



# CANADA WATCH

Practical Analysis of Constitutional and Other Key National Issues

## PICKING THE WINNER ON OCTOBER 26 MAY NOT BE EASY

“Yes/no” vote could leave many questions unanswered

by Patrick J. Monahan

With Canadians voting “yes” or “no” to the Charlottetown Accord on October 26, one might have thought that it would be a relatively simple matter to identify the winners and losers. In fact, the outcome may well be far from clear cut and may raise as many questions as it answers.

Here are some of the puzzles and possible uncertainties that may emerge in the aftermath of the vote.

### YES VICTORY REQUIRES CLEAR MAJORITIES IN ALL TEN PROVINCES

This first proposition — that the “yes” must win in all provinces — follows from the nature of the Charlottetown Accord.

The vast majority of the Charlottetown Accord only requires the support of seven provinces representing 50 percent of the national population to be enacted into law. But a number of critical elements, including changes to the amending formula and the guarantee of three Quebec judges on the Supreme Court of Canada, require the support of all provinces plus the federal Parliament.

What happens if the Accord is supported in seven provinces representing 50 percent of the popula-

tion, but one or two provinces dissent? Would the “7/50” elements of the Accord be enacted by those provinces whose voters had supported the package?

The likely answer to this question is “no.” The problem is that the removal of the “unanimous consent” elements represents a fundamental amendment of the Accord, and therefore nullifies a “yes” vote based on the package as a whole.

Consider, for example, the position of the province of Quebec in the event that the “unanimous consent” elements in the package are not approved by all provinces. Quebec would be faced with a situation where certain key guarantees — including the Quebec veto over future constitutional changes — were no longer part of the bargain. In effect, the Charlottetown Accord would have been fundamentally amended in a manner contrary to the interests of Quebec. Thus, even assuming that Quebecers approve the package in the October 26 referendum, a “no” vote elsewhere is likely to mean that the Quebec government will refuse to proceed with what will amount to a new set of proposals.

What about the possibility of negotiating some minor changes in the package after October 26 to bring

VOLUME 1, NUMBER 3  
OCTOBER 1992

#### ARTICLES

Picking the Winner on  
October 26 May Not Be Easy  
by Patrick Monahan ..... 29

Shifting the Terms of the Debate  
by Kenneth McRoberts ..... 31

The Charlottetown Accord  
by Peter Lougheed ..... 32

Aboriginal Rights and the  
Charlottetown Accord  
by Mary Ellen Turpel ..... 34

Is the Referendum Democratic?  
by Reg Whitaker ..... 35

Referenda Past and Present:  
Through the Lens of History  
by David Johnson ..... 37

Referenda Facts  
by David Johnson ..... 38

#### REGULAR FEATURES

*Western Report*  
by Roger Gibbins ..... 39

*Quebec Report*  
by Guy Laforest ..... 40

*Legal Report*  
by Jamie Cameron ..... 41

*CW Update*  
The Month in Review ..... 43

*Canada Watch Calendar* ..... 44

#### PLEASE CIRCULATE TO

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

on board one or two recalcitrant provinces?

This scenario also seems unlikely. The first problem is that, although we will know how people have voted, we won't know why. Thus it will be impossible to determine what changes would be sufficient to respond to a "no" vote in a particular province. More fundamentally, the moment the package is reopened for one province, the other parties around the table will demand changes of their own. Given the overwhelming constitutional fatigue across the country, the likelihood of restarting the negotiations following October 26 seems highly remote.

Not only must the Yes side carry all 10 provinces, it may have to carry

---

*"Not only must the Yes side carry all 10 provinces, it may have to carry them by a clear majority. A razor-thin margin of victory for the Yes (similar to the result in France on September 20) would fuel demands for more time to study and analyze the proposed constitutional amendments."*

---

them by a clear majority. A razor-thin margin of victory for the Yes (similar to the result in France on September 20) would fuel demands for more time to study and analyze the proposed constitutional amendments. These demands for delay and further debate will extend the ratification process until well into 1993, which just happens to be an election year for Ottawa and possibly for Quebec and Alberta.

#### THE CONSEQUENCES OF A "NO" VOTE

A major component of the Yes campaign has been the argument that a "no" vote means, at best, fur-

ther uncertainty and constitutional wrangling and, at worst, the eventual breakup of the country. Yet it seems difficult to identify the precise consequences of a "no" vote; the consequences will probably vary, depending on which parts of the country say "no." As might be expected, the critical fault line on this issue is the one running between Quebec and the rest of Canada (ROC).

Of all the possible outcomes on October 26, the one that appears the most threatening to the future stability of the country would be a "yes" vote in Quebec coupled with a "no" vote in one or more provinces in ROC. This yes/no split would be a replay of the Meech Lake Accord; Quebeckers (yet again) would have said yes to Canada, only to find themselves rebuffed. This "rejection" would discredit the federalist option and divide the Quebec Liberal Party, with provincial elections looming just over the horizon.

#### "DOUBLE NO" MEANS TROUBLE

A "double no" result ("no" vote in Quebec coupled with a "no" vote in one or more provinces in ROC) would appear only slightly less problematic. The immediate aftermath of this result would be a temporary ceasefire on the constitutional front. But there would be little doubt that the constitutional issue would resurface in the near future. Quebeckers would then be faced with the reality that a constitutional agreement with the rest of the country is highly unlikely. In effect, Quebec would be forced to choose between continuing with the constitutional status quo or unilaterally opting for some radical new arrangement. Remember that the only voice defending the status quo in Quebec these days seems to be that of Pierre Trudeau.

The final possible scenario involves a "yes" vote in ROC coupled


with a "no" vote in Quebec. As with the other "no" scenarios sketched above, this result would necessitate a further round of constitutional negotiations sometime in the next two or three years. But at least in this instance, it would be impossible to argue that Quebec had been "rejected" in this round of negotiations. This would improve the chances of reconstructing some new package of reforms.

---

*"... the Yes campaign has focused on the negative consequences of a 'no' vote, rather than on a defence of the merits of the proposed package. Although these negative arguments will undoubtedly sway some voters, they are unlikely to be decisive."*

---

Which outcome is most likely? With four weeks to go in the campaign, the Yes forces have already dissipated a huge early lead and are in clear trouble in at least four provinces. Moreover, the Yes campaign has focused on the negative consequences of a "no" vote, rather than on a defence of the merits of the proposed package. Although these negative arguments will undoubtedly sway some voters, they are unlikely to be decisive. As the campaign heads into the final stretch, perhaps the best hope is that the result on October 26 is sufficiently ambiguous to permit as many as possible to claim victory and as few as necessary to be saddled with defeat.

*Patrick J. Monahan is Director of the York University Centre for Public Law and Public Policy and is Associate Professor at Osgoode Hall Law School, York University.* 



# SHIFTING THE TERMS OF DEBATE

by Kenneth McRoberts

The basic difficulty with the Charlottetown Accord is that rather than accommodating the primary constitutional projects of Quebec and English Canada, it frustrates them. Although appearing to respond to each project, it does so through contradictory measures whose limitations are bound to produce discontent. This can be clearly seen in the rise of opposition to the Accord over recent weeks. In response, Yes forces are seeking to shift the terms of the pre-referendum debate from the merits of the agreement to the alleged consequences if the agreement is not passed. This strategy may place them on much stronger ground.

