provincial jurisdiction because it was in pith and substance criminal, a matter of exclusive federal jurisdiction.

## PARLIAMENTARY UPDATE

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The House of Commons recessed on June 16 until September 20. Parliament was dissolved on September 8 and an election called for October 25.

## CANADA WATCH CALENDAR

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- Sept. 15 Quebec Premier Robert Bourassa announces resignation.
- Sept. 15 NAFTA side agreements concluded between Canada, the United States, and Mexico.
- Sept. 21 Manitoba by-elections, Filmon government left with one seat majority.
- Sept. 27 Ontario legislature resumes sitting.
- Oct. 3 French language party leaders debate.
- Oct. 4 English language party leaders debate.
- Oct. 16-19 Advance polling dates for federal election.
- Oct. 25 General election.
- Jan. 1 NAFTA comes into force, pending U.S. Congressional approval.
- Jan. 28-30 Quebec Liberal Party selects successor to Robert Bourassa.