## CONTRADICTIONS WITHIN THE ACCORD

For 30 years, the focus of demands from Quebec has been to heighten the powers of the Quebec government. Yet, while recognizing the Quebec government's responsibility "to preserve and promote the distinct society of Quebec," the Accord does not significantly expand the powers of the Quebec government. The main "gain" for Quebec is in an entirely different area from the division of powers: representation in the House of Commons is heightened and there is a guarantee that it cannot fall below 25 percent. This, moreover, is to compensate for a "loss" in Quebec's Senate representation from 24 to 10 percent.

By the same token, the most powerful demand from English Canada has been reform of the Senate, especially along "Triple E" lines. Yet here, too, the Accord seems to fall short. Although the new Senate will have equal representation from each province, its powers are too limited to guarantee effectiveness. For that matter, its members are not neces-

sarily elected. And the price for the semblance of a "Triple E" Senate is reinforced central Canadian representation in the House of Commons.

## OPPOSITION IN QUEBEC

In Quebec, the absence of significant additional new powers for Quebec was sufficient to trigger the departure of the "nationalist" forces in the Quebec Liberal Party, led by Jean Allaire, author of the party's 1991 constitutional position, and Mario Dumont, leader of the Liberal youth wing. Although the party leadership may have been able to contain the number of militants who followed Allaire and Dumont in their open dissent, the acquisition of these relatively high-profile Liberals has helped the Non organization to present itself as a broad-based movement, extending beyond *indépendantistes* to nationalist federalists.

---

*As the agreement has become as much the focus of dissent as a basis for a new national consensus, government leaders have shifted their campaign from the merits of the agreement to the consequences of not adopting it.*

---

The failure of Bourassa to secure additional powers for Quebec was also the central complaint in the secretly recorded and recently released telephone conversation between two of his most senior officials. They lamented the way in which Bourassa had "caved in" to the other first ministers. Attempts to prevent publication of this transcript in Quebec have only ensured that when published in Quebec, it will have a major impact, undermining

the public's confidence in Bourassa's capacity to defend Quebec's interests.

## WESTERN CANADIAN RESENTMENT

In western Canada, reaction has begun to develop against the limitations of the reformed Senate. Among the numerous "ambiguities" that Preston Manning has found in the agreement, the most distressing to Reform Party militants in Alberta is the failure to conform clearly to the "Triple E" model. Quebec's guarantee of 25 percent of the Commons seats only compounds the sense that central Canadian interests will continue to dominate. The reaction to the 25 percent guarantee is especially strong in British Columbia where feelings are high over the failure of the province to receive as large a number of seats as its rapidly growing population might warrant. As a result, surveys suggest that opposition to the Accord is as strong in Alberta and British Columbia as it is in Quebec.

As the agreement has become as much the focus of dissent as a basis for a new national consensus, government leaders have shifted their campaign from the merits of the agreement to the consequences of not adopting it.

## STRESSING THE CONSEQUENCES OF THE ACCORD'S REJECTION

In Quebec, Bourassa is seeking to counter opposition to the Accord by claiming that a "non" vote would plunge Quebec, and Canada, into economic and political instability. In fact, it would precipitate nothing less than the breakup of Canada. On this basis, the "yes" vote wins by default — as being "risk-free." For his part, Prime Minister Mulroney

has warned Quebeckers that a "no" vote would lead to negotiation of Quebec's separation.

In the rest of Canada, federal and provincial government leaders are similarly arguing that a "no" vote would necessarily lead to political and economic instability. Conversely, a "yes" vote would bring constitutional peace. (At the same time, of course, they stress that a vote in favour of the agreement would be a vote of confidence in Canada.)

Such essentially "strategic" arguments are inherently speculative. There is no certainty that rejection of the Accord would lead to major new economic difficulties. Arguably, the money market has already taken into account the prospect of a "no" vote. After all, the collapse of the Meech Lake Accord was fol-

lowed by a surge in the dollar. However, one could also credibly argue that the failure of a second attempt to renew the constitution would have much more serious repercussions. The options would have narrowed and there would probably be little disposition among political leaders, let alone the general public, to initiate a new round of discussion and negotiation. The potential for resolving the Canadian crisis through a "renewed federalism" would be significantly reduced.

By the same token, the political and economic impact of a "no" vote would vary with the form it takes. A "no" vote in English Canada coupled with a "yes" vote in Quebec could be very destabilizing: Quebeckers would feel an even stronger sense of rejection than they did after the collapse of the Meech

Lake Accord. Conversely, a "no" vote in Quebec coupled with a "yes" vote in all the other provinces could cause many English Canadians to feel enormous frustration with Quebec. A "no" vote in both Quebec and a few English-Canadian provinces might be less destabilizing.

Nonetheless, however speculative, arguments about the negative consequences of a "no" vote may prove powerful in shaping the referendum decision. Equally powerful in English Canada (but not Quebec) would be appeals to Canadian patriotism. In the process, grievances over the terms of the Accord might be overlooked—at least temporarily.

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



## THE CHARLOTTETOWN ACCORD

by Peter Lougheed

---

*On September 23, 1992, former Alberta Premier Peter Lougheed delivered the inaugural Pierre Genest Memorial Lecture at Osgoode Hall Law School. The following is a partial transcript of his remarks.*

What are the implications of a "yes" vote on October 26? Well, obviously I feel very positive in that then we can get on with a job-creation focus. Now, two arguments have been raised against this — both of which I think are simply wrong.

First, some have suggested that if we vote "yes" in Quebec and elsewhere, it won't end anything. Quebec will be back at the national table with more demands from the nationalists. Second, there's another view that says vote "no" and we'll have a constitutional moratorium for five years. My view is that these arguments are simply wrong, and I would like to explain why.

If you go back to the period 1981 to 1986, what was troubling Canada was

that we had a country and a constitution of which Quebec was not legitimately a part because they hadn't signed it. The motivation to respond to Quebec wasn't threats, the motivation was the view that we really had to have a constitution with Quebec a signed party to it. The motivation was to get them to sign up.

So if after October 26 there is a "yes" vote in Canada and elsewhere, the government of Quebec, the Assembly of Quebec in its majority, will be obliged to sign up. After the signature, it's over. Yes, it's over. It won't get on the national agenda for a dozen years. I was there in 1977 and 1978, and I saw the PQ try to put it on the national agenda and they didn't even get close. And after what we've gone through in this country

between 1987 and 1992, it won't get on the agenda. So for those people who make the argument, which I believe is fallacious, that if we vote "yes" we'll never satisfy the demands of Quebec nationalists, I say this: yes, they'll always be there. The nature and the history of Canada will make it so. But the concept that these demands will be on the national agenda in the period ahead of up to a dozen years, in my opinion, is false.

Now there's another view, which primarily comes from the West, and it says: "Vote 'no.' The deal's not perfect. We'll have a moratorium for five years, during which time the status quo will continue and then we'll negotiate again." Well, my

Canada Watch

first problem with that point of view is it isn't very smart for us westerners. Because the fact is, we did gain some important things here. The view that we would be able sometime in the future to re-establish those gains, particularly with an elected Senate and a control over national appointments, simply isn't in the cards. Because it was only because of the pressure for national unity, to make trade-offs, to "come aboard," that these gains for the West were achieved in this agreement. So I don't think it's a very smart decision to take, to say "we'll vote 'no' and then we'll negotiate a better deal later."

Second, what about this view that the status quo would simply continue in the face of a "no" vote. Gee, who are we kidding? Quebec is going to drift away and become more isolated. We'll have a divided country. There will be no national effort to reach consensus on other issues, and there are a lot of other issues. Now, I'm not saying there aren't good grounds to have logical debate about these questions. Is there too much decentralization, will the Senate that is proposed ever work, what are the consequences of aboriginal self-government, and can we pull them all together? And many others. There are a lot of reasons for very healthy debate over the weeks ahead.

Let me conclude this way. We haven't had much experience outside Quebec in referenda. I had one experience: I was running for office. We had a plebiscite in Alberta about daylight savings. I was trying hard to convince this farmer one morning to vote for me. He said "Peter, I don't want to talk about that. Don't you know that we're having a plebiscite on daylight savings? And you tell me, are we going to have to get up one hour earlier every single day?" And I was trying to get the subject back to voting for me, but that was in his mind.

---


*"So if after October 26 there is a 'yes' vote in Canada and elsewhere, the government of Quebec, the Assembly of Quebec in its majority, will be obliged to sign up. After the signature, it's over. Yes, it's over."*

---

Now referenda are funny things. My experience is pretty limited, but I'm told by those that know that it will be pretty volatile and emotional, and that those against will turn out to vote. There will probably be people south of Calgary who will vote "no" because they don't like the provincial law with regard to Sunday shopping. That'll happen. It'll happen all

across the country. For those who are on the side of "yes," there had better be a large turnout.

Now, in my world today, friends — and I'm involved in international business — Canada is being passed by in this new global reality — by investment, by purchase of our goods, our resources, our services. I am deeply troubled that my children's generation — my four kids — will not have as good a life as mine. That they won't have the same degree of opportunities and they'll have much more risk of job-loss than my generation has had. We can develop new attitudes in our country with regard to skills training and growth areas. I believe Canadians can be the best traders in the world. We can provide for young people the job opportunities that our generation had. But we have got to get on with it — and we have got to get on with it soon. We can only get on with it with a unified country, seeking and securing and focusing a place in the new global reality.

*Peter Lougheed was premier of Alberta from 1971 to 1985 and is currently a partner in the Calgary law firm Bennett, Jones, Verchere.* 

## Canada Watch

Practical Analysis of  
Constitutional and Other Key  
National Issues

Volume 1, Number 3,  
October 1992

Publisher  
D. Paul Emond

Editors-in-Chief  
Kenneth McRoberts,  
York University  
Patrick Monahan,  
York University

Senior Editor  
David Johnson,  
Brock University

Quebec Editor  
Guy Laforest, Université Laval

Western Editor  
Roger Gibbins,  
University of Calgary

Legal Editor  
Jamie Cameron, York University

Editorial Assistants  
Denise Boissoneau  
Krystyna Tarkowski

Production  
WordsWorth Communications

Canada Watch is produced jointly  
by the York University Centre for  
Public Law and Public Policy and  
the Robarts Centre for Canadian  
Studies of York University and  
published by Emond Montgomery  
Publications Limited  
58 Shaftesbury Avenue  
Toronto, Ontario M4T 1A3  
Phone (416) 975-3925  
Fax (416) 975-3924.

## Subscription Information

Canada Watch is published eight  
times per year. Institutional  
subscriptions cost \$165.00 plus  
GST and include an annual  
cumulative index. Individual  
subscriptions are entitled to a 40%  
discount. Please contact Terry  
Hamilton at Emond Montgomery  
Publications for more information  
or a subscription.

© Copyright 1992 Emond  
Montgomery Publications Limited

Printed in Canada



# ABORIGINAL RIGHTS AND THE CHARLOTTETOWN ACCORD

by Mary Ellen Turpel

*On September 24, 1992, Dalhousie Law Professor Mary Ellen Turpel, a key adviser to Assembly of First Nations Chief Ovide Mercredi, spoke at a Canada Watch-sponsored constitutional conference held at Osgoode Hall Law School. The following is a partial transcript of her remarks.*

I want to tell you something of my own life experiences. Obviously I am a pure product of the Hudson's Bay Company. I am of Cree, English, and Scottish ancestry. I guess I am truly Canadian in that sense because of my diverse background. My life experiences and my commitment and dedication to a form of justice for aboriginal peoples in Canada has taught me that you cannot be overly dogmatic in terms of

---

*"There is a very good saying that I think reflects and captures my reasons for supporting this Accord, and that is 'sometimes your karma runs over your dogma.'"*

---

your principles. Now, of course, I have been known to have my own dogmas. I am certainly intensely ideological but I don't believe we can be overly dogmatic and overly doctrinaire.

There is a very good saying that I think reflects and captures my reasons for supporting this Accord, and that is "sometimes your karma runs over your dogma." In other words, sometimes your life experiences and your awareness and your appreciation lead you to understand the fact that nothing happens in a complex society, in a complex world, without compromises. And so that karma, that experience, sometimes runs over your dogma. Especially for us woolly academics, we need our practice and our reality to come up and give us a good slap in the face to let us know that some of our theoretical and

more doctrinaire inclinations do not govern the way we can conduct our lives.

So, having said that my karma has clearly run over my dogma, I would have liked to have seen certain things in the Accord that are not there for Aboriginal people. I can accept the fact that we had to compromise. I participated (and continue to participate) in the entire process and I have seen the dynamics of the process. I know for a fact that one does not get to consensus (and I know this also as an Aboriginal person) by insisting on dogma. ...

Having said that, I want to address the issue of women. I understand Mary Eberts spoke here this morning. I have represented the Native Women's Association of Canada. I am an Aboriginal woman. I used to be the legal counsel for the Native Women's Association of Canada for several years before I went off and did graduate work and became a law professor. I feel duty-bound to offer you another perspective on the debate.

First of all, to suggest that women were excluded from this process is, I think, a gross misrepresentation. I feel quite insulted by that statement for the following reasons. The Inuit Tapirisat of Canada (the Inuit organization) is headed by an Inuit woman. Rosemary Kuptana participated throughout the entire process. She is a woman, she's an Aboriginal woman, and she fully participated in this process. So did Mary Simon, who is the president of the Inuit Circumpolar Conference of Canada

and, in fact, could speak for Inuit people around the globe in her participation. Alexa McDonough, from the province of Nova Scotia where I now reside, participated fully in this process. In my own delegation, the Assembly of First Nations, I participated. I don't think I have to subject myself to medical examination and I hope you can in fact tell that I am a woman, very proud to be a woman, very proud to be an Aboriginal woman and a feminist. In addition, we had women elders present, we had women chiefs present, Chief Wendy Grant, Chief of the Musqueam Nation, vice-chief representing all the B.C. Chiefs in the Assembly of First Nations. Women participated in this process.

Having said that, I do not for a moment deny the fact that the Native Women's Association of Canada did not have independent representation. I personally would have liked to have seen them there. But I do not think their absence was fatal to the outcome. For them or for NAC or for any other group to say

---

*"The dynamics, in my view, that led to the conclusion of the Aboriginal package are dynamics that will never be repeated."*

---

that they have a monopoly on the representation of women's interest is a profound misrepresentation to the people of Canada about our democratic parliamentary system. In terms of the Assembly of First Nations, we have chiefs that are elected by people in communities

including women. We have more women chiefs on a percentage basis than there are women in parliament. To suggest that somehow we cannot speak or consider the interests of women is (as you can tell from my blood pressure rising here) profoundly insulting. ...

I want to say a word about the fact that the package as a whole is a package of compromise. It is not a package for people who are dogmatic. But it is a package that is of fundamental importance for Aboriginal people. For those of you who may be undecided, I am hoping to persuade you to vote "yes" if for no other reason than the Aboriginal package and I will tell you why. The

---

*"Suppose we have to turn around on October 27 and suggest to those people that we failed, or that perhaps we would like to have another chance in five years to do it again. Excuse me very much, Preston Manning, but that's not much of a solution or an answer."*

---

dynamics, in my view, that led to the conclusion of the Aboriginal package are dynamics that will never be repeated. There was a spirit of generosity that was present because people were anxious to get a deal and anxious to get a unanimous package. We were lucky to be able to participate in a spirit of generosity to facilitate this process. We were not there in a power grab. We participated because we believe in a unified Canada, and we believe in accommodating difference in a unified Canada.

We will never repeat the process again. I know one should "never say never," but I feel very strongly that we won't and that a "no" vote any-

where is the end of the process. I have grave worries about a "no" vote in the province of Quebec and I have worries because of our own people. We have said to our people (and the former national Chief of the Assembly of First Nations, Georges Erasmus, has said this publicly on many occasions), "give us one more chance." Let us go out and try to persuade Canadians and find a way to build bridges, a way to develop a constructive relationship. There are movements, very strong and very real in our communities, that are not interested in peaceful solutions. Suppose we have to turn around on October 27 and suggest to those people that we failed, or that perhaps we would like to have another chance in five years to do it again. Excuse me very much, Preston Manning, but that's not much of a solution or an answer. For some of us, like myself, who are ideologically very committed to peaceful solutions, to dialogue, openness, working together, compromise, building alliances, and to lifting each other up, the idea and the prospects of a "no" vote are particularly devastating. I worry very much about a "no" vote in Quebec. Not because of the fact that it brings the process to a halt, but because of the future relationship between the First Nations and Quebec, which I think will reach a low that is below the point reached in 1990. I think you have to turn your mind to the consequences.

*Mary Ellen Turpel is an Assistant Professor at Dalhousie Law School and is constitutional adviser to the Assembly of First Nations.*

## IS THE REFERENDUM DEMOCRATIC?

*by Reg Whitaker*

On October 26, Canadians for the first time in their history vote nationally on constitutional changes.

It has often been remarked that the strictly elitist nature of the BNA Act in 1867 undermined the popular legitimacy of Confederation. The 1981-82 patriation failed in the end to include any provision for amendment by popular referendum, and the image of Meech Lake as a deal done behind closed doors by 11 white males was an important cause of its popular rejection.

Is October 26 a clear advance for democratic accountability, regardless of the outcome? Having a referendum at all is obviously more "democratic" than following past precedent, but October 26 is also a distortion of democracy.

### PROBLEMS

First, the question. It demands an all-or-nothing answer, "yes" or "no." But the package is an extremely complicated set of compromises for which there is no comprehensive legal text. Even a full legal text would, of course, be largely unintelligible to most ordinary citizens without law or political science degrees.

The real problem is that citizens will have to make up their minds on the basis of trust: which set of advocates does one believe, or which does one mistrust? Given the current legitimacy crisis of politicians and other established elites, this is hardly a reassuring scenario.

October 26 means "yes" to a bundle of complicated changes, the overall effect of which remains very unclear—or a "no" to what? A "no" in Quebec would obviously mean something altogether different from an English Canadian "no," but the

latter could mean many things: a feminist "no"? A Reform "no"? An anti-Quebec "no"? A western Canadian "no"? A strong central government "no"? An ethnic "no"? What kind of Canada would a "no" indicate? It's anybody's guess.

There is the question of money. Although the Quebec vote will be strictly controlled according to that province's admirable referendum law, anyone can spend as much as they please in the rest of the country. Presumably, this means that the Yes side (with government and business money) can drown out the No side in TV ads. Another avalanche like the pro-free trade blitz of 1988 will scarcely contribute to genuine democratic debate.

There is the question of the "advisory" nature of the vote. No rules have been established as to what would constitute a valid "yes." The crucial problem of national versus concurrent provincial majorities has been left deliberately unresolved. A Quebec "no" is clear in its implications. But what happens if, say, British Columbia votes "no" while the rest of Canada votes "yes"? Is the opinion of British Columbians simply overridden? Or does one province veto the entire package?

In short, October 26 is a very crude instrument. When a crude instrument is employed, results can be unpredictable, and collateral damage is likely.

## PROCESS

The deepest reason why *this* referendum is not very democratic can be found in the wider process in which it is embedded. Constitutional reform has two phases: the process of developing proposals, and the process of ratifying a consensus. The first phase this time around was more democratic than Meech Lake, but mainly in image. Beginning with the Spicer Commission, there has been much emphasis on "public consultation."

This is really a form of opinion management in which governments attempt to engineer consent. It is no surprise to find the federal government going to the courts to prevent the release under access to information of its polls on national unity, viewed by Ottawa as a negotiating tool.

Of course, governments do not always succeed in manufacturing consent; the techniques are imperfect and the public are not always malleable. The process from Spicer through Beaudoin-Dobbie was in many ways a public relations disaster. The final reversion to closed-door meetings of the first ministers, although obviously necessary, further undermined the carefully nurtured image of an open process. Seeking the public's "advice" in a referendum at the second or ratification phase does little to atone for the undemocratic sins of the first phase — indeed, the first phase may have poisoned the second.

## LOST OPPORTUNITIES

An alternative method for the first stage would have been a constituent assembly, a course rejected by Ottawa. This would hardly have constituted direct democracy (impractical in designing a constitution, in any event), but it could have widened the participation of elites, thus enhancing the *representative* nature of the process.

Ottawa's rejection of such a body is now being counted in the cost of significant organized opposition to a "yes" vote. The hostility of NAC and feminists across the country is a direct result of the narrow range of participants in the first phase. The argument of the politicians that constitution making requires compromise falls on the deaf ears of those excluded from the bargaining table. Women were not at the table to make concessions and, thus, do not feel bound by what many see as all give and no take. Aboriginal leaders, on the other hand,

were at the table, were part of the give and take, and now feel obligated to support the result.

To make matters worse, the first phase did allow some glimmerings of what a constituent assembly might have accomplished. The Beaudoin-Dobbie conferences did allow for debate among a wider cross-section of people — and some hint of the creative compromises that could emerge from a more genuine democratic exchange. Among these was the momentary affirmation of asymmetrical federalism at the Halifax meeting. This idea offered a real compromise between the Quebec and English Canadian societies: let Quebec have "special status" while retaining a strong national government for English Canada.

Halifax was, alas, only a fleeting dream. Back in the real world, the premiers insisted on treating the process as a negotiation between governments. The one-sided and self-serving construct of the "equality of the provinces," combined with the usual power grabbing of premiers, resulted in a decentralization for which there is little public enthusiasm in English Canada — and a symmetrical federalism for which there is little enthusiasm in Quebec.

If many of those who were excluded had been brought outside during the first phase through a constituent assembly, there might today be wider support for ratification, and there might be a more genuine compromise between people and societies rather than between governments alone. As it is, ratification by referendum is a deformed democratic instrument.

A "yes" vote will buy time, a "no" vote will buy chaos, but neither will enhance the "sovereignty of the people."

*Reg Whitaker is Professor and Director of Graduate Studies in the Department of Political Science at York University.*





# REFERENDA PAST AND PRESENT: THROUGH THE LENS OF HISTORY

by David Johnson

As this country experiences the tension, passion, and soul searching of the current referendum campaign, it is interesting to note that we are engaged in an electoral process that has been used often in Canadian history. Though referenda are not activities common to the political life of this country, neither are they unknown features of our political heritage.

## CANADIAN REFERENDA

Since Confederation, Canadians have voted in two nationwide plebiscites, in 53 provincial plebiscites and referenda, and in several thousand such contests at the municipal level. The campaigns have been directed to a host of questions ranging from public acceptance of liquor prohibition, wartime conscription,

---

*"Though referenda are not activities common to the political life of this country, neither are they unknown features of our political heritage."*

---

state ownership of utilities, the use of daylight savings time, and women's suffrage.

In recent years, Saskatchewan has held plebiscites on questions concerning mandatory provincial balanced budgets, state funding for abortion clinics, and whether referenda themselves should be mandatory for the ratification of future constitutional amendments. In 1988, Prince Edward Island held a plebiscite on whether a fixed-link crossing should be established to the mainland. Very rarely, however, have direct votes been held on matters of profound constitutional reform. In 1916, there was a B.C. vote on female suffrage; in 1948, there were two historic referenda in Newfoundland respecting its politi-

cal future; and in 1980, there was the vote in Quebec on sovereignty association.

## REFERENDUM RATIONALES

Referenda have been resorted to by governments for a number of reasons. On one level they have allowed governments to delay or refrain from the making of hard choices by throwing contentious issues into the hands of the people. Many of the old liquor votes fit this approach, as did the vote on conscription in 1942.

On a deeper, more principled level, however, referenda have been used as a democratic link between governors and the governed. As Patrick Boyer has long argued, referenda are important instruments of democracy, allowing the common people of a state to have a direct voice in the development of public policy. The current referendum is very much a child of this ethos.

Most constitutional analysts agree that one of the factors leading to the death of the Meech Lake Accord was a popular belief that the ratification process for the Accord was illegitimate in that it did not provide for direct public participation in the process. With the inauguration of the "Canada Round," there was increasing pressure on political actors to ensure that any future agreement would be ratified by majority vote in both Quebec and English Canada.

## LEGAL AND POLITICAL REALITIES

The dynamic of ratification by means of approval through a referendum is complicated by the ambiguous place of referenda in the constitutional ratification process. In legal theory, a referendum is distinct from a plebiscite in that the former is legally binding on governments and the latter is not. Yet in this current cam-

paign, only the governments of Alberta and British Columbia will be legally bound to adhere to the expressed desires of their provincial electorates. (The Legislature of Alberta passed an act to this effect on September 22.) As such, only in these two provinces is the October 26 vote a referendum; everywhere else the vote is, in law, a plebiscite, not necessarily legally binding on the federal or any provincial government, including the government of Quebec.

However, one cannot ignore the fact that governments respond to political realities. The results of the October 26 vote will be difficult if

---

*"Ironically, notwithstanding the problems of unanimity associated with the Meech Lake Accord, we once again find ourselves in a process in which unanimity is required for the passage of a constitutional proposal."*

---

not impossible for governments to ignore should the No side win in one or more provinces. The prime minister has already announced that victory for the Yes side will require majority support in every province. Ironically, notwithstanding the problems of unanimity associated with the Meech Lake Accord, we once again find ourselves in a process in which unanimity is required for the passage of a constitutional proposal. This elevates the stakes of the campaign in every province. The No side need only score victory in one province; the Yes side needs to sweep the country. The night of October 26 will be tense indeed.

*David Johnson is Adjunct Professor of Political Science at Brock University.*



## REFERENDA FACTS

*Number of national referenda since 1867: 2*

*Number of provincial referenda since 1867: 53*

### 1898 National Referendum

#### *The Question*

"Are you in favour of the passing of an Act prohibiting the importation, manufacture or sale of spirits, wine, ale, beer, cider and all other alcoholic liquors for use as beverages?"

#### *The National Results*

Yes — 278,487 (51%)  
No — 264,571 (49%)

#### *The Quebec Results*

Yes — 25,582 (17%)  
No — 122,614 (83%)

### 1942 National Referendum

#### *The Question*

"Are you in favour of releasing the government from any obligation arising out of any past commitments restricting the methods of raising men for military service?"

#### *The National Results*

Yes — 2,945,514 (64%)  
No — 1,643,006 (36%)

#### *The Quebec Results*

Yes — 376,188 (27%)  
No — 993,663 (73%)

### 1948 Newfoundland Referendum on Confederation

#### *First Round Results*

Responsible Government — 69,400 (44.5%)  
Confederation with Canada — 64,066 (41.1%)  
Commission Government — 22,311 (14.3%)

#### *Second Round Results*

Responsible Government — 71,344 (47.6%)  
Confederation with Canada — 78,323 (52.3%)

### 1980 Quebec Referendum on Sovereignty Association

#### *The Results*

Yes — 1,485,761 (40.4%)  
No — 2,187,991 (59.6%)

### The October 26 Referendum

#### *The Administrative Cost*

Roughly \$165 million  
— \$120 million by Elections Canada  
— \$45 million by Elections Quebec

#### *The National Electorate*

Roughly 18,211,000

#### *The Quebec Electorate*

Roughly 4,700,000

#### *Spending Limits*

— National committees entitled to spend up to \$9 million each

— No limit on the number of committees so formed  
— In Quebec, "yes" and "no" form one committee each  
— Each allowed to spend \$4.7 million

#### *Miscellaneous*

— Ballots of aboriginal voters will generally be recorded separately  
— Traditional federal blackout of electoral results from Quebec being broadcast in western Canada will not be in legal effect on October 26



## WESTERN REPORT

### TWO CAMPAIGNS FOR THE PRICE OF ONE

by Roger Gibbins

The referendum campaign in the West is two interlocked battles in one. The first is between the Yes and No organizations; the second is between the Progressive Conservative and Reform parties as they position themselves for the upcoming federal election. Although neither battle is going particularly well for the Yes and Conservative campaigns, the second is in better shape than the first.

#### WHAT'S GOOD FOR QUEBEC IS GOOD FOR THE WEST

The Yes side has a fundamental problem because the constitutional package has little to offer the west as a region. The prime minister can argue that the package delivers 31

---

*"Quebeckers can be urged to vote 'yes' because the package is good for Quebec. In the west, the package must be sold on national grounds: it is good for the west because it is good for Quebec."*

---

new powers or concessions to Quebec and that Premier Bourassa has won more for Quebec than all previous premiers combined, but no such claim can be made for the west or for western premiers. Certainly, B.C. Premier Mike Harcourt desperately wishes someone would make such a claim!

The Senate reform package offers thin gruel for the Yes side, particularly when the effectiveness of the new Senate cannot be determined

until the legal text is produced. Many in the region see the reluctance to produce the legal text as evidence as to how ineffective the Senate will ultimately be. They have every reason to be suspicious.

In Quebec, then, the constitutional package can be sold on narrow regional grounds: Quebeckers can be urged to vote "yes" because the package is good for Quebec. In the west, the package must be sold on national grounds: it is good for the west because it is good for Quebec. Quebeckers can vote "yes" as Quebeckers, but westerners must vote "yes" as Canadians.

#### ABORIGINAL COMPLICATIONS

An added complication arises because the major treaty-based Indian organizations in the west, along with significant Aboriginal players in British Columbia, oppose the package. It is awkward for the Yes side when so many aboriginal groups oppose a package in which they are supposedly major beneficiaries.

It is no wonder, then, that the Yes side is having some difficulty. Of course, this is not say that the No side will win in the region, or in any of the western provinces, although polls do not rule out this possibility. Both the appeal to patriotism and economic threats will have an effect, even though the message that what is good for Quebec is good for Canada and, therefore, good for the west, is wearing a bit thin.

#### THE BATTLE AGAINST REFORM

The Progressive Conservative campaign against the Reform Party is in somewhat better shape than the Yes campaign. The Reform party is caught in a very difficult strategic box and is being badly beaten up as the "enemy of Canada." Although the party is not alone in the No camp, its erstwhile allies may cause long-term problems for the Reformers. It is not clear, for example, that

the National Action Committee or the treaty Indians will be of any use in the party's 1993 election campaign.

The referendum campaign is effectively marginalizing the Liberal and New Democratic parties in the west, as elsewhere. With the two opposition parties playing the role of supporting cheerleaders in the P.C.-orchestrated Yes campaign, the Conservatives should be able to settle up a straight two-party fight against the Reformers in the upcoming federal election.

The Reform Party is positioning itself to receive the anticipated backlash from the referendum campaign, to appeal to those voters who will

---

*"If western Canadians have their wits about them, their vote will be driven by the Quebec vote, or at least by perceptions of what that vote is likely to be."*

---

"hold their nose," but then seek revenge against the architects of the deal. If, however, the referendum campaign is in fact the opening shot in an election campaign that will follow hot on the heels of the referendum, the Reformers may not have the time they need.

#### WATCHING QUEBEC

In the final analysis, western Canadians should be particularly attentive to opinion polls in Quebec as the referendum approaches. If a Yes vote appears likely in Quebec, then westerners will probably hop on board the Yes bandwagon in order to forestall regional isolation in the aftermath of the referendum. However, negative polls would raise the possibility of a nightmare scenario in which a No vote in Quebec would be coupled with a Yes vote across the rest of Canada. If this happens,

and despite current protestations by the prime minister to the contrary, there is no question that the package would be reopened to make it more attractive for Quebec.

Even though it might appear that the west has nothing left to give in that event, it is possible with some effort to imagine a Senate deal that would be even worse. It would thus be better for western Canadians to also vote "no" if Quebecers do so, because a more general rejection of the package would not be an invitation to address Quebec's concerns alone. If western Canadians have their wits about them, their vote will be driven by the Quebec vote, or at least by perceptions of what that vote is likely to be.

Roger Gibbins is Professor and Head, Department of Political Science, University of Calgary. *Western Report* is a regular feature of *Canada Watch*.

## QUEBEC REPORT

### THE GOSPEL ACCORDING TO SAINT PIERRE

by Guy Laforest

Try to imagine just for one moment that the Catholic Church has given itself a new pope a few years ago, but that the old one has not died. The former pope is, indeed, alive and well, secure in the knowledge of his own infallibility. When the ancient pope considers that the church is drifting away from the course he had so skilfully steered — at least to his own error-proof eyes — he takes his sharpest pen to denounce the heretics of the day.

This would certainly be a weird situation for the church. Its leaders could turn to contemporary Canada for some advice and consolation. For there is a person whose role is akin to that of an old infallible pope in the politics of our country. The ancient pope is from Quebec and his name is Pierre Elliott Trudeau.

#### TRUDEAU'S OPENING SALVO

*L'Actualité* and *Maclean's* published in the last week of September an article by Pierre Trudeau, a sharp denunciation of the blackmail tactics supposedly imposed by Quebec and its politicians on the Canadian federation. This is only the first act in the former prime minister's referendum campaign of 1992. More fireshots are to be expected. On October 1, Mr. Trudeau will lecture the patrons of *Cité libre* at their regular meeting in a Montreal restaurant. His topic will be nothing less than the obsession of his own lifetime: the miseries of Quebec nationalism. After that, his plans remain unknown for the moment. It is widely believed, however, that he

will pronounce himself at some point against the Charlottetown Accord.

Mr. Trudeau's pamphlet should not have taken anybody by surprise. In a book released a few days after the publication of his article, I argue that as the founder of a new constitutional order for Canada in 1982, Mr. Trudeau is bound by every fibre of his personality to go on the offensive every time he considers under threat the greatest fruit of his political efforts (see Guy Laforest, *Trudeau et la fin d'un rêve canadien*, Sillery: Les Éditions du Septentrion, 1992, p. 19). Mr. Trudeau's attack against the recognition of Quebec as a distinct society, in the Canada clause of the Consensus

---

*"Mr. Trudeau was not satisfied by such a victory. He did not want merely to triumph over his adversaries; rather, he desired their complete annihilation."*

---

Report on the Constitution, was equally predictable. "Distinct society" smacks of duality, of two nations and two founding peoples. Throughout the Meech Lake saga, Mr. Trudeau and his disciples repeated that any concession made to the dualistic vision contributed to the weakening of the sense of Canadian nationhood fostered by the *Constitution Act, 1982*, particularly by the *Charter of Rights and Freedoms*. In the September 1991 proposals of the federal government, as well as in the Beaudoin-Dobbie Report, one could see that every effort had been made to prevent the emergence of criticisms like those Mr. Trudeau had lashed out at the Meech Lake Accord. The distinct society clause was defined in a way that discouraged any attempt to affirm the existence of a nation, or a people, formed by all the citizens of Quebec. Moreover, it was placed in sections of these documents that proclaimed the existence of a single Canadian identity, strengthened by the common



values cherished by all Canadians. Despite this obvious recuperation of Mr. Trudeau's language, from the federal proposals in September 1991 to the Charlottetown Accord in August 1992, the old pope remains adamant in his opposition.

#### THE TRUDEAU PHILOSOPHY

It is my contention that the Meech Lake Accord, if it had been ratified, would have left intact the preponderance of Mr. Trudeau's vision of the Canadian federation. The political culture of symmetrical treatment granted to individuals and provinces alike would have continued to penetrate deeper and deeper within the Canadian social fabric. Through the distinct society clause, the Accord would

---

*"When the history of tragedy in the twentieth century will be written, Canada and Quebec will not be mentioned too frequently, but the historians of the future will likely take a few pages to explain how the most gifted politician in Canada came out of his retirement, ... to pit ... national communities in his country one against the other, and all this ... to obtain a total victory against his ideological enemies."*

---

have opened some limited space for the dualistic vision held by Quebec nationalists, but not more than that.

Mr. Trudeau was not satisfied by such a victory. He did not want merely to triumph over his adversaries; rather, he desired their complete annihilation. There is something profoundly immoderate in such an ambition. I also think that such an attitude, coming from the most important politician in twentieth century Canada, is potentially very dangerous for our political system. Mr. Trudeau's article in *L'Actualité* and *Maclean's* is dominated by such an absence of moderation. In his own dictionary with regards to politics in

Canada and Quebec, the word "doubt" does not appear.

#### THE TRUDEAU LEGACY

It is hard to guess at this time what effect Mr. Trudeau will have on the referendum campaign of 1992. He will certainly make it more exciting, although the past two weeks have displayed their share of fascinating events. Whatever the results of the referendum, I would claim that Mr. Trudeau has provided us with a rare eruption of tragedy in our public affairs. When the history of tragedy in the twentieth century is written, Canada and Quebec will not be mentioned too frequently, but the historians of the future will most likely take a few pages to explain how the most gifted politician in Canada came out of his retirement, on two occasions, to pit the various national communities in his country one against the other, and all this in order to obtain a total victory against his ideological enemies.

As a critic of Mr. Trudeau who continues to respect and admire a number of his achievements, I must say I expected more from his years of freedom and lucidity in retirement. He had, and still possesses, the intellectual means to write books on such topics as nationalism in the twentieth century or, if he had wanted to liberate himself from this topic, on the cultivation of the self according to Seneca, or even on the seventeenth century French moralists such as La Rochefoucauld and La Bruyère. These ventures in the world of his youth would have been more edifying for future generations of Canadians and Quebecers than the negative pathos surrounding him in the months of our political discontent.

*Guy Laforest is Associate Professor of Political Science/Département de science politique, Université Laval. His Quebec Report is a regular feature of Canada Watch.*

## LEGAL REPORT

### APPOINTING SUPREME COURT OF CANADA JUDGES

**Would a more open process threaten or bolster the court's legitimacy?**

*by Jamie Cameron*

---

#### THE EMPTY SEAT

On June 5, 1992, William Stevenson, puisne judge of the Supreme Court of Canada, retired after serving for less than two years. His resignation due to illness has revived concerns about the process of judicial appointment in Canada. Since 1977, at least nine judges on Canada's highest court have stepped down before mandatory retirement at age 75. And four months later, as the court prepares to commence another term of hearings, the federal government still has not filled the vacancy.

Delay has underlined the politics of choosing a successor in this case. By convention, the next appointee should be from a western province. Former Justice Stevenson's tenure was so brief that it is unclear which province is "entitled" to fill his position. Any appointment now, in the midst of a national referendum campaign, will unavoidably be political.

#### THE CHARLOTTETOWN ACCORD

The Charlottetown Accord would entrench the Supreme Court of Canada in the constitution, and guarantee its current composition of nine members, including three from the civil law bar of Quebec.

At present, there are no restrictions on the prime minister's power

to appoint Supreme Court of Canada judges. By requiring the federal government to name judges from lists submitted by the governments of the provinces and the territories, the Charlottetown Accord would place

---

*"How significant is the Accord's reform of the appointment process? Surely it is modest — especially in comparison with the reform of other central institutions such as the Senate and House of Commons."*

---

significant constraints on the prime minister's discretion. Moreover, the legal text will provide for the appointment of interim judges in cases of provincial failure to nominate or federal rejection of nominees forwarded by the provinces.

How significant is the Accord's reform of the appointment process? Surely it is modest — especially in comparison with the reform of other central institutions such as the Senate and House of Commons. Law professor David Beatty complains of the Accord's "glaring failure" even to "address the question of public participation" in the selection of judges.

#### JUDGING THE JUDGES

The Supreme Court of Canada is a powerful institution in our democracy and it should be subject to scrutiny, not only of its decisions and operations but also, some argue, of the process by which its members are nominated. Jacob Ziegel, a Toronto law professor, claims that "Canadians from coast to coast have a profound stake in the appointment of every member of the Supreme Court of Canada and should participate directly or indirectly."

Even without the Thomas-Hill confrontation in the U.S. Senate last fall, any attempt to open Canada's

appointment process would encounter resistance. J.J. Camp, past president of the Canadian Bar Association, maintains, "If it ain't broke, don't fix it." Professor Patrick Glenn, of McGill University, asks, "What is it you're going to derive from the process apart from the spectacle?"

Political scientist Peter Russell dismisses these objections as the predictable reaction of a legal establishment that is "stuffy." Those who resist public participation may well be seeking to protect a bygone code of professionalism that no longer corresponds to the court's role in national life.

Ziegel states that an open process will discourage executive abuse and ensure that "interested citizens have an opportunity to express their views." Gerald Gall, of the University of Alberta, suggests that the court should have "a mix of talents, ages, ethnicity and background," but that "the no.1 criterion should be merit." Clayton Ruby argues that the judiciary "must better reflect the multicultural nature of the country."

#### THE BEST PERSON FOR THE JOB

It is virtually impossible, in Canada today, to maintain that a closed system of executive consultation is more desirable than an open process of public participation. But what is the objective of an open process? Will appointments to the Supreme Court of Canada be more legitimate? Less political, or more political?

Prime Minister Mulroney has described each of his Supreme Court appointees as "the best person for the job." Beatty responds that the current process "does not favour people who are committed to the vigorous protection of human rights." How would a public process evaluate merit, and will merit inevitably be equated with ideology? And should other criteria, such as gender

and ethnicity, be considered? If Mr. Ruby is right, who should decide how different constituencies should be represented on the Court?

Although Newfoundland's proposal for Senate confirmation hearings was rejected, the Charlottetown Accord does not prevent the provinces from establishing their own nomination procedures. Some, like Ontario, have already established non-partisan nomination committees to open up the process of appointment to provincial courts. Nor does the Accord foreclose the introduction of Senate or other public hearings at the federal level. It fails only to require such hearings, as a matter of constitutional law.

The current process of appointment to the Supreme Court of Canada is based on a conception of the judi-

---

*"It is virtually impossible, in Canada today, to maintain that a closed system of executive consultation is more desirable than an open process of public participation."*

---

ciary as neutral decision makers. It is doubtful whether that perception of the courts can be defended at this time. Far from threatening it, democratizing the selection process seeks to legitimize the membership of an institution that has undeniably been politicized in recent years.

*Jamie Cameron is Associate Professor and Assistant Dean at Osgoode Hall Law School. Legal Report is a regular feature of Canada Watch.*





## CW UPDATE

### THE MONTH IN REVIEW

by David Johnson

#### FAMILY ALLOWANCE SYSTEM REFORMED

On September 16, legislation designed to restructure the nature of family income support programs was approved by the House of Commons by a vote of 99 to 62. The new legislation will eliminate those programs previously associated with the monthly family allowance, the annual child tax credit, and the child credit income tax deduction. In their stead the government will establish a child tax benefit program designed to direct income support payments more rigorously to those in need.

The government has asserted that the reform will not reduce the \$4.5 billion currently expended through the old programs but will simply rationalize the system. The new system is designed to offer support to the "working poor"—families with annual earned income between \$3,750 and \$25,921. The government predicts that most families will receive about the same amount of support they would have received under the old programs. Winners will be "working poor" families with incomes of between \$10,000 and \$21,000, which will be entitled to a maximum \$500 annual earned income supplement in addition to the basic payment of \$1,020 annually per child. Families on welfare or unemployment will not be entitled to the supplement. Losers will be families with annual incomes in the \$50,000 to \$60,000 range, which will observe significant declines in benefits received.

#### GETTY ANNOUNCES RESIGNATION

Alberta's Premier Don Getty announced on September 9 that he intends to resign as premier and leader of the Alberta Progressive Conservative party. Mr. Getty contended that after 25 years in public life, 21 of which were spent as a cabinet minister or premier, he and his family had decided that it was time "to begin a new chapter in our lives." Mr. Getty asserted, however, that he will campaign vigorously for the Yes side in the current referendum.

The Conservative party has set two dates for the election of a new party leader and premier through a direct-member balloting system. A first vote will occur on November 28 in which every party member may cast a ballot for a preferred candidate. Should no candidate receive a majority of the ballots cast, the top three finishers will enter a run-off election to be held on December 5.

#### AIRLINE MERGER ON HORIZON

PWA Corp. announced on September 9 that it had reached an agreement with Air Canada to merge the two airlines into one company. Both Air Canada and Canadian Airlines have been experiencing severe financial problems in recent years. In 1991, Canadian Airlines posted a loss of \$162 million on revenue of \$2.87 billion, and Air Canada lost \$218 million on revenue of \$3.56 billion. Under the agreement, the airlines would create a new holding company to oversee the operations of the two companies. The new entity, as yet to be named, would be subject to 60 percent control by Air Canada shareholders. Each airline would, however, have equal representation on the new board of directors.

The merger will result in significant job losses. Mr. Hollis Harris, the CEO of Air Canada, has asserted

that up to 6,000 positions will be eliminated. Liberal and New Democratic critics of the deal have speculated that upward of 10,000 jobs may be lost. Both companies combined have a current workforce of 36,350 employees. Opposition critics have also insisted that the merger will result in diminished air transport services in the country and higher airfares. These commentators have already called upon the federal government to re-regulate the airline industry to ensure that public interest concerns are not ignored by an unregulated, privately owned monopoly. The federal government has announced that the proposed merger must be approved by the federal Competition Bureau and the National Transportation Agency. A final decision by these authorities on the merger is not expected until the new year.

*David Johnson is Adjunct Professor of Political Science at Brock University.*



*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/December issue is Friday, October 30. Write or fax us at:

**Canada Watch**  
Osgoode Hall Law School  
Room 454  
4700 Keele Street  
North York, Ontario  
M3J 1P3

Tel: (416) 736-5515  
Fax: (416) 736-5546

## CANADA WATCH CALENDAR

---

- |              |  |               |   |
|--------------|--|---------------|---|
| September 9  | Alberta Premier Don Getty announces intent to resign   | September 25  | The Royal Bank issues a report warning of severe economic problems should a "no" vote result in the breakup of Canada |
| September 10 | Referendum question approved by the House of Commons<br><br>The Reform Party announces support for the No side   | September 27  | Both Yes and No sides prepare to unveil their advertising campaigns   |
| September 13 | The National Action Committee on the Status of Women announces support for the No side   | September 30  | Quebec court injunction against publication of Wilhelmy tapes is lifted   |
| September 14 | Alliance Quebec and the Federation of Francophone and Acadian Communities of Canada announce support for the Yes side<br><br>Diane Wilhelmy, Quebec Intergovernmental Affairs Deputy Minister, obtains a court injunction against the publication of controversial taped conversations regarding the constitutional negotiations | October 1     | Former prime minister Pierre Trudeau speaks on the "Miseries of Quebec Nationalism" at <i>Cité Libre</i> dinner       |
| September 16 | The Quebec National Assembly adopts a referendum question identical to that adopted by the House of Commons  | October 2-7   | Enumeration of voters   |
| September 17 | Former Ontario premier Bill Davis announces his support for the Yes side   | October 7-8   | Newfoundland Premier Clyde Wells speaks on the Accord in Alberta and British Columbia                                 |
| September 21 | Former prime minister Pierre Trudeau attacks Quebec nationalism and a constitutional distinct society clause in articles appearing in <i>Maclean's</i> and <i>L'Actualité</i>  | October 8     | Free television advertising by referendum committees begins   |
| September 22 | The Canada Committee formally launches the Yes campaign in Ottawa. The prime minister makes a keynote speech in Vancouver  | October 12    | Deadline set by Unity Minister Joe Clark for release of the legal text of the Charlottetown Accord                    |
| September 23 | Former Alberta Premier Peter Lougheed announces support for the Yes side   | October 13    | Eric Lindros and the Philadelphia Flyers play first regular season game in Quebec City                                |
|              |  | October 17-19 | Revision of electors' lists   |
|              |  | October 19    | Last day for names to be added to electors' lists<br><br>Yukon elections  |
|              |  | October 20    | Manitoba Legislature resumes sitting  |
|              |  | October 22-23 | Advance polls open  |
|              |  | October 23    | Reform Party Convention opens in Winnipeg   |
|              |  | October 24    | Advertising period officially ends at midnight  |
|              |  | October 26    | Referendum Day  